

A DETAILED STUDY ON THE IMPACT OF GOODS AND SERVICE TAX ON WORKS CONTRACT SUPPLIES MADE TO SPECIAL ECONOMIC ZONES (SEZs)

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ABSTRACT

Generally, the non-core activities of the SEZ Unit or SEZ developer are outsourced. Works Contract occupies a pre-dominant place in the arena of Outsourcing to deliver quality and expertise services. Quality maintenance and assurance is the need of the hour to SEZs, as they operate in Non-Domestic Non-tariff Areas and their main focus is exclusively on exports. The services offered by the Works Contract are in par with the international standards.

INTRODUCTION TO THE STUDY

The co-domain activities of the SEZ unit or SEZ developer viz, construction, erection, installation of any immovable or movable property are transferred to Works Contract to avail expert and personalized services. SEZs, though are the part of the nation's map and very much within the boundaries of the State, have a distinct treatment in the eyes of Indirect Taxation Law. The industries which produce goods and services that meet the international quality and demand are permitted to establish SEZ (SEZ act of 2005). To promote SEZ, the governments at state and central provide facilities like tax holidays, quick access to loans, guarantee scheme etc, to accelerate robust development. To ease out difficulties from taxation glitches, supplies made to SEZ are Zero rated. To incentivize further refund of ITC is also available to supplies made, with the submission of LUT or payment of taxes on goods and services and then claim for refund. The excess of tax credit can be adjusted towards the payment of IGST/CGST/SGST/UTGST resulting in free flow of working capital requirements of the business.

Basic principle of Zero-rated supply or exports is that taxes should not be exported; and thus exports are Zero-rated. As per **Section 16 of the IGST Act, 2017**: it means any of the following taxable supply of goods and/or Services namely.

(a) Exports of goods or services or

(b) Supply of goods or services to a SEZ developer or a SEZ unit.

The study focuses on (b) with reference to the supply of goods or services to a SEZ developer or a SEZ unit by the process of WORKS CONTRACT.

‘Works contract’ means a contract for building, construction, fabrication, completion, erection, installation, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property in goods (whether as goods or in some other form) is involved in the execution of such contract- **Section 2(119) of CGST Act.**

NEED FOR THE STUDY

The taxation policy i.e. direct or indirect of government is to draw revenue all around corners of the industry in a productive and systematized manner. In this relation SEZs generate needed treasure to the government. The revenue so generated can be channelized into potential investments and sketch the infrastructure of the nation. Forex earned by SEZs broadens the MSMEs markets, contribute to GDP, create employment opportunities, minimize the deficit in current account balance, extends the wings of innovation and fulfills the dream of **MAKE IN INDIA** to achieve the set goals of **INDUSTRY 4.0**.

Works contract refers to the practice to hire an outside company for performing tasks specifically of concrete business project. The tasks which cannot be handled internally are generally contract based. The contractor has some reasonable amount of control over the project. Generally the setup and management of SEZs involves huge capital investment, tough expertise and professionalism to deliver the desired international quality standard output. Works contract provides skilled workers, higher flexibility, free flow of work without interruption due to unmet legal formalities and demands. Works contract will enable the SEZ to meet the international requirements within the stipulated time. To ease out glitches from the taxation point of view, the supplies made to the SEZ by a works contract to SEZ unit are Zero-Rated and the benefit of Input Tax Credit can be availed by the works contractor through the execution of Letter of Undertaking (LUT) or by paying IGST and claiming for refund after the submission of relevant documents. The principle of tax refund is observed in the manner as what was found under VAT i.e. previous indirect tax regime.

OBJECTIVES OF THE STUDY

- Works contract supplies to SEZ can avail complete benefit of Input Tax Credit in comparison with previous indirect tax regime.
- No interruption in the supply chain as there is Seamless inflow of credit, easing out the problem of working capital requirements.
- The excess of IGST available towards the supply made to an SEZ unit can be utilized as set off against the IGST / CGST/ SGST/ UTGST in the DTA – which acts as an advantage to the works contractors.

