

GOVERNMENT OF TRIPURA
FINANCE DEPARTMENT
(TAXES & EXCISE)

NO.F.I-7(11)-TAX/87/PART-II

Dated, Agartala, 08th January, 2013.

M E M O R A N D U M

Subject: Tax Deduction at Source on Works Contract : clarification thereof.

1. The Section 5(2)(c) of the Tripura Value Added Tax Act, 2004 provides for deduction of charging towards labour, services and other like charges while determining the taxable turnover in respect of works contract. It further provides that in case where the amount of charges towards labour, services and other like charges in such contract **are not ascertainable from the terms and conditions of the contract**, the amount of such charge shall be calculated at the **prescribed percentage**.
2. In Gannon Dunkerley v. State of Rajasthan (1993) 88 STC 204 (SC), the Hon'ble Supreme Court clearly held that the value of the goods involved in the execution of a works contract will have to be determined by taking into account the value of the entire works contract and deducting therefrom the charges towards labour and services which would cover:
 - (i) Labour charges for execution of the works;
 - (ii) Amount paid to a sub-contractor for labour and services;
 - (iii) Charges for planning, designing and architect's fees;
 - (iv) Charges for obtaining on hire or otherwise machinery & tools used for the execution of the works contract;
 - (v) Cost of consumables such as water, electricity, fuel etc used in the execution of the works contract the property in which is not transferred in the course of execution of a works contract;

(vi) Cost of establishment of the contractor to the extent it is relatable to supply of labour & services;

(vii) Other similar expenses relatable to supply of labour and services;

(viii) Profit earned by the contractor to the extent it is relatable to supply of labour and services.

3. Attention of all the Heads of Offices / D.D.O.'s of the State Government, Central Government, Autonomous Bodies / P.S.U. of Central & State Government, etc. is invited to the Section 5 (2)(c) of TVAT Act, 2004 read with Tripura Value Added Tax (Second Amendment) Rules, 2012.

4. It is clarified to all the Authorities, having the responsibility conferred upon them under Section 4 (3) of the TVAT Act, 2004 for making deduction of tax at source at the time of making payment, that they will deduct tax at source in respect of works contract @ 8% from the taxable turnover in respect of running bills determined after deducting labour charges, service charges and other like charges. In cases where the amount of charges towards labour, services and other like charges in such contract are not ascertainable from the terms and conditions of the contract for the purpose of determining turnover of goods in which transfer of property in goods has taken place, the amount of such charges shall be calculated at the percentage prescribed in **Rule 7A** for determining taxable turnover of running bills for deduction of tax at source @ 8%. The applicability of Tax Deduction at Source is at the time of making payments irrespective of the date of entering into the contract.

5. It is further clarified that in respect of sales which are not taxable under the Tripura VAT Act, 2004, no tax is to be deducted at source even in respect of transactions relating to works contract.

6. The authorities responsible for deduction of tax at source as per Section 4 (3) of the TVAT Act, 2004 are requested to adhere to above strictly.


(K. V. Satyanarayana)

Addl. Chief Secretary

Government of Tripura

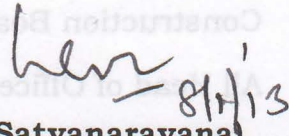
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Copy to:

1. The Commissioner-cum-Secretary / Secretary of all Department.
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2. All Head of Department
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3. The Chief Engineer, Public Works Department (R & B) / The Chief Engineer, DWS / The Chief Engineer, Water Resource / The Chief Engineer, Agriculture Department / The Director, Rural Development / The Director, Urban Development / The Chairman-cum-Managing Director, Tripura State Electricity Corporation Ltd.
4. The Chief Executive Officer, T.T.A.A.D.C / The Director, NIT, Agartala / The Chief Executive Officer, Tripura Housing & Construction Board / The Chief Executive Officer, A.M.C.
5. All Head of Offices / Drawing and Disbursing Officer
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6. All State Government Undertakings
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7. All Central Government Undertakings
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8. The Director, ICAT, Government of Tripura for wide publicity of the Notification.

Copy also to:

1. The P.S. to the Hon'ble Minister, Finance Department for kind information of the Hon'ble Minister.
2. The Commissioner of Taxes & Excise, Government of Tripura for information.
3. The Addl. Commissioner of Taxes, Agartala.
4. The Deputy Commissioner of Taxes, Churaibari / Agartala.
5. The Assistant Commissioner of Taxes, Agartala.
6. The Superintendents of Taxes, Registration Cell / Vigilance Cell, Agartala.
7. All Superintendents of Taxes, Head Quarter, Agartala.
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8. The Superintendent of Taxes, Charge – I / II / III / IV / V / VI / VII / VIII, Agartala / Bishalgarh / Udaipur / Belonia / Teliamura / Ambassa / Dharmanagar / Kailasahar / Churaibari.
9. The Assistant Statistical Officer, Statistical Section, O/o the Commissioner of Taxes & Excise, Agartala with request to upload the Memo in the Official website www.tripurataxes.nic.in
10. Guard File.


(K. V. Satyanarayana)

Addl. Chief Secretary
Government of Tripura