

**THE MINUTES OF THE PROCEEDINGS OF A SPECIAL MEETING OF
CANTONMENT BOARD, BABINA HELD ON 11th AUG, 2017
AT 10:30 HOURS IN THE OFFICE OF THE CANTONMENT BOARD, BABINA**

The following members were present:-

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| (1) Brig T.S. Soin | - President |
| (2) Shri Abhishek Azad, CEO | - Member/Secretary |
| (3) Col Prashant Rajauria, SEMO | - Ex-Officio Member |
| (4) Col B.K. Jaggi, SSO, STN HQ. | - Nominated Member |
| (5) Lt. Col Charanjit Yadav, OC, 66 Coy | - Nominated Member |
| (6) Maj Sachin Sinha SM, GE | - Ex-Officio Member |
| (7) Shri Raj Kumar Singh | - Elected Member |
| (8) Shri Ishwar Singh | - Elected Member |
| (9) Smt. Saroj | - Elected Member |
| (10) Shri Ravi Bharti | - Elected Member |
| (11) Shri Anil Kumar | - Elected Member |

The following members were absent:-

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| (1) Smt. Sushila Devi | - Vice President |
| (2) Shri R.P. Mishra, City Magistrate | - Nominated Member |
| (3) Shri Lalitha | - Elected Member |


Before starting the proceedings of the meeting IC-47916A Col B.K.Jaggi, SSO Station, HQ, Babina as a nominated member took Oath/Affirmation as required under section 17 of the Cantonments Act 2006.

1. IMPLICATION OF INTRODUCTION OF GOODS & SERVICES TAX (GST)

Reference: CBR No. 14 and 19 dated 11/07/2017 and Dte of Defence Estates, Southern Command, Pune Letter No. 8073/Cantt/Circular/Gen/II/C/DE dated 28/07/2017 thereby forwarded Govt. of India, Ministry of Defence (DGDE), Delhi Cantt. letter No. 53/1/GST/C/DE/2016 dated 28-07-2017 alongwith its enclosures and office note dated 28/07/2017 received in this office on 03/08/2017.

To note and ratify the approval of the President Cantonment Board, Babina vide this office note dated 28/07/2017 received in this office on 03/08/2017.

It is informed to the Board that in hierarchy to the office note dated 30-06-2017 and CBRs under reference, this office vide its letter No. राजस्व/जी.एस.टी./473 dated 07-07-2017 has solicited the legal opinion from Shri Ashok Mehta, Additional Solicitor General, (Allahabad High Court and its bench at Lucknow) regarding continuation/discontinuation to levy/collect the taxes levied u/s 66 of Cantonments Act, 2006 as well as Non-Taxes/fees/charges levied u/s 67 of the ibid Act.



In reply of the same, Shri Ashok Kumar Mehta, Additional Solicitor General, (High Court Allahabad and its bench at Lucknow) vide their letters dated 12/07/2017 and 14/07/2014 has rendered his opinions on the same. He, in his opinion dated 14/07/2017 has opined that "The list of enactments which have been subsumed within the Goods & Services Tax Act, 2017 does not contain the provision of Cantonments Act, 2006".

In view of the legal opinions dated 12/07/2017 and 14/07/2017 rendered by Shri Ashok Kumar Mehta, Additional Solicitor General, (High Court Allahabad and its bench at Lucknow) and in order to enable this office to take appropriate action, this office vide its letter No. राजस्व/जी.एस.टी./53 dated 22/07/2017 (copy enclosed as flag 'F') has requested to the PDDE, SC, Pune to issue necessary instruction/direction in regard to continue/discontinue the collection of Taxes as well as Non Taxes levied under the provisions of the Cantonment Acts, 2006 specially in terms of Toll Tax levied u/s section 66 of the ibid act as the collection of the same was put on hold w.e.f. 01/07/2017.

The Dte. of Defence Estates, Southern Command, Pune vide their letter No. 8073/Cantt/Circular/Gen/II/C/DE dated 28/07/2017 has forwarded the copies of Govt. of India, Ministry of Defence (DGDE), Delhi Cantt. letter No. 53/1/GST/C/DE/2016 dated 28-07-2017 alongwith Govt. of India, Ministry of defence letter No. MoD ID No. 3961/2016-D(Q&C) dated 27/07/2017 and Govt. of India, Ministry of Finance, Department of Revenue letter No. 31011/06/2017-ST-1-DoR dated 25/07/2017 have instructed to take necessary action in the matter. The DDG (Cantts) vide Para 3 and 4 of their letter under reference has cleared that the fee levied by Cantonment Board u/s 67 of Cantonment Act, 2006 remains unaffected by the introduction of GST and the taxes on entry of goods for consumption, use or sale in Cantonment areas, relating to erstwhile entry 52 (now deleted by Constitutional Amendment) of the state list in seventh Schedule in GST. Accordingly, octroi/entry tax on goods levied as per entry 52 are subsumed in GST. The taxes on vehicle and Tolls relating to Entries 57 and 59 of the state list have not been affected by introduction of GST. She, vide Para 5 of the ibid letter has