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**WEST BENGAL ESSENTIAL COMMODITIES SUPPLY CORPORATION LTD.**  
**(A GOVERNMENT OF WEST BENGAL UNDERTAKING)**  
**11-A, Mirza Ghalib Street, Kolkata – 700 087**

Ref No. : *eeesc/Ae/A/4346*

Date : 22/02/2019

To,  
The Child Development Project Officer,

**Sub- Non deduction of TDS both under Income Tax Act & GST Act from the bills raised by this corporation.**

Sir,

It has been observed by the undersigned that TDS on account of income tax & GST both are being deducted from different bills of materials supply raised by this corporation. In this respect I would like to inform you that no TDS can be deducted from the bills of this corporation. The reasons are explained below :-

- 1) Section 51 of Good & Services Tax Act,2017 prescribed TDS on some transactions. But the Government of India has exempted all the deductors from the provisions of section 51 vide notification no 73/2018 dated 31<sup>st</sup> December 2018 of Department of Revenue, Ministry of Finance. The Government of West Bengal has also issued matching order in this respect vide memo no 1892-FT dated 31.12.18 of Finance Department. Hence no GST TDS is required from our bill as we are also GST TDS Deductor bearing GSTIN 19AAACW2985M1DV. Copies of all relevant orders are attached herewith.
- 2) Section 194C of Income Tax Act,1961 prescribed TDS for carrying out any work and the definition of work does not include supplying a product by using materials purchased from outside. We undertake only pure supply contract for different goods like salt, oil, dal, sugar etc. Hence our contracts do not come under the purview of work as defined in the said act. Thus our bills do not require any TDS under Income Tax.

In these circumstances you are earnestly requested to comply the legal provisions and not to deduct any TDS from our bills in future. Moreover, it is also requested to file the returns for the taxes already deducted so that we can receive the tax credits in due time.

Your active corporation will be highly appreciated.

The matter is extremely urgent.

Thanking you.

Rishi Pada Naskar, WBA&AS

General Manager (Finance)

WBECSC Ltd.

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*Ref No. : .....*

*Date : 22/02/2019*

Enclosures-

- 1) Copy of section 194C of Income Tax Act .
- 2) Copy of section 51 of GST act .
- 3) Notification number 61/2018 Dated 03.11.2018 of department of revenue, Government of India .
- 4) Memo number 1605-FT dated 19 November 2018 of Finance, Government OF West Bengal .
- 5) Notification no 73/2018 dated 31.12.2018 of Department of Revenue, Government of India .
- 6) Memo no 1892-FT dated 31.12.2018 of Finance Department, Government of West Bengal.

Copy forwarded to information and necessary action –

- 1) Director of Treasuries and Accounts, Finance, Department, Government of West Bengal, Mirta Building ,8, Lyon's range Kolkata 700001.
- 2) The Chief General Manager-II, WBECSC LTD. )
- 3) The General Manager (ICDS) ,WBECSC LTD
- 4) Treasury Officer, \_\_\_\_\_

Rishi Pada Naskar, WBA&AS

General Manager (Finance)

WBECSC Ltd.

**Payments to contractors.**

**194C.** (1) Any person responsible for paying any sum to any resident (hereafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a specified person shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to—

- (i) one per cent where the payment is being made or credit is being given to an individual or a Hindu undivided family;
- (ii) two per cent where the payment is being made or credit is being given to a person other than an individual or a Hindu undivided family,

of such sum as income-tax on income comprised therein.

(2) Where any sum referred to in sub-section (1) is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

(3) Where any sum is paid or credited for carrying out any work mentioned in sub-clause (e) of clause (iv) of the *Explanation*, tax shall be deducted at source—

- (i) on the invoice value excluding the value of material, if such value is mentioned separately in the invoice; or
- (ii) on the whole of the invoice value, if the value of material is not mentioned separately in the invoice.

(4) No individual or Hindu undivided family shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.

(5) No deduction shall be made from the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor, if such sum does not exceed thirty thousand rupees :

**Provided** that where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds <sup>50</sup>[one lakh] rupees, the person responsible for paying such sums referred to in sub-section (1) shall be liable to deduct income-tax under this section.

(6) No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, where such contractor owns ten or less goods carriages at any time during the previous year and furnishes a declaration to that effect along with his Permanent Account Number, to the person paying or crediting such sum.

(7) The person responsible for paying or crediting any sum to the person referred to in sub-section (6) shall furnish, to the prescribed income-tax authority or the person authorised by it, such particulars, in such form and within such time as may be prescribed.

*Explanation.*—For the purposes of this section,—

- (i) "specified person" shall mean,—
  - (a) the Central Government or any State Government; or
  - (b) any local authority; or



- (c) any corporation established by or under a Central, State or Provincial Act; or
  - (d) any company; or
  - (e) any co-operative society; or
  - (f) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or
  - (g) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India; or
  - (h) any trust; or
  - (i) any university established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956 (3 of 1956); or
  - (j) any Government of a foreign State or a foreign enterprise or any association or body established outside India; or
  - (k) any firm; or
  - (l) any person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, if such person,—
    - (A) does not fall under any of the preceding sub-clauses; and
    - (B) is liable to audit of accounts under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor;
  - (ii) "goods carriage" shall have the meaning assigned to it in the *Explanation* to sub-section (7) of section 44AE;
  - (iii) "contract" shall include sub-contract;
  - (iv) "work" shall include—
    - (a) advertising;
    - (b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;
    - (c) carriage of goods or passengers by any mode of transport other than by railways;
    - (d) catering;
    - (e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer.
- but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer;

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council.

