



OFFICE OF THE DY. DIR. (F&A)-III
DELHI JAL BOARD: DELHI SARKAR
VARUNALAYA PHASE-II, KAROL BAGH
NEW DELHI-110005



No. DJB/Fin./DD-III/2015-16 1838

Dated:- 13/4/2015

Sub: - Uploading the Circular/Instruction order of Dir. (F&A).

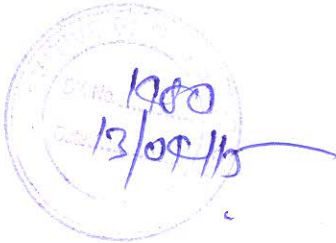
Please find enclosed herewith copies of Circular & Instructional Order of Dir. (F&A) dispatched recently for uploading in the DJB website:-

1. Circular: - Regarding clarification of VAT & Service Tax.
2. Instructional order: - Regarding GIS Mapping Cell.

Encl: - As above.

Rishi Kumar
13/04/2015
(RISHI KUMAR)
DY.DIR. (F&A)-III

EE (EDP)



programmer I

16-4-15



OFFICE OF THE DIR. (F&A)
DELHI JAL BOARD, DELHI SARKAR
VARUNALAYA PHASE-II, KAROL BAGH
NEW DELHI-110005

No. DJB/Fin/DD-III/Circular S.Tax./VAT/2015-16

38844 to 39241 Dated: 10-4-15

CIRCULAR

As per Report of the Comptroller and Auditor General of India on Social Sector (Non-PSU) for the year ended 31st March 2012 G.N.C.T.D Report No.2 of the year 2013 Chapter -2- Performance Audit in r/o Para no. (d)-irregular payment of Rs.17.85 crore on account of Service Tax and VAT & Para No.(j)-Inadmissible payment of Rs.1.39 crore on account of VAT was made, copies of relevant portions of the report /informations are enclosed for compliance by all DDOs with immediate effect.

Essence of the Audit paras are re-produced below:-

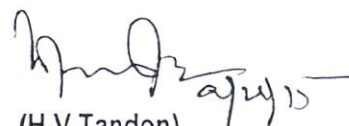
- mc
1. As per Para No.(d) – “According to Clauses 37 and 38(1) of the General Conditions of Contract (GCC), all tendered rates shall be inclusive of all taxes and levies (except service tax) payable under respective statutes. In respect of service tax, the same shall be paid by the contractor to the department concerned on demand and it will be reimbursed to him by the Engineer-in-Charge after satisfying that it has been actually and genuinely paid by the contractor”.
 2. As per Para No.(j) -“According to the VAT Act, VAT on renting of machinery is applicable in case of transfer of right to use. However, in this case, the contractor had provided the services of machine along with its operation and maintenance and therefore, there was no ‘transfer of right to use’. Audit observed that while preferring bills, the contractor claimed VAT @ 12.5 percent along with his claims. Machinery/equipment transferred along with the operator should be treated as transfer of goods without transferring right of possession and effective control and hence, levy of VAT was not applicable. However, the DJB paid Rs. 1.39 crore to the contractors during 2007-12 on hiring of jetting cum suction sewer cleaning machines, which was inadmissible and thus, recoverable from the contractors”.

Encl - As above.

All DDOs/Sr.AOs/AOs/AAOs

Copy for kind information pl:-

1. PS to CEO
2. Member(Finance)
3. Jt.Dir.(F&A)-I/II
4. Dy.Dir.(F&A)-I/II/III/IV


(H.V.Tandon)

Director (Finance & Accounts)


Director (Finance & Accounts)

Report of the
Comptroller and Auditor General of India
on
Social Sector (Non-PSU)
for the year ended 31 March 2012

Government of National Capital
Territory of Delhi
Report No. 2 of the year 2013

(i) Inadmissible payment of ₹ 1.39 crore on account of VAT

The work of providing 30 vehicle mounted jetting-cum suction sewer cleaning machines (Annexure-2.3) including its operation and maintenance was awarded to M/S City Line Travels Pvt. Ltd. in April 2006 for a period of five years at a cost of ₹ 5.76 crore (at the rate of ₹ 3200 per day per machine). As per terms and conditions of the agreement, the rates included all taxes as applicable to government/semi-government department till the deployment of machines in Delhi, except government levies/taxes on hiring of these machines which were to be paid extra.

According to the VAT Act, VAT on renting of machinery is applicable in case of transfer of right to use. However, in this case, the contractor had provided the services of machine along with its operation and maintenance and therefore, there was no 'transfer of right to use'. Audit observed that while preferring bills, the contractor claimed VAT @ 12.5 per cent along with his claims. Machinery/equipment transferred along with the operator should be treated as transfer of goods without transferring right of possession and effective control and hence, levy of VAT was not applicable. However, the DJB paid ₹ 1.39 crore to the contractors during 2007-12 on hiring of jetting cum suction sewer cleaning machines, which was inadmissible and thus, recoverable from the contractors.

