

PRASAR BHARATI
(India's Public Service Broadcaster)
(Taxation Section)
Prasar Bharati Secretariat
6th Floor, Prasar Bharati House
Copernicus Marg, New Delhi-110001

GST Circular no. 12

No. PB-7(14) (1)/2018-Fin/ 2157-77

Dated 04.10.2018

Sub: Liquidated damages and issue of Credit and Debit Notes under GST - reg.

Ref: This office GST circular no. 3 dated 18.07.2017

Section 34 of Central Goods & Services Tax Act, 2017 deals with issue of Debit and Credit Notes. As per Section 34(1), where a tax invoice has been issued for supply of any goods or services or both and -

- a) the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or
- b) where the goods supplied are returned by the recipient, or
- c) where goods or services or both supplied are found to be deficient

the registered person, who has supplied such goods or services or both, may issue to the recipient a credit note.

Similarly, Debit note(s) can be issued where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient a Debit Note. For the purpose of GST Acts, "Debit Note" shall include a supplementary invoice.

Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted accordingly.

It may be noted that-

1. The debit notes as well as credit notes under GST can be issued only by the supplier of the goods and / or service. These notes can-not be issued by the recipient of the supply.
2. The supplier shall mention the details of debit or credit note in from GSTR-1. On filing the details it will get auto-populated in form GSTR-2A for the recipient. The recipient can either modify or accept or reject these details and claim input tax credit (ITC) accordingly.



3. Debit Note/Credit Note Must Contain Invoice Number
 - (a) The debit note/credit note must contain the invoice number of the original supplies made.
 - (b) The details of the debit note/credit to be declared in form GSTR-1 shall be given along with details of original invoice number, date and GSTIN.
4. The time limit is only for issuing credit note and not^{for} debit note.

GST on Liquidity Damages (LD):

Liquidated Damages is not defined in GST Acts but is a common concept in business. Section 73 and 74 of Indian Contract Act, 1872 deals with 'liquidated damages' and the same are reproduced below:

Section 73: *"When a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract, to be likely to result from the breach of it."*

Section 74: *"When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, or if the contract contains any other stipulation by way of penalty, the party complaining of the breach is entitled, whether or not actual damage or loss is provided to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named, or as the case may be, the penalty stipulated for."*

In other words, we can say that "Liquidated damages are damages or a sum of money which is agreed upon in a contract to be paid to a party by another party in the event of breach of any term or condition of the contract".

As per Schedule II of CGST Act, 2017, there are some activities which are to be treated as supply of goods or supply of services. Liquidated damages are covered under the Clause 5(e) of said Schedule II and are to be treated as Services. There is no specific Service Accounting Code (SAC) for liquidated damages. It may be covered under Heading "9997" [please refer Central Tax (Rate) Notification no.11/2017 dated 28.06.2017] on which GST is payable @18%.

In view of above, it may be noted that a separate tax invoice should be issued by the field units against the deduction made from the invoice of the supplier on account of liquidated damages. The field units charging liquidated damages shall issue Tax Invoice as per the GST Acts and the rules made thereunder. The example given under clause 8 of GST circular no.3 under reference stands deleted.

The payment should be made net of invoice(s) received from the supplier and invoice(s) issued by the field unit in respect of the liquidated damages. In respect of any



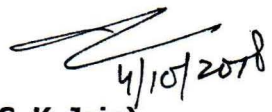
deduction in the invoice other than liquidated damages, the Credit Note needs to be issued by the supplier.

The following actions need to be taken by the DDOs and SNOs for GST compliance in this regard:

SI No.	Particulars	Details to be sent by DDOs to SNOs under the details of-	Action to be taken by SNOs
1	Credit Note/Debit Note issued by the supplier against inward supply invoices	GSTR-2	Reduce or increase the amount of ITC.
2	Credit Note/Debit Note issued by field unit of Prasar Bharati against outward supply invoices	GSTR-1	Reduce or increase the amount of GST liability.
3	Tax invoice(s) issued by clients/ customers for liquidated damages	GSTR-2	Claim the tax amount as ITC.
4	Tax invoice(s) issued by the field units of Prasar Bharati for liquidated damages	GSTR-1	Increase the amount of GST liability.

Both the Directorates are requested to circulate this circular to all the field units under their control and ensure that the instructions are followed scrupulously. A copy of this circular is also being uploaded on the website of Prasar Bharati.

This issues with the approval of Member (Finance), Prasar Bharati.


(C .K. Jain)
DDG (Fin)

DG: DD
DG: AIR
E-in-C, AIR & Doordarshan

Copy for information & necessary action to:

1. ADG (Comm.), DD & AIR, Prasar Bharati Sectt.
2. ADG (FIN), DG: DD/ DG: AIR.
3. ADG (E&A)/ ADG (Sports), PB Sectt.
4. All ADG (E)s/ ADG (P)s of Prasar Bharati, AIR and Doordarshan
5. CE (Civil), CCW, New Delhi
6. DDG (Fin), DG: DD/ DG: AIR.
7. DDG (Comm.), DG: DD/ DG: AIR.
8. All SNOs of DG: DD/ DG: AIR.
9. All DDO units of DG:DD/ DG:AIR/ PB Sectt.
- ✓ 10. DDG (Technical) for uploading on the website.

Copy for information to:

1. SO to CEO
2. PS to Member (Fin)