

By Hand  
Speed Post

PRASAR BHARTI  
(INDIA'S PUBLIC SERVICE BROADCASTER),  
CCW, TRAINING INSTITUTE

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No. 09/12 /EE (T)/ 2017-18/ 775

Dated:- 21.09.2017

## CIRCULAR

**Subject:-** Anti-profiteering measures to be taken under GST regime-Detailed procedure reg.

The Training Institute has issued earlier circular No. No. 09/12 /EE (T)/ 2017-18/647 dated 23.08.2017.

However it has been reported that some field units are misinterpreting the Circular. The existing contract amount of contract includes taxes on materials excluding the service tax. The fundamentals principle of GST is that there is no tax on taxes. Therefore taxes included in the contract has to be removed before applying GST.

Accordingly it is clarified that –

- (1) In respect of existing contract based on CPWD pattern, the rates are inclusive of all taxes except service tax. Therefore before deciding the payment, action has to be taken by all the DDOs to write to vendors to reduce rates on account of reduction in tax rates or due to input tax credit which they are availing due to tax paid on materials.
- (2) The Prasar Bharti has issued guide lines regarding Anti Profiteering clause which has already been sent to DDOs vide email dated 18.08.2017.

The ADG Finance, All India Radio has also issued circular No. DG:AIR/GST/Cell/2017-18 dated 14.09.2017 (Copy enclosed). It has been informed that in case where work/ supply or contract agreement is inclusive of taxes, this provision will cast responsibility on the Suppliers/ Contractors/ agency (hereinafter referred to as 'Vendors') to reduce the price due to reduction in rate of rates and/ or pass on the benefit of input tax credit is now available under GST regime.

The Circular has provided that in view of Anti Profiteering clause (section 171 of CGST Act), all the units/ stations of All India Radio are to exercise utmost care and due diligence to ensure that the financial interest of Prasar Bharti is not compromised in any way and ensure that the reduction of tax incidence shall pass on to Prasar Bharti. Vendors should abide by the non profiteering clause of the GST law and needs to pass on 100% reduction of tax incidence to Prasar Bharti in a transparent manner.

It is advised that all units shall seek the confirmation/ undertaking of vendors as per para 4.2 of the circular.

In case the vendors are not ready to pass on the benefits, the HOO/ DDO will examine the matter thoroughly with the available information in accordance with the best practices followed in the Industry and negotiate with the vendors for passing on the benefits of price reduction.

In case of any assistance/ clarification, matter is required to be referred to FAC : DG/ AIR for obtaining the opinion of professional CA.

This issues with the approval of CE(C).

Enclosure - As above

  
(Ajay Tiwari)  
Superintending Engineer (Trg.)

**To:**

1. ADG (F), Directed General, Akashwani Bhawan, New Delhi, this in reference to your letter No. DGAIR/GSTCELL/2017-18 dated 14.09.2017.
2. Chief Engineer, CCW, AIR, New Delhi for information please.
3. All SEs/SSWs / SA (Civil & Electrical) at CCW, AIR.
4. All EEs(C)/(E) in CCW, AIR.
5. F.O. to CE(C)
6. EE(QC)/ EE (Vigilance).

  
Superintending Engineer (Trg.)



PRASAR BHARATI  
INDIA'S PUBLIC SERVICE BROADCASTER  
DIRECTORATE GENERAL: ALL INDIA RADIO



E. No.: DGAIR/GSTCELL/2017-18

Dated-05-09-2017

Sub.: Anti-profiteering measures to be taken under GST regime-Detailed procedure reg.

Please refer to Prasar Bharati GST Circular No. 1, 3 and letter dated 8<sup>th</sup> August 2017 wherein all stations/units were requested to review all the work/supply orders, contracts and agreements awarded in pre-GST period i.e., prior to 01.07.2017 and were/are in force in GST regime i.e., on or after 01.07.2017.

2. The provisions in the Central GST Act – Section 171 mandate that benefits arising due to either lower tax rates or more tax credits being available in the GST regime should be passed on to the consumer by way of commensurate reduction in prices. This section also empowers the Government to constitute an authority or entrust an existing authority to ensure compliance of anti-profiteering provisions. It is imperative to mention here that term 'commensurate reduction in the price' is not defined or discussed in the Act. Therefore, it is of paramount importance for organizations to set up processes to compute the likely benefits and have a plan to ensure smooth passage of the benefits to the consumer.

3.1 Passing of benefit due to reduction of tax rate in case of supplies exclusive of tax or for immediate services is not a big challenge. This is because the reduction in tax rate will directly be evidenced by invoices and the recipient will get benefit of the rate reduction.

3.2 However, in case where work/supply or contract agreement is inclusive of taxes, this provision will cast responsibility on the Suppliers/Contractors/agency(hereinafter referred to as 'Vendors') to reduce the price due to reduction in rate of taxes and/or pass on the benefit of input tax credit is now available under GST regime. Yet no procedure is prescribed in the Central GST Act for computing the benefit resulting from increased credits and/or reduction in rates. In the absence of definition or guidance on 'commensurate reduction', the organization will follow its own economics to determine the commensurate reduction in price of goods/service and revisit the price of goods or services supplied by vendors.

4.1 In view of the above provisions of Anti-profiteering (Section 171 ibid), all the units/stations of All India Radio are requested to exercise utmost care and due diligence to ensure that financial interest of Prasar Bharati is not compromised in anyway and ensure that the reduction of tax incidence shall pass on to Prasar Bharati. Vendors should abide by the non-profiteering clause of the GST Law and needs to pass on 100 % reduction of tax incidence to Prasar Bharati in a transparent manner.

4.2 In order to determine the quantum of GST benefits need to pass on under a work/supply order or Contract Agreement in accordance with the Anti profiteering provisions, stations/units shall examine the proposal thoroughly considering the following

- (a) All units/stations shall first seek the confirmation/undertaking of Vendors invariably, in writing, that
  - (i) Vendors are in-principle agreed that any benefits accruing to AIR as a result of implementation of GST would be passed on to AIR.
  - (ii) Vendors should have a process for ensuring compliance with this clause.

- 82
- (iii) Vendors maintain documentation relating such compliance and provide AIR to that documentation upon request.
  - (iv) The quantum of price reduction proposed by Vendor under Section 171 of Central GST Act shall be either in %age of Item/Work Order/Supply Order/Contract Agreement or in Rupees
  - (v) The detailed calculation of the benefit proposed to be passed on to Prasar Bharati shall be based on the GST anti-profiteering measures as introduced in the GST regime and authenticity and verification done by the Vendor.

(b) In case Vendors are not ready to pass on the benefits arising due to introduction of GST, HOO/DDO shall examine the matter thoroughly with the available information in accordance with the best practices followed in the industry and negotiate with the vendors for passing on the benefit of price reduction

(c) In case any assistance or clarification is required in the matter, the detailed case along with their report with reference to (a) and (b) above, be forwarded to FAC, DG: AIR so that opinion of professional CA may be made available to dispose of the case appropriately.

All HOD,  
DG: AIR

  
[Kalpana Singh]  
Add. Director General (F)

**Copy for information to:**

- 1- E in C, DG: AIR
- 2- ADG(M)
- 3- ADG(P)
- 4- ADG(C)
- 5- ADG(A)
- 6- Director Central Stores