

Major Dhyan Chand National Stadium

New Delhi-110001

14 March 2023

To

1. The Project Director of SMCs of Uttarakhand, Uttar Pradesh, Bihar, Jharkhand & West Bengal.
2. Head of Organization/ Project-in-Charge - Engineers India Limited (EIL), NBCC (India) Limited, NPCC (India) Limited, Engineering Projects India Limited (EPIL), WAPCOS Limited.

Subject: Clarification regarding applicable GST rate on construction service of Sewage Treatment Plant.

References have been received seeking clarifications on the rate of GST on the works contract for sewage treatment or effluent treatment plants, and construction of crematorium following enhancement of GST from 12% to 18% with effect from 18/07/2022 vide Notification No. 03/2022-Central Tax (Rate) dated 13 July 2022.

2. Following guidelines may be referred to while deciding the applicable GST rate:

(i) Estimates for new works will be made as per the revised GST rate of 18%.

(ii) So far as the on-going works are concerned, while the new rate is effective from 18/07/2022, the applicable GST rate may be decided keeping in view the following principles:

- As per Section 14 of CGST Act, 2017, applicable GST rate would be decided by three critical dates; (i) supply completion date, (ii) date of invoice and (iii) date of payment.
- If at least two of the aforesaid three dates are on or after 18 July 2022, new tax rate (18%) will be applicable. Otherwise, the pre-revised rate of 12% would be attracted.

• An illustration is given below:-

Service Supplied on or after 18 th July'22	Invoice Issued on or after 18 th July'22	Payment Received on or after 18 th Jul'22	Applicable GST Rate
Yes	No	No	12%
Yes	Yes	No	18%
Yes	No	Yes	18%
No	Yes	Yes	18%

Service Supplied on or after 18 th July'22	Invoice Issued on or after 18 th July'22	Payment Received on or after 18 th Jul'22	Applicable GST Rate
No	Yes	No	12%
No	No	Yes	12%
Yes	Yes	Yes	18%

3. Further, the contract conditions/ terms may also be examined to decide admissibility of enhanced GST. Broadly, the following guiding principles may be followed:

(i) The additional claim of 6% GST may be considered if the price agreed under the contract is exclusive of GST, and payment towards 12% GST is already being made to the contractor.

(ii) If the price agreed in the contract is inclusive of GST, normally the additional GST should also be borne by the contractor. But it is considered to be an additional burden on the contractor, payment towards additional 6% GST may be considered keeping in view the contract clauses and spirit; and provided that the contract conditions do not require the contractor to bear the additional tax/ statutory duties.

(iii) Similarly, if the contract specifically mentions that prices are inclusive of 12% GST, payment towards additional 6% GST may be considered, unless the contract conditions specifically require the contractor to bear the additional tax/ statutory duties.

(iv) If the contract provides for price escalation, payment of additional GST in respect of agreed price escalation may be governed by the contract provisions in respect of bid cost, i.e., as per the principles suggested in Para 3(i) to (iii).

5. All the SMCGs are advised to decide applicability and payment on account of additional GST of 6 percent based on the above guidelines. Proposals for additional funds from NMCG, if necessary, may be submitted to the Proponent Unit concerned in NMCG.

Yours faithfully,



(Bhaskar Dasgupta)

Executive Director (Finance)

Copy for information to:

1. Executive Director (Projects), NMCG
2. Executive Director (Technical), NMCG
3. Executive Director (Administration), NMCG
4. Advisor, NMCG
5. Senior Consultant (Brijesh Sikka)
6. PS to DG