

Office of the
Commissioner of State Tax, (GST)
8th floor, GST Bhavan,
Mazgaon, Mumbai-400010.

TRADE CIRCULAR

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No. JC/HQ-II/GST/TDS/Section -51/2017-18/ 455 Mumbai, Date 07/07/2017

Trade Cir. No. 27 T of 2017

Subject : Tax Deduction at Source as per section 51 of Goods and Services Act, 2017 and procedure to be followed by Departments or establishments of State Government, Local Authority, Governmental agencies.

Ref. : (1) Maharashtra Goods and Services Tax Act, 2017, and
(2) The Central Goods and Services Tax Act, 2017.

Sir/Gentlemen/Madam

The Maharashtra Goods and Services Tax Act, 2017, (hereinafter referred to as the "MGST Act") and the Central Goods and Services Tax Act, 2017, (hereinafter referred to as the "CGST Act") have come in to force with effect from 1st July 2017. The Goods and Services Tax Act envisages the tax on supply of goods and services or both. The provisions of *clause (vi)* of section 24 of the MGST/CGST Act, provides for compulsory registration in respect of persons who are required to deduct tax under section 51. Therefore, every Department or establishment of Central Government, State Government or local authority etc. will now be required to obtain registration under the MGST and CGST Act. The single application is to be used for registration. The registration facility under

aforesaid Act(s) is likely to be made available from 20th July 2017. For this purpose the respective Departments/Local authorities are requested to visit the Common Electronic Portal i.e. www.gst.gov.in.

2. The section 51 of the CGST and MGST Act provides that every department or establishment of the Central Government or the State Government or local authority, or Government Agencies to Deduct Tax at Source (hereinafter referred to as the "TDS"). These authorities are referred as the "Deductor" and the supplier of goods and services is referred to as "Deductee".

3. The deductor, in case of a contract where the total value of supply of taxable goods or services or both exceeds Rs. 2.5 Lakh (two lakh and fifty thousand) under a contract shall deduct 1% each for MGST and CGST, from the payment made or credited to the deductee i.e. where the supply is of taxable goods or services or both. The tax so deducted should be paid separately. Therefore, every Deductor under MGST and CGST is required to deduct tax at the rate of one per cent each. Thus total deduction would be 2%.

4. It should be kept in mind that for the purpose of calculation of amount of two lakh and fifty thousand rupees, the central tax, state tax, integrated tax or the cess charged separately in the invoice should be excluded. In other words the MGST or the CGST or the tax paid under Integrated Goods and Services Tax Act, 2017 or for that matter the cess paid under the provisions of The Goods And Services Tax (Compensation to States) Act, 2017 needs to be excluded while calculation of limit of Rs. 2.5 Lakh.

5. 1% TDS each for MGST and CGST should be made when the supplier of the goods and services and the recipient of the services are located in the Maharashtra. However, if the recipient has its place of business (POB) registered in Maharashtra and supplier is situated in other state or Union

Territory, this will be an interstate supply and deductor will be required to deduct 2% TDS (under IGST) if the contract is otherwise found eligible for TDS.

6. As provided under section 24(vi) of MGST/CGST Act all DDOs of Maharashtra State will have to be compulsorily obtain registration under GST i.e. MGST and CGST. There will be a single registration number for both MGST/CGST Acts. The DDOs will be required to perform and discharge following functions,-

- (a) Online/electronic payment of TDS so deducted;
- (b) Filing of returns online.
- (c) Online issuance of TDS Certificate to the supplier.

7. It is needless to add if the supplier for any reason has not shown tax separately in the invoice then in such eventuality the Deductor is required to make TDS on the entire value without considering the tax impact provided that the amount covered by said invoice is liable for deduction of TDS. It is clarified that, TDS is liable to be deducted on part payment or full and final payment as the case may be, if a particular contract of supply of goods or services is eligible for deduction of TDS.

8. The procedure for registration of deductor, payment of tax deducted to Government, issuance of TDS Certificates etc. are explained as under.

(1) Registration of TDS deductors:

- (a) Section 24(vi) of CGST/MGST Act, 2017 provide compulsory registration for deductors without any threshold limit. Deductor will be required to get registered within 30 days from coming into operation section 51 of MGST Act and CGST Act. Either PAN or Tax Deduction and Collection Account Number (TAN) is mandatory for obtaining registration as deductor. This registration is compulsory for every Drawing and Disbursing Officer (DDO) in the state of Maharashtra.

