

Directorate General of Works  
Central Public Works Department  
CSQ Organisation, Contract & Manual Unit  
Nirman Bhawan, New Delhi.

No. CSQ/CM/C/21(1)/2006/ 899  
To

Dated, 30/8/06

All Chief Engineers,  
CPWD, E&F, PWD (Delhi Govt.)

**Subject: Levy of Sales Tax by State Govts. on the departmental materials issued to the contractors.**

Recently, some cases of levy of sales tax by the State Governments. of Kerala, U.P. & Rajasthan on the materials issued by the department to the contractors, under Clause 10 of General Conditions of Contract, have been reported to the Directorate. The department has not got any relief out of the appeals made to the tax tribunals & the Courts. In the case of Rajasthan, the matter went to Supreme Court and the Hon'ble Court vide its judgement dt. 12.8.04, in the case of Karyapalak Engineer, CPWD, Bikaner Vs Rajasthan Taxations Board, Ajmer and others, while dismissing the appeal of the Department, has held that the departmental issue of materials to the contractor and adjustment of the amount in the bills, constitute the transaction as "Sale" and the department a "Dealer" under the provisions of local sales tax. Regarding the plea of the department that the departmental material having been subjected to sales tax at the time of purchase, cannot be taxed again while issuing the same to the contractor, Supreme Court has held that this point can be raised before the taxation authorities, if not already done.

In view of situation explained above, the matter of making payment to the taxation authorities is being taken up with Ministry of UD. However, in the meantime, it has been decided that departmental issue of materials to contractors in future contracts even free of Charge be stopped.

This issues with the approval of DG(W).

*ds*  
Superintending Engineer(C&M)

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2. E-in-C, PWD(Delhi Govt.)  
3. F.O. to DG(W)

ADG (S&P)

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*30-8-06*

A.L.G. (S & P)
C.P.W.D., Nirman Bhawan
30-8-06
3357
By No. _____

F.O. No. _____
DW (S & P) Unit
31 AUG 2006
To No/Dy. No. 2628