The DIT stated (March 2013) that the VAT was paid considering the transfer of right to use and the overall control of the machine remained with the contractor. The reply was not in line with the facts as in this case the DJB could use the machine only for eight hours in a day and six days in a week. The right to use was applicable only if DJB had acquired the machine for full period of agreement.



No. DJB/Dir(F&A)/2015/39768 to 40021

Dated:- 13/04/15

INSTRUCTIONAL ORDER

Instructions were issued vide Letter No. DJB/Dir(F&A)/2006/7797 dated 18.1.2006 to strictly comply with the instructions contained in Instructional Order as circulated vide No. DJB/Dir(F&A)/2004 dated 02.06.2004 regarding sending information to Mapping Cell in respect of water & sewerage works completed in various divisions for updating the GIS data. The said Instructional Orders were followed by the Instruction Order bearing No. DJB/Dir(F&A)/2007 dated 19.2.2007 (copy enclosed).

It has come to notice that in certain cases, the above Instructional Orders are not being followed by the Executive Engineer concerned strictly. It is therefore, finally reiterated that after a work has been completed, the concerned Executive Engineer must send the information to the Mapping Cell and obtain necessary certificate. It is further instructed that a bill without such endorsement and certificate will not be entertained in Finance for payment.

Any lapse will be viewed seriously.

(H.V. TANDON)
DIRECTOR(FINANCE & ACCOUNTS)

Encl. As above(*reverse side*)

All Executive Engineers

Copy to:

1. Member(Finance), Member(Water) & Member(Dr.) for kind information please.
2. All Chief Engineers.
3. All Sr. SAO/AOs for strict compliance
4. All AAOs for strict compliance.
5. Incharge, Mapping Cell

(H.V. TANDON)
DIRECTOR(FINANCE & ACCOUNTS)

e/c

(d) Irregular payment of ₹ 17.85 crore on a basis of Service Tax and VAT

According to Clauses 37 and 38 (1) of the General Conditions of Contract (GCC), all tendered rates shall be inclusive of all taxes and levies (except service tax) payable under respective statutes. In respect of service tax, the same shall be paid by the contractor to the department concerned on demand and it will be reimbursed to him by the Engineer-in-Charge after satisfying that it has been actually and genuinely paid by the contractor. Scrutiny of the records revealed that the DJB did not include the above clauses of general conditions of contract in the agreement.

The DJB paid service tax to the tune of ₹ 4.12 crore to various contractors during the period 2007-12 through running bills. Payment of service tax without ensuring that the same has actually been paid by the contractor to the department concerned was irregular.

Another condition for payment of VAT was accepted by the DJB while awarding the works. Audit is of the view that the VAT was also to be reimbursed to the contractors in the manner in which service tax is to be

reimbursed as the contractors collected this amount, as custodian of government money. The DJB paid VAT to contractors to the tune of ₹ 13.73 crore during 2007-12.

Thus, non-inclusion of relevant clauses of GCC in the contract agreements, resulted in absence of a mechanism for verification of payment of service tax and VAT amounting to ₹ 17.85 crore by the contractors to the department.

The DJB stated (March 2013) that there were no instructions earlier that the service tax would be reimbursed only after deposit. As per VAT provisions the DJB had to deduct the TDS-VAT from the bills of contractor. The reply was not acceptable as clause 37 and 38 of the GCC clearly state that service tax would be reimbursed and the contractor's payment would include all taxes and levies. Despite this, the DJB accepted the condition of payment of VAT and did not ensure its deposit into Government account by the contractors.

DELHI JAL BOARD, GOVT. OF NCT OF DELHI
OFFICE OF THE DIRECTOR (FINANCE & ACCOUNTS)
VARUNALAYA PHASE-II, NEW DELHI-110001

NO./DJB/Dir(F&A)/2007/

Dated 19.02.2007

INSTRUCTIONAL ORDER

The Mapping Cell is maintaining GIS Data of water and sewerage network of DJB. The updation of data on regular basis requires that the information in respect of water and sewerage works is sent to mapping cell on regular basis.

Instructions were also issued earlier regarding sending information to Mapping cell. Although, after issue of circular no DJB/Dir/F&A/2006/13529 dated 6-2-2006, the accounts officials were directed to entertain the bills for payment without certificate from Mapping cell in relation of updating of GIS data, that does not do away with the requirement of continuously sending GIS data to mapping cell as per the earlier instructions.

Therefore, it is again directed that when a work gets executed and completed, it shall be the prime responsibility of the Executive Engineer concerned to send information to Mapping cell regarding modification in existing system and new installation in the area. A certificate shall be issued by the Mapping Cell on receipt of updated information. Bills without such certificate will not be entertained in Finance for payment with immediate effect.

Any lapse will be viewed seriously.

R.N. Sharma
19/2/07
(R.N.SHARMA)
DIRECTOR(F&A)

ALL EXECUTIVE ENGINEERS.

Copy to :-

- 1 CEO for kind information.
2. Member Admin/Fin./ WS/ DR for kind information.
3. All CE's/ SE's for kind information.
4. Dir (A&P) /DOR for kind information.
5. All Dy A&FO/ ACA's ./ Accts./Jr.Accts.