



**Indian Institute of Technology Kanpur**  
**Finance and Accounts Section**

No. IITK/ACCT/TAX/GC-IV/2015-16

Date: 11 April 2016

**Subject: Applicability of Service tax on the Concept of Reverse Charge Mechanism and on Works Contracts - Guidelines regarding**

This has reference to no. IITK/A-36/LC-10 dated 23.02.2015 on the above subject wherein Institute was to deduct and deposit service tax on the concept of Reverse Charge Mechanism, in terms of Notification No. 30/2012 dated 20.06.2012 of GoI.

**Non-applicability of Reverse Charge Mechanism –**

2. We have been advised by our Service Tax Consultant to stop depositing Service tax w.e.f. 01.04.2016 under Reverse Charge Mechanism, in view of our Institution (IIT-Kanpur) not being a Body Corporate in terms of Notification No. 30/2012 dated 20.06.2012 as amended, and as also confirmed and upheld by Hon'ble Patna High Court in the case of SHAPOORJI PALOONJI AND COMPANY PVT LTD Vs COMMISSIONER, CUSTOMS CENTRAL EXCISE & SERVICE TAX, PATNA. Hence, no Reverse Charge Liability shall have to be paid on Works Contract, Manpower Supply etc.

**Works Contracts -**

3. Further, since IIT Kanpur is a 'Governmental Authority', the Original Exemption w.r.t. Services provided to Government, a Local Authority or a Governmental Authority by way of construction, repair, maintenance, erection, commissioning, installation etc. by virtue of Clause 12 of Mega Exemption Notification No. 25/2012 dated 20.06.2012, had been withdrawn w.e.f. 01.04.2015 i.e. such services were made taxable w.e.f. 01.04.2015 in view of Budget 2015 amendments. In the light of Budget 2016 amendments, however, such withdrawal of Exemption as mentioned above, has been again restored vide clause No. 12A of Notification No. 09/2016 dated 1<sup>st</sup> March 2016, for such contracts which were awarded prior to 1<sup>st</sup> March 2015.

4. In view of the above, the current legal position in respect of Works Contracts stands as follows:

- a) No Service Tax is required to be paid to Contractors who charge the same on their Bills for Contracts which were awarded to them prior to 01.03.2015. This exemption shall however cease from 1 April 2020.

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- b) Service Tax shall be reimbursed to only those Contractors who charge the same on their Bills for contracts which were / are awarded on or after 01.03.2015.
- c) In either of the two cases as mentioned in (a) and (b) above also, the Institute shall not be liable to pay Service Tax under Reverse Charge Mechanism (please refer to para 2 above).

5. The consultant has further advised that the Institute should implement the following to strengthen our procedural compliances w.r.t. service tax:

(i.) Service Tax must be reimbursed to Contractors only on receipt of proper Invoice/Bill from them. The bill/invoice must include Service Tax number of the Contractor and amount of Service Tax must be separately charged/shown in the concerned Bill/Invoice.

(ii.) Service Tax should not be loaded on Bill/Invoice by the Institute on its own. It should be reimbursed only if it is charged by the Contractor himself on Bill.

(iii.) There should be an undertaking in the Contractor's Bill/Invoice that whatever Service Tax is charged in the Bill is being duly deposited with the Government Exchequer, and they will produce copies of challans as and when required and demanded by IIT Kanpur. This undertaking can be in the following form:

“I/We hereby confirm that the Service Tax charged in the Bill/Invoice has been duly deposited with the Government Exchequer and undertake to produce copies of challans as and when required/demanded”.

(iv.) The following are the rates of Abatement applicable on Works Contract Services in terms of Rule - 2A of Service Tax (Determination of Value) Rules, 2006, read with Notification No. 24/2012 dated 20.06.2012:

#	Nature of Works Contract	Service Tax Payable on following % of Contract Value
A	<p><b>Execution of “Original Works”</b></p> <p>The term “Original works” has been defined to mean:</p> <ul style="list-style-type: none"> <li>i) all new constructions;</li> <li>ii) all types of additions and alterations to abandoned or damages structures on land that are required to make them workable;</li> <li>iii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise.</li> </ul>	<b>40%</b>
B	Maintenance or repair or reconditioning or restoration or servicing of any Goods OR in	<b>70%</b>

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case of other works contract including maintenance, repair, completion & finishing services such as glazing, plastering, floor & wall tiling, installation of electrical fittings of immovable property.	
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6. All bills for payment from the date of issue of this letter are to be processed and paid in line with the above mentioned clarifications.

**Institute exempt from paying Service Tax on certain services received by it –**

7. Please note that the Institute also continues to remain exempt from paying Service Tax on the following services received by it, as already conveyed vide no. IITK/A-36/LC-09 dated 27<sup>th</sup> January 2015:

- i) Transportation of students, faculty, officers and staff;
- ii) Catering, including any mid-day meals scheme sponsored by the Government;
- iii) Security or cleaning or house-keeping services performed in such educational institution;
- iv) Services relating to admission to, or conduct of examination by, such institution.

8. This is issued with the approval of the Director.

  
11/4/2016  
**(Munish Malik)**  
**Finance Officer**

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