



THE ODISHA STATE POLICE HOUSING & WELFARE CORPN. LTD.

(A Government of Odisha Undertaking)

BHOINAGAR, BHUBANESWAR-751022,

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224

### **NOTE ON APPLICABILITY OF GOODS AND SERVICE TAX (GST) RATES**

The Central Govt. vide its notification no. 24/2017-Integrated Tax (Rate) dt.21<sup>st</sup> Septemebr'2017, reduced the GST rates form 18% to 12% for following services :

"Services provided to the Central Govt., State Govt., Union Territory, a Local Authority or a Govt. Authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of -

- (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
- (b) a structure meant predominantly for use as (i) an educational, (ii) clinical, or(iii) an art or cultural establishment; or
- (c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the schedule III of the Central Goods and Service Tax Act,2017.

The aforesaid services provided to the Central Govt., State Govt., Union Territory, a Local Authority or a Govt. Authority are liable for GST @ 12%.

In view of the above, the aforesaid services provided to others other than Central Govt., State Govt., Union Territory, a Local Authority or a Govt. Authority are liable for GST @ 18%.

### **Clarification of Local Authority**

The Local Authority is defined in clause (69) of section 2 of the CGST Act, 2017 and means the following:

- a. "Panchayat" as defined in clause (d) of article 243 of the Constitution;
- b. "Municipality" as defined in clause (e) of article 243P of the Constitution;
- c. Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;
- d. Cantonment Board as defined in section 3 of the Cantonments Act, 2006;
- e. Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;

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223

- f. Development Board constituted under article 371 of the Constitution; or
- g. Regional Council constituted under article 371A of the Constitution;

The definition of 'local authority' is very specific and means only those bodies which are mentioned as 'local authorities' in clause (69) of section 2 of the CGST Act, 2017. It would not include other bodies which are merely described as a 'local body' by virtue of a local law.

A statutory body, corporation or an authority created by the Parliament or a State Legislature is neither 'Government' nor a 'local authority'. Such statutory bodies, corporations or authorities are normally created by the Parliament or a State Legislature in exercise of the powers conferred under article 53(3)(b) and article 154(2)(b) of the Constitution respectively. Such a statutory body, corporation or an authority as a juridical entity is separate from the State and cannot be regarded as the Central or a State Government and also do not fall in the definition of 'local authority'. Thus, regulatory bodies and other autonomous entities would not be regarded as the government or local authorities for the purposes of the GST Acts.

Accordingly, different rates (i.e., 18% and 12%) should be considered while preparing estimates and passing bills for different projects of different users.

Chartered Accountant

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Memo No. /OPHWC

Dt.18.12.2017

Copy to the PS of CMD, for kind information for CMD

Chartered Accountant