

उत्तराखण्ड पावर कारपोरेशन लि०

(उत्तराखण्ड सरकार का उपक्रम)

Uttarakhand Power Corporation Ltd.

(A. Govt. of Uttarakhand Undertaking)

CIN NO: U40109UR2001SGC025867

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Letter No. /DGM (Fin)

Date: /06/2022

All Drawing and Disbursing Officers,
Uttarakhand Power Corporation Ltd.

Subject: Ensuring full compliance of the provisions of GST Act pertaining to Penalty / Liquidated Damages recovered from the Vendor/ Contractor/ Supplier/ Service Provider, etc.

As you are aware that there is applicability of GST on penalty / liquidated damages recovered from the Vendor / Contractor / Supplier / Service Provider, etc. The same is treated as "Supply of Service" under clause (e) of Para 5 to the Schedule II of the CGST Act, 2017. The excerpt of clause (e) of Entry 5 to the Schedule II of the CGST Act, 2017 is produced here as "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act."

The rate of GST on penalty / liquidated damages recovered from the Vendor / Contractor / Supplier / Service Provider etc. is presently 18% and the **Service Accounting Code (SAC) is 999794**. Further Section 31 prescribes that a registered person supplying taxable goods or services or both shall issue Tax Invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed. Rule 47 of CGST Rules, 2017 prescribes that the invoice for supply of taxable service shall be issued within a period of thirty days from the date of the supply of service.

As the penalty / Liquidated damages recovered from the Vendor / Contractor / Supplier / Service Provider, etc. falls under the category of service, the tax invoice for the same has to be issued within 30 days from the date of recovery/deduction of the same from the bills of the suppliers of goods or services or both and GST is to be deposited accordingly. If later on, time extension is granted and therefore such penalty / liquidated damages are required to be paid / released, Credit Note is required to be issued there against and effect of GST paid shall stand nullified by the said Credit Note. The details of such Credit Note is required to be reported in the return for the month during which such Credit Note has been issued.

Further, it is to note that Section 34(2) prescribes that any registered supplier can issue a Credit Note in relation to supply of goods or services up to a period of six months from the end of the financial year in which such penalty was deducted or the date of filing the Annual Return, whichever is earlier. The registered person cannot issue a Credit Note beyond the time period mentioned herein above.

Thus, if the penalty / liquidated damages are required to be paid / released and if the books of accounts of UPCL are not closed, then the following additional accounting entry is required to be passed in the same Financial Year in which such penalty / liquidated damages was earlier recovered:

Minus Credit to GL 62.917 'Penalties for delay in Supplies/Execution of Works'.
Minus Credit to GL 46.932/46.933/46.934 'CGST/SGST/IGST'.
Credit to GL 46.970 'Other liabilities'

Thereafter, at the time of issue of Credit Note, payment may be released by debiting GL 46.970 'Other liabilities'.

However, if the books of accounts of UPCL for the Financial Year in which such penalty / liquidated damages were recovered are closed, then the following accounting entry is to be passed in the Financial Year in which the time extension is granted:

Debit to GL 83.801 'Prior period expenses'
Credit to GL 45.3 'Liability for payment'

The above entry is to be passed with the earlier penalty / liquidated damages amount only i.e. excluding GST. In this case, GST amount is not to be released to the party.

Further, where the contractor from whom the penalty is recovered is registered under GST law then in that case E-invoice for the same is also required to be generated on the E-invoice portal. Credit Note issued in case of refund of penalty to the contractor is also required to be reported on the E-invoice portal.

It is also required to incorporate the following clause in the agreements made with party:

"GST as applicable from time to time on such penalty/ liquidated damages shall also be recovered from the Vendor/ Contractor/ Supplier/ Service Provider etc. Further, in case time extension is allowed, after the expiry of time period prescribed towards issuance of Credit Note under GST Law and the penalty already deducted is refunded to the party, in such a scenario, the sums already charged & deposited towards GST on such penalty shall not be refundable under any circumstance".

It is therefore requested to kindly ensure strict compliance of the above in all the concerned Offices.

No. 226 /DGM(F)/UPCL/ BSW

Dated: 09 /06/2022

f D.G.M. (Finance)

Copy to the following for information and necessary action:

1. All Chief Engineers of UPCL.
2. All Superintending Engineers, UPCL.
3. DGM (Finance), (Operation, Commercial & Civil), (Project and Pay Allowance), Internal Audit, UPCL, Dehradun.
4. All Deputy General Manager (Finance) of Zonal Accounts Offices.
5. Executive Engineer, IT, UPCL with the request to upload the same in the website of UPCL.

for *Mawichy*
(AO)
D.G.M. (Finance)