



# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

ICAI/IDTC/2018-19/Rep/11

3<sup>rd</sup> Oct, 2018

Sh. Rajiv Jalota (IAS)  
The Commissioner,  
The Maharashtra Goods and Services Tax  
8<sup>th</sup> floor, Goods and Services Tax (GST) Bhavan,  
Mazgaon, Mumbai - 400010

Sub: Deduction of TDS under MVAT Act by Govt. Dept. even after implementation of GST from 1<sup>st</sup> July, 2017

Respected Sir,

The Institute of Chartered Accountants of India (ICAI) has been proactively supporting the Government by providing suggestions at each stages of development, creating awareness and disseminating knowledge of GST among various stakeholders.

We are writing this letter as it has been observed that some of the Govt Departments like PWD & other Municipal Corporations and Local Self Govt bodies continue to deduct TDS as per the provisions of Section 31 of Maharashtra Value Added Tax Act, 2002.

We have observed that in several cases the invoices were raised by the contractors in the State of Maharashtra for the works carried out by them when the erstwhile MVAT Act was in vogue. Following situations can be envisaged where such deduction of TDs under MVAT Act is observed in GST era:

- Running bill for the work done is raised during the VAT period. However, the bill certification is pending by the respective authority. In such a case, the dealer would not have recognised this as "sale" and would not have paid the appropriate VAT on such transactions. Such invoices have been certified at a later date after the GST is introduced. Obviously, fresh invoice with GST is offered for tax and sale is accounted in the books. Such dealers would have filed the returns for pre-GST period and would have discharged the tax liability accordingly. The WC-TDS deduction would amount to double taxation of the same transaction and would also block such amount as amount refundable under the MVAT Act.
- Running bill for the work done is raised and is certified / not certified but the contractor has offered such invoices to tax under the MVAT Act. The due tax under the MVAT Act is paid along with the return. In such a case WCT TDS now deducted would result into blocking the dealer's funds under MVAT Act.

In both the above cases the dealer even if chooses to file revised return and claim TDS credit in the return for June 2017, such refund would not be allowed to be carried forward since the limitations for filing Form Tran-1 as per provisions of section 140 of the State GST Act is already over. In the circumstances, there will be blocking of funds.



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Furthermore, Section 142(13) of CGST Act provides that "where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under any law of a State or Union territory relating to Value Added Tax and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 51 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day."

The aforesaid provision in the GST Act makes it very clear that, unless issuance of bill and payments both are made before 01.07.2017 the TDS provisions under State Act would not be applicable.

In view of the above, we request your good offices to issue necessary instructions to the Govt dept. specially PWD, irrigation as well as to the Municipal Corporations and local self Govt authorities to not to deduct WC -TDS on such invoices.

A Trade Circular issued in this respect and forwarded to these departments would certainly help the cause.

We will be obliged for the action as requested above. This will address the hardship caused to the businesses.

In case of any clarification CA. Sharad Singhal, Secretary, Indirect Taxes Committee may be contacted at 9310542608 or [itdc@icai.in](mailto:itdc@icai.in)

Thanking you,

Yours faithfully,

CA. Madhukar Hiregange  
**Chairman**  
**Indirect Taxes Committee**

