

Q.1. What are GST implications on Tender Processing Fee deposited through RTGS/NEFT in corporation bank account by different tenderer in different dates and the detail of The tenderer names & their GSTIN no. are known only after opening of the tender due to which there will be time gap between issue of deposits receipts, GST payment and actual date of deposits of cost of tender form & GST by the tenderer?

Ans Amount so received may be treated as advances and accordingly advance receipt voucher shall be issued. GST @18% shall be discharged accordingly.

As and when the GSTIN and other required particulars of the tenderers are available, tax invoices shall be issued in the name and GSTIN of the concerned registered persons within 30 days of providing the service i.e. receipt of the tender fees. Tax paid earlier on advances can further be used in setting off the tax liability of the tax invoices.

Further in the case when fee is received from any unregistered person and the same is less than INR 200, then a consolidated tax invoice can be issued at the close of each day for all such type of tender fees received during that day.

Q.2 How the tax paid earlier on advances can further be used in setting off the tax liability of the tax invoices?

Ans Let us take an example, that INR 5 Crores has been received by FCI in the July month against any supply of scrap to be made. Rate of GST applicable thereon is 5%. Hence tax liability on the advances comes to INR 25 lakhs.

Now in the subsequent month say September, FCI has made the said supply and raised invoice of INR 10 crores. Therefore total tax liability mentioned in the invoice would be INR 50 lakhs.

Under the above illustration, below steps would need to be followed for reporting and payment of the tax liabilities under GST returns:

- Tax liability of INR 25 lakhs for the advances received in July Month shall be mentioned in Table 11A of GSTR-1 of the July month and accordingly be discharged in GSTR-3 of the said month,
- Further corresponding tax invoice issued in the month of September shall be duly reported in GSTR-1 of the September Month. Further the advances received earlier as adjusted against this invoice, shall be reported in Table 11B of GSTR-1 of the September month. Accordingly net tax liability (50 lakhs – 25 lakhs) becomes payable in GSTR-3 of the September Month.

Q.3. What are GST implications on sale of Dead Stock Articles for e.g. wooden crates, polythene covers, unserviceable Gunnies, Lab Equipment of QC, Newspapers, Old Furniture, Fire Fighting Equipment's and other misc. items to unregistered vendor?

Ans In case the goods are identifiable while supplying to anyone and remains in the nature of the said goods, then applicable HSN code and rate can be identified by searching with the related description of the product on the following link: <https://cbec-gst.gov.in/gst-goods-services-rates.html>

If the nature cannot be identified at the time of making supply and the same is being sold as scrap then relevant HSN code and rate can be identified by searching with the related description of the scrap and word 'Scrap' on the following link: <https://cbec-gst.gov.in/gst-goods-services-rates.html>. From the multiple suggestions displayed, suitable HSN code and rate applicable thereto may be determined basis nature of the scrap item.

Q.4. What are GST implications on FCI for payment towards weighbridge services from unregistered supplier in case of hired godowns where weighbridge is not available?

Ans GST under reverse charge would be payable in case of weighbridge services received from any unregistered service provider.

Q.5. What are GST implications on FCI on delay lifting charges collected from private parties in case of open sale?

Ans Charges levied from the buyer in respect to delay lifting of the goods will fall under composite supply and accordingly be taxable as per the rate applicable to such goods.

Q.6. Whether the 1% state cess (labour welfare cess) deducted from the work contract bill in Rajasthan before 01.07.2017 is to be deducted or not in GST regime?

Ans Labour Welfare Cess is levied under the Building and Other Construction Workers' Welfare Cess Act, 1996 and said Act has not been repealed by the Central Goods and Service Tax Act, 2017.

Q.7. What will be the GST implications on the payment made to the employees of corporation towards the services as Enquiry Officer/Presenting officer in the departmental enquiries?

Ans Services provided by an employee to the employer in the course of or in relation to his employment are not considered as supply under GST.

Accordingly, services provided by employees as enquiry officer or presenting officer in the departmental enquiries etc. would also not be taxable.

Q.8. What will be the GST Rates on various engineering works such as Road Construction (CC Road/Bitumen), Construction of Godown, Replacement of AC Sheet with Profile Sheet, AMC of Electrical/Civil Works etc.

Ans "Works contract" under GST law has been defined as a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

Further the same is prescribed as supply of services and GST @18% is applicable on the same. Also repair and maintenance and other support services are taxable @18%.

