

CIRCULAR No. - 07**Sub: Tax Deduction at Source (TDS) for VAT on Works Contracts**

It is for general information to all concerned that tax deduction at source (TDS) for VAT has been introduced with effect from 11th April, 2007 by making an amendment in the Arunachal Pradesh Goods Tax Act, 2005 and the person responsible for paying sale price is liable to deduct the amount of tax at the time of payment to the Work Contractor as per following details.

Rate of VAT on taxable turnover of works contracts

Value Added Tax (VAT) is leviable on taxable turnover of the Works contract @ 12.5% vide Ordinance No. TAX-64/2004/Pt dated 28th August, 2009.

Definition of Works Contracts

As per the Arunachal Pradesh Goods Tax Act, 2005, the definition is Works Contract includes any agreement for carrying out for cash or deferred payment or for valuable consideration, the building construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property.

Calculation of Taxable Turnover

As per rule 5 of the Arunachal Pradesh Goods Tax Rules, 2005, the amount representing the charges towards labour, services and like charges **shall be excluded** from the taxable turnover of the dealer subject to the dealer's producing invoice, voucher, challan or any other document evidencing payment of charges towards labour and services to the satisfaction of the competent authority. The charges towards labour and services and other like charges shall include:

- (a) Labour charges for execution of works;
- (b) Charges for planning and architects fees;
- (c) Charges for obtaining on hire or otherwise machinery and tools used for the execution of the works contract;
- (d) Cost of consumables such as water, electricity, fuel etc. used in the execution of the works contract;
- (e) Cost of establishment of the contractor to the extent it is relatable to supply of labour and services;
- (f) Other similar expenses relatable to supply of labour and services;
- (g) Profits earned by the contractor to the extent it is relatable to supply of labour and services subject to furnishing of a profit and loss account of the works sites.

Further, after excluding the admissible deduction, the remaining portion constitutes **taxable turnover** out of which the declared goods (Goods specified under the section 14 of the CST Act, 1956), if any used in the works contract have to be charged @ 4% as per Schedule 3 (Sl. No. 77) of the Arunachal Pradesh Goods Tax Act, 2005 and all other goods @ 12.5% as mentioned above.

New 4% scheme (optional)

Recently, the rate of tax as per 'Simplified Accounting Method for Works Contract' has been reduced to 4% from 10% by a Notification No. TAX-28/2002/VOL-II dated 31st August, 2009 so that the registered dealers of the State who executes works contract can pay at his option, an amount at the rate of 4 paise in every rupee of the **total aggregate value of the works contract** (not only taxable turnover) received or receivable by him in lieu of the

amount of tax payable by him under the provision of the Arunachal Pradesh Goods Tax Act, 2005. Further details of the scheme may be seen in the said notification.

Manner in which TDS is to be deposited

Any tax deducted shall be paid into the Government account on behalf of the person from whose bills and invoices, the deduction has been made and same shall be deposited by Challan No FF-08 under Head of Account "0040". The person making any deduction of tax at source and paying it into the Government account shall issue to the payee intimation/ certificate of tax deduction at source and payment.

Penalty in case of non-deduction of TDS

It is, therefore, impressed upon all concerned to scrutinize the tax deduction and take immediate necessary steps to realize dues, if any, immediately failing which penalty as stipulated under sub-section (9) and (10) of section 47A of the Arunachal Pradesh Goods Tax Act, 2005.

Sub-section (9) of section 47A of the Arunachal Pradesh Goods Tax Act, 2005 states, "Where the amount has not been deposited after deduction, such amount and any other sum which may be payable under this section shall be charged upon, all the assets of the person concerned who made the deduction or who is liable to pay other amount and shall be recoverable from him as arrears of land revenue:

Provided that no recovery proceedings shall be drawn up by the Prescribed Authority having jurisdiction over the person concerned without prior approval of the commissioner."

Sub-section (10) of section 47A of the Arunachal Pradesh Goods Tax Act, 2005 states, "If any person as referred to in sub-section (1), or sub-section (2) fails to make the deduction or after making the deduction fails to deposit the amount so deducted into the Government account, the Prescribed Authority may, after giving such person a reasonable opportunity of being heard, by an order in writing, direct that such person shall pay, by way of penalty, a sum not exceeding twice the amount deductible under this section besides tax deductible but not so deducted and, if deducted, not so deposited into the Government account."

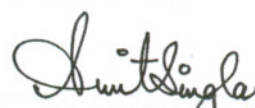
Sd/-
(Amit Singla, IAS)
Secretary (Tax & Excise),

Memo No. TAX – 28/2002/VOL-II/265

Dated Itanagar, the 22nd September, 2009.

Copy to:

- 1) The Accountant General, Arunachal Pradesh.
- 2) PS to Hon'ble Minister (Tax & Excise) for information please.
- 3) PS to Chief Secretary for information please.
- 4) All Commissioners/ Secretaries, Govt. of Arunachal Pradesh.
- 5) All Chief Engineers for necessary action.
- 6) All Deputy Commissioners, Arunachal Pradesh for information.
- 7) All Superintendents (T&E), Arunachal Pradesh for necessary action.
- 8) The Director (Accounts & Treasuries), Naharlagun with a request to get it circulated to all DDO's/ Treasury Officer's/ Cheque Drawing DDO's, for strict compliance.
- 9) The DIPR, Naharlagun for information and wide circulation.
- 10) All Public Sector Undertakings for information and necessary action.
- 11) Office Copy.


(Amit Singla, IAS)