

CHAPTER XI : MINISTRY OF HOUSING AND URBAN AFFAIRS

**Office of the Executive Engineer, Bhubaneswar Central Division No. II,
Central Public Works Department (CPWD), Bhubaneswar**

11.1 Avoidable expenditure due to not claiming refund of Service tax

Central Public Works Department failed to claim refund of service tax within the due date resulting in avoidable expenditure of ₹ 71.80 lakh.

The Finance Act, 2016 restored exemption from payment of service tax on construction services provided to Government retrospectively and no service tax was thus required to be levied or collected for the period commencing from the 1 April 2015 to 29 February 2016 in respect of construction services provided to government, a local authority or a government authority in respect of construction of government schools, hospitals, etc. The exemption was further extended till 31 March 2020 vide notification No. 9/2016-ST dated 1 March 2016 subject to the condition that the agreement was entered into prior to 1 March 2015. An application for claim of refund of service tax was, however, required to be made within a period of six months from the date on which the Finance Bill 2016 received the assent of the President i.e. 14 May 2016. As such, claims for refund of service tax should have been made before 13 November 2016.

Office of Executive Engineer, Bhubaneswar Central Division No. II, Central Public Works Department (CPWD), entered into contracts with two contractors¹ (June 2014 and August 2014) for construction of school buildings of Kendriya Vidyalaya at Kendrapara and Jajpur. The construction works were completed in November 2016 and December 2016. The contractors claimed reimbursement of service tax of ₹ 71.80 lakh pertaining to the period from June 2015 to August 2016 from CPWD which was reimbursed to them during February 2016 to November 2016.

However, neither the contractors nor the CPWD preferred a claim before the Assistant Commissioner of Central Excise for refund of service tax by the due date prescribed under the rules *ibid* i.e. 13 November 2016. As a result, the client department (Ministry of Human Resource Department) had to bear additional expenditure of ₹ 71.80 lakh towards service tax.

¹ M/s P.K Behura for construction of school building of Kendriya Vidyalaya at Kendrapara, Odisha and M/s RL Singh Engineers & Builders (P) Ltd for construction of school building of Kendriya Vidyalaya at Jajpur, Odisha

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CPWD stated (August 2017) that its Bhubaneswar Division had been instructed to start recovery action from the contractor or make adjustments from next payments/final bill.

Audit noted that the claim for refund is already time barred. Further, as the incidence of tax had already shifted to CPWD, refund could have been claimed by CPWD also. Thus, failure to claim refund of service tax within the stipulated period had led to an avoidable expenditure of ₹ 71.80 lakh on the works.