Q.9. What will be the GST implications on services (Ordinary Post/Registered Post/Speed Post) by Postal Department?

Ans Services supplied by Department of Posts (DOP) by way of speed post, express parcel post etc. are taxable under GST and therefore the concerned DOP office would charge the applicable GST on such services.

The same has been excluded from the list of services which are liable for reverse charge and therefore the same is not taxable in the hands of service recipient.

Q.10. What recoveries to be effected on engineering bills in GST regime?

Currently following five types of deductions are effected in engineering bills

(i) VAT (TDS) 5% on Material value of the bill.

(ii) Service tax 15% on Labour Value of the bill (Service tax Added the same value to the bill and recovered, there is no recovery effect to the contractor). (iii) Income Tax 1% for Individual Contractor, 2% for Company or Firm on whole bill amount.

(iv) Labour Cess 1% on whole bill amount.

(v) Seigniorage charges on Mine items (Ex., Like Sand, Metal, Iron etc.) Rates given by Mines Department.

Ans From the above recoveries, VAT and Service tax have been subsumed by GST.

Q.11. Whether on advertisement charges the GST will be payable on whole advertisement charges amount or on commission amount to the Agency?

Ans GST @5% is payable on the total amount charged by the agency.

Q.12. What will be GST implications in case of Godowns let out by FCI but payment has not been received?

Ans As per provisions of the GST law, time of supply in this case would be:

- a) The date of issue of invoice, or
- b) The date of provision of service in case the invoice has not been issued within the prescribed limit i.e. 30 days from the date of provision of service

Accordingly, even if payment is not received but time of supply has arose then FCI would need to discharge the applicable GST liability.

Q.13. What will be the GST implications on the rent payment for office building to an unregistered person?

Ans Taxable goods and/or services procured by a registered person from unregistered person attracts reverse charge liability on such registered recipient.

Accordingly, FCI being a registered person would be responsible for payment of the tax under reverse charge on the commercial premises taken on rent/lease from any unregistered person.

Q.14. Whether TDS under Income Tax Act, 1961 is to be deducted on whole Invoice Amount including GST or on Invoice Amount excluding GST?

Ans CBDT has clarified vide Circular No. 23/2017 dated 19.07.2017 that income tax shall not be deducted on the Goods and Services Tax (GST) component in relation to services.

Q.15. What will be the GST implications on license fee recovery from employees towards facility of perquisite towards accommodation facility?

Ans Renting of residential dwelling for use as residence is exempted from GST. Hence license fee recovered in relation to such renting would also be exempted.

Q.16. What will be the GST implications on license fee payable to FSSAI towards the stamping of weighbridges?

Ans The same is exempted in view of the exemption notified as follows:

“Services provided by the Central Government, State Government, Union territory or local authority by way of-

- (a) Registration required under any law for the time being in force;
- (b) Testing, calibration, safety check or **certification** relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force

Q.17. Is there any residual rate for (a) Goods (b) Services under GST?

Ans Residual rate in the case of services is 18%.

Further serial number 453 of Schedule III of Notification No. 01/2017 CGST (Rate) GST rate prescribes 18% for the goods not specified in any schedule

Q.18. What is the GST Rate for (a) Civil engineering work contract (b) Electrical engineering work contract? Further also elaborate on capital and revenue expenditure.

Ans "Works contract" under GST law has been defined as a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

Further the same is prescribed as supply of services and GST @18% is applicable on the same. Also repair and maintenance and other support services are taxable @18%.

Therefore, civil engineering services and electrical engineering services would accordingly be taxable @18%.

Q.19. What are the government services availed by FCI which will be liable to reverse charged under GST? (Service availed are Water charges from municipality, Security services from State Govt. Home Guard and other Govt. department, Postal services, Weighbridge Stamping services, FSSAI payment)?

Ans Water charges, Weighbridge Stamping charges, FSSAI charges are exempted.

Security and Home guard services provided by the Government would be taxable under reverse charge.

Services provided by Department of Posts (DOP) by way of speed post, express parcel post as well as sale of postage stamp are taxable under forward charge. Accordingly the recipient would not be liable to pay GST under reverse charge.

Q.20. If a registered supplier issue invoice but does not charge GST, then will it come under reverse charge?

Ans It will not come under reverse charge. Any registered vendor shall issue the tax invoice having particulars prescribed under the GST laws. This shall be ensured while making any purchase from the registered vendor. In case of any discrepancy, the same may lead in reporting issues and non-availability of input tax credit to FCI.