51. (1) Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—

Tax deduction  
at source

(a) a department or establishment of the Central Government or State Government; or

(b) local authority; or

(c) Governmental agencies; or

(d) such persons or category of persons as may be notified by the Government on the recommendations of the Council,

(hereafter in this section referred to as "the deductor"), to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

*Explanation.*—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

(2) The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.

(3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.

(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.

(5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed.

(6) If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.

(7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.

(8) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54:

Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India**  
**Ministry of Finance**  
**(Department of Revenue)**  
**Central Board of Indirect Taxes and Customs**  
**Notification No. 61/2018 – Central Tax**

New Delhi, the 5<sup>th</sup> November, 2018

**G.S.R. ....(E).**— In exercise of the powers conferred by sub-section (3) of section 1, read with section 51 of the Central Goods and Services Tax Act, 2017 (12 of 2017), hereafter in this notification referred to as the said Act, the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 50/2018-Central Tax, dated the 13<sup>th</sup> September, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R 868(E), dated the 13<sup>th</sup> September, 2018, namely:—

In the said notification, after the proviso, the following proviso shall be inserted, namely:-

“Provided further that nothing in this notification shall apply to the supply of goods or services or both **from a public sector undertaking to another public sector undertaking**, whether or not a distinct person, with effect from the 1<sup>st</sup> day of October, 2018.” .

[F. No. CBEC/20/06/16/2018-GST]

(Dr. Sreeparvathy S.L.)  
Under Secretary to the Government of India

Note:- The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R 868 (E), dated the 13<sup>th</sup> September, 2018 and subsequently amended vide notification No. 57/2018-Central Tax, dated the 23<sup>rd</sup> October, 2018, published vide number G.S.R 1057(E), dated the 23<sup>rd</sup> October, 2018.



The  
Kolkata Gazette  
सत्यमेव जयते  
Extraordinary  
Published by Authority

KARTIKA 28]

MONDAY, NOVEMBER 19, 2018

[SAKA 1940

PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL  
FINANCE DEPARTMENT  
REVENUE  
NOTIFICATION

No. 1605-F.T.

Howrah, the 15th day of November, 2018.

No. 61/2018-State Tax

In exercise of the powers conferred by sub-section (3) of section 1, read with section 51 of the West Bengal Goods and Services Tax Act, 2017 (West Ben. Act XXVIII of 2017), hereafter in this notification referred to as the said Act, the Governor, on the recommendations of the Council, is pleased hereby to make the following further amendments in this Department Notification No. 1344-F.T. dated the 13th September, 2018, published in Part I of the Kolkata Gazette:—

*Amendment*

In the said notification, after the proviso, the following proviso shall be *inserted*, namely:—

"Provided further that nothing in this notification shall apply to the supply of goods or services or both from a public sector undertaking to another public sector undertaking, whether or not a distinct person, with effect from the 1st day of October, 2018."

By order of the Governor,

RAJSEKHAR BANDYOPADHYAY  
Additional Secretary to the Government of West Bengal

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)  
Central Board of Indirect Taxes and Customs  
Notification No.73/2018 – Central Tax

New Delhi, the 31<sup>st</sup> December, 2018

**G.S.R. ....(E).**— In exercise of the powers conferred by sub-section (3) of section 1 read with section 51 of the Central Goods and Services Tax Act, 2017 (12 of 2017), hereafter in this notification referred to as the said Act, the Central Government, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 50/2018-Central Tax dated the 13<sup>th</sup> September, 2018 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R 868 (E) dated the 13<sup>th</sup> September, 2018, namely:—

In the said notification, after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that **nothing** in this notification **shall apply to** the supply of goods or services or both which takes place between one person to another person specified under clauses **(a), (b), (c) and (d) of sub-section (1) of section 51** of the said Act.”.

[F.No.20/06/16/2018-GST]

(Dr. Sreeparvathy S. L.)  
Under Secretary to the Government of India

Note:- The principal notification No. 50/2018- Central Tax, dated the 13<sup>th</sup> September, 2018 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R 868 (E), dated the 13<sup>th</sup> September, 2018 and last amended vide notification No. 61/2018-Central Tax, dated the 05<sup>th</sup> November, 2018, published vide number G.S.R 1084(E), dated the 05<sup>th</sup> November, 2018.



The  
Kolkata Gazette  
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Published by Authority



सत्यमेव जयते

PAUSA 10]

MONDAY, DECEMBER 31, 2018

[SAKA 1940

PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

**GOVERNMENT OF WEST BENGAL**

**FINANCE DEPARTMENT**

**REVENUE**

**NOTIFICATION**

No. 1892-F.T.

Howrah, the 31st day of December, 2018.

*No. 73/2018-State Tax*

In exercise of the powers conferred by sub-section (3) of section 1, read with section 51 of the West Bengal Goods and Services Tax Act, 2017 (West Ben. Act XXVIII of 2017), hereafter in this notification referred to as the said Act, the Governor, on the recommendations of the Council, is pleased hereby to make the following further amendment in this Department No. 1344-F.T. [50/2018-State Tax], dated the 13th September, 2018, published in the Kolkata Gazette, Extraordinary, Part I: –

*Amendments*

In the said notification, after the second proviso, the following proviso shall be *inserted*, namely: –

"Provided also that **nothing in this notification shall apply** to the supply of goods or services or both which takes place between one person to another person specified under **clauses (a), (b), (c) and (d) of sub-section (1) of section 51** of the said Act."

By order of the Governor,

RAJSEKHAR BANDYOPADHYAY

*Additional Secretary to the Government of West Bengal.*