



भारतसरकार Government of India  
रेलमंत्रालय Ministry of Railways  
रेलवेबोर्ड(Railway Board)



RBA No. 41/2022  
GST Circular No. 11/2022

No.2017/AC-II/1/6/GST/Main/Vol.III

New Delhi, dated 10.8.2022

Principal Financial Advisers,  
All Zonal Railways/Production Units

**Subject: Guidelines for implementation of GST implications on recovery of liquidated damages**

**Ref: CBIC Circular No. 178/10/2022-GST dated 3rd Aug 2022**

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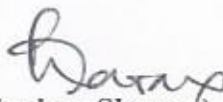
To implement correct GST practice and ensure uniformity in the manner of payments in cases where liquidated damages are levied on the vendors for non-performance of conditions of a contract, CBIC, vide Circular No. 178/10/2022-GST dated 3<sup>rd</sup> Aug 2022, with regard to taxability of liquidated damage has clarified that payment of such damages is not the desired outcome of the contract. Payment of liquidated damages is stipulated in the contract to ensure performance and to deter non-performance, unsatisfactory performance or delayed performance. It is merely a flow of money from the party who causes breach of the contract to the party who suffers loss or damage due to such breach i.e., it is an amount paid only to compensate for injury, loss or damage suffered by the aggrieved party (viz. Railways) due to breach of the contract. Thus, liquidated damages do not constitute consideration received for supply by way of tolerating the breach or non-performance of contract and are not taxable

Accordingly, the payment received by Railways in the form of liquidated damages against tolerating non-performance of conditions of a contract such as a delay in the rendering of supply is not liable to GST.

Further, with respect to the payment to the vendor where liquidated damage has been levied, the amount payable to the vendor shall be paid amount of supply including GST less amount of liquidated damage without GST thereon. For the sake of brevity, the amount to be paid to the vendor for the supply against which liquidated damage is being recovered, is illustrated as under-

*Assuming, vendor 'A' raised invoice for INR 118 (INR 100 taxable value + INR 18 GST), however, owing to certain non-performance, liquidated damage of INR 10 (10% of the taxable value) is recoverable by Railways from such vendor. In the instant illustration, Indian Railways, in net, needs to pay INR 108 to 'A' (value of supply with GST: INR 118 less amount of liquidated damages without GST: INR 10). Please note that such payment would also be subject to other deductions such as GST-TDS*

Railways/Units may take necessary action and ensure the aforementioned compliances.

  
(Sanjeev Sharma)  
OSD/Accounts  
Railway Board

Copy to: -

1. General Manager, All Zonal Railways and Production Units
2. All EDs of the ED level Empowered Committee in Railway Board
3. All Directors of GST Cell, Railway Board
4. Managing Director, Centre for Railway Information Systems, Chanakyapuri, New Delhi
5. GM/GST, GM/AIMS, CRIS, New Delhi