- (b) For obtaining registration as deductor, an application in Form **GST REG - 07** will have to be filled appropriately and uploaded on the Common Electronic Portal of Goods and Services Network (GSTN) www.gst.gov.in. The applicant should have a valid PAN or TAN as also a valid email ID and valid mobile number. After following due process the applicant will be required to submit the application to the Common Electronic Portal. The application so submitted will be assigned to the proper officer.
- (c) The concerned officer will verify the correctness of the application and if found in order will approve the application and issue the registration number. Deductor can download registration certificate in Form **GST REG - 06** from portal.
- (d) If liability to deduct TDS of any deductor ceases in future, an application can be uploaded on portal requesting cancellation of registration and said registration certificate will be cancelled.

(2) Payment of TDS -

- (a) Every deductor is required to pay electronically to the Government the TDS deducted by him within 10 days from the end of the month in which deduction is made.
- (b) The deductor would be liable to pay interest as provided under section 50(1) of MGST Act and CGST Act, if the tax deducted is not deposited within prescribed time.

(3) Filing of return by deductors -

- (a) Deductor will be required to file a return in Form **GSTR-7** within 10 days from the end of month in which deduction is made. If in any month there is no deduction on account of TDS, deductor is not required to file return for that month.
- (b) The details of tax deducted at source furnished by the deductor in Form GSTR-7 shall be made available to each supplier in Part C of Form **GSTR - 2A** electronically through the common portal and the said supplier

may include the same in Form **GSTR – 2** of the supplier (deductee). The supplier can take credit of this amount in his electronic cash register and use the same for payment of tax or any other liability.

(4) Issuance of TDS Certificate – A TDS deductor shall issue TDS certificate online in Form **GSTR-7A** to the deductee (the supplier from whose payment TDS is deducted) within 5 days of crediting the amount to the Government.

(5) Penal Provisions:

- (a) If deductor fails to deduct TDS as provided under section 51(1) of MGST Act, or CGST Act, or deducted an amount which is less than the amount required to be deducted or fails to pay to the Government the amount deducted as tax, then deductor shall be liable to minimum penalty of Rs. 10000/- or an amount equal to the tax not deducted, short deducted or deducted and not paid to the Government.
- (b) In case TDS certificate is not issued within prescribed time, deductor would be liable to pay late fee of Rs. 100/- per day from the expiry of the 5th day till the TDS certificate is issued. This late fee would not be more than Rs. 5000/-.

(6) Refund of TDS –

- (a) Any excess or erroneous tax deducted and paid to the Government by deductor will be refunded as provided under section 51(8) of the CGST or the MGST Act, 2017.
- (b) However, if the deducted amount is already credited to electronic cash ledger of the said supplier, then same shall not be refunded.

(7) Transitional provision in respect of TDS -

- (a) As per the section 142(13) of the MGST Act where supplier has made sale of any goods before the appointed day i.e. on or 30th June 2017 and invoice has also been issued on or before the 30th June 2017 in such circumstances the TDS provisions under GST Act will not be applicable

despite the fact that the payment in respect of said sale is received on or after the 1st July 2017.

- (b) In other words, in aforesaid eventualities, the TDS provisions under MGST, CGST or IGST, will not be applicable.

9. This circular is clarificatory in nature and cannot be made use of for interpretation of provisions of law. If any member of trade has any doubt, he may refer the matter to this office for further clarification.

(Rajiv Jalota)

Commissioner of State Tax (GST)
Maharashtra State

No. JC/HQ-II/GST/TDS/Section -51/2017-18/455 Mumbai, Date 07/07/2017

Trade Circular No. 27T of 2017

Copy forwarded for information to,

- (1) The Joint Commissioner of State Tax, (MAHAVIKAS) with a request to upload this Trade circular on MSTD web-site.
- (2) Officer on Special Duty, Finance Department, Mantralaya, Mumbai.
- (3) Under Secretary, Finance Department, Mantralaya, Mumbai.
- (4) Accounts Officer, Sales Tax Revenue Audit, Mumbai and Nagpur.

(Dr. B N Patil)

Joint Commissioner of State Tax (GST)
HQ-II, Maharashtra State.