Having said the above, this shall be verified that whether the vendor is registered under composition scheme. If so, then the relevant tax invoice shall not contain any GST liability. To identify the taxpayer type as 'regular' or 'composition', search can be made with the GSTIN of the vendor on the following link: <https://services.gst.gov.in/services/searchtp>

Q.21. In case of recruitment of employees is done against which fee is collected & tax is paid and payment to recruitment agency is also being paid, now whether ITC will be available against payment to agency or will it be against entire turnover.

Ans Services of recruitment agency are not directly linked to recruitment fee collected from the employees. Hence the input tax credit would be available basis proportion of the taxable turnover to total turnover.

Q.22. What are tax implications under GST regime in case of recovery of Tatt-Patti (rope by which Gunny bales are tied) from Arthiyas along with applicable HSN Code and GST Rates?

Ans Iron Hoops falling under HSN code 7211 are taxable @18%.

In case of different HSN code applicable, GST rate applicable thereto can be identified by searching with the related description of the product on the following link: <https://cbec-gst.gov.in/gst-goods-services-rates.html>

Q.23 What are the GST implications on the Annual Maintenance Contract for Horticulture works for office building consisting of supply of Gardeners, supply of flowers, plants, compost manure, supply of outdoor and indoor plants on rental basis and supply of seasonal sapling.

Ans It depends on the nature of the contract. Supply of services for Horticulture works is exempted under GST.

Q.24 What are the GST implications on the travel tickets booked by FCI for advocates?

Ans Expenses incurred by FCI for travel of advocate would not be taxable again if such advocate is not registered. GST applicable on such travel expenses would have already been paid by the concerned office.

However amount reimbursed to an advocate for the expenses incurred by him and in relation to his services, would be taxable under reverse charge since the services of advocate are liable to reverse charge.

Q.25 Whether every registered vendor needs to mention the HSN code in tax invoice?

Ans It is optional to mention the HSN code in the tax invoice for vendors having annual turnover up to INR 1.50 Cr but they need to provide information about description of goods.

It will be mandatory to mention HSN code at two digits level for vendors having annual turnover in the preceding year above INR 1.50 Cr but up to INR 5.00 Cr and at four digits level for taxpayers having annual turnover above INR 5.00 Cr.

Q.26 Issues related to hospital bills:

- (a) Bills from Hospitals are received in FCI for Indoor Treatment taken by FCI employees and in the bills different charges such as Room Rent, Operation/Surgery/Implant charges, Stent Charges, Consultancy Charges, Pharmacy (Consumables and Medicines) Charges, Laboratory Charges, Radiology Charges etc. are claimed. Whether any of these charges mentioned will be covered under the "Health care services by a clinical establishment, an authorised medical practitioner or para-medics"?**
- (b) Some Hospitals have neither mentioned 'Bill of supply' nor their GSTINs are mentioned on the invoice?**
- (c) Some Hospitals have mentioned 'Bill of supply' and their GSTINs on the invoice but have not mentioned GSTIN of FCI?**
- (d) Some Hospitals have mentioned all the details such as Bill of supply, their GSTINs, GSTIN of FCI and HSN Code etc. but have not mentioned the GST amount on the invoice?**
- (e) Some Hospitals have not mentioned none of the details required under GST since they are yet not having GSTIN?**

Ans (a) Health care services provided by a clinical establishment, an authorized medical practitioner or para-medics are exempted under GST regime. Further health care services is defined as any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Therefore, different charges such as Room Rent, Operation/Surgery/Implant charges, Stent Charges, Consultancy Charges, Pharmacy (Consumables and Medicines) Charges, Laboratory Charges, and Radiology Charges etc. would be exempted as levied by the hospitals for rendering the services by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy.

(b) Hospital shall be treated as unregistered for the levy of GST provisions in case they are not issuing bill of supply mentioning their GSTIN.

(c) This shall be ensured that bill contains GSTIN of FCI. Further even if the same is not having GSTIN of FCI, the invoice shall be duly reported under Table 7 of GSTR-2 as an inward supply from registered vendor.

(d) As mentioned above in point (a), health care services provided by the hospitals are exempted under GST and therefore bill of supply issued by such hospital would not be having GST mentioned.

(e) Hospital shall be treated as unregistered for the levy of GST provisions in case they are not issuing bill of supply mentioning their GSTIN.