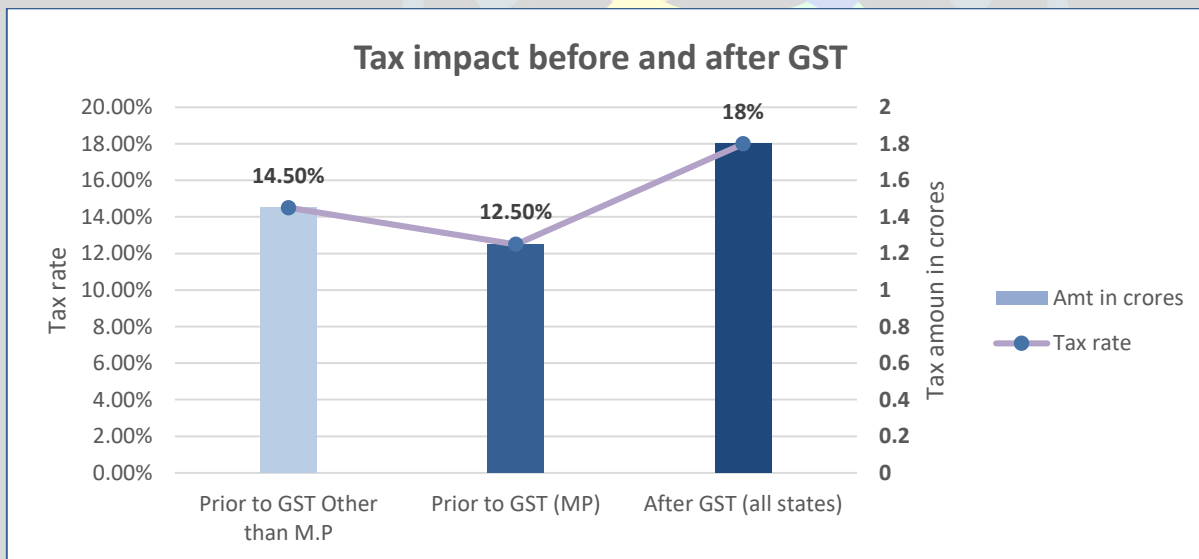
HYPOTHESIS

H₁: Works contract under GST **CAN** reduce bottlenecks of the work relentlessly in the SEZ units compared to the previous indirect tax regime.

H₀: Works contract under GST **CANNOT** reduce the bottlenecks in the execution of the work relentlessly in the SEZ units compared to the previous indirect tax regime.

A TABLE AND GRAPH SHOWING COMPARISON OF TAX RATES UNDER PRE-GST AND POST-GST

PARTICULARS	PRIOR TO GST (OTHER THAN MP)	PRIOR TO GST (MP)	AFTER GST (ALL STATES)
Tax Rate	14.5%	12.5%	18%
Amount in (Crore)	1.45	1.25	1.8



FINDINGS OF THE STUDY

Works Contract under Pre-GST had **three kinds** of taxable activities:

- It consisted supply of goods as well as supply of services, and if a new product is created during the execution of the contract, then Excise Duty was also levied.

Thus, single activity of Works Contract was taxed under different laws for three different activities. This resulted in confusions leading to legal disputes in many cases with regards to taxability and treatment. GST has brought about clarity in major issues and put an end to assumptions and anticipations of the industry. GST removed the conflicts of the tax treatment and announced a clear description; **Works Contract will be treated as Service** and tax would be levied at **18%** accordingly (**not separately as goods / services / part services**). The much needed clarification is given to Works Contractors that, **treatment and execution purely as Service not as supply of goods**. The highlight of GST under Works Contract is applicable to SEZs as well. The beauty of tax levy to SEZ lies in the mode of its refund of Input-Tax Credit to the works Contractors. The contractors are relieved with the problem of blockage of funds in the working capital requirements, as generally the project turnover run in Crores.

----The Concept of Works Contract is attached to Immovable Property.

----As Works contract is treated as **Service** irrespective of supply of goods involved, **SAC (Service Accounting Code)** is applicable.

Works contract under GST though is in its inception stage, has brought about a tremendous and a remarkable change to the SEZ units especially. The works contractors and the SEZ units have benefitted to a large extent with the game changing reform GST, with complete refund of Input Tax Credit on goods and services supplied; simultaneously this refund can be utilized to set off the tax credit against the DTA trade. The SEZ are also in a better off positions with the complete in and out vendor screening process by availing all the information online and thereby reduces the chances of fraud detection. The refund of the tax credit helps the workers contractor to purchase raw materials, make the payments regularly and unstopped supply of goods and services to SEZ. The concept of **NEXUS is** completely abolished in GST when compared to previous Excise, VAT or Service Tax.

Under the previous indirect tax regime there was a proportionate allotment of VAT and Services tax to works contract, at the rate of 14.5% respectively. In case of inter-state transactions CST paid earlier was not allowed as credit and hence increased the cost of the projects undertaken.

VAT principle of input tax credit is available only when tax is payable on the output. Only proportionate input tax credit could be taken, if some supplies are taxable and some are exempt.

The moral of any taxation policy (i.e. direct or indirect) of government is to draw revenue from the hook and corner of the industry in a productive and easy manner, minimizing the chances for tax evasion, to create a transparent system of availing the benefits from both the ends and to increase the scope of faith and trust among the stake holders of the economy.

RECOMMENDATIONS AND SUGGESTIONS

- Different government at State and Centre makes it slight difficult to get the refund of input tax credit [ITC in case of works contract to SEZ is refunded within 7 days].
- Lack of adequate knowledge on the amendments, law on GST –its refund among the chartered accountants mass is one of the main constraints in delay of necessary procedure to the work contractors.
- Awareness should be brought about in the people who practice and use GST about its benefits to the society

- Tax evasion must be de-rooted from the manufacturing stage itself. Proper invoices, Software and records must be maintained.
- Liberty must be given to exporters and works contractors regarding bank guarantee sub-contracting, proper cultural relations and uniformity in administrative and financial matters.
- GST in a fully-fledged form and a developed system can bring about tremendous changes into the economy by creating more employment opportunities among the youth of the country in assessing the tax compliances, detecting frauds and channelizing the revenue to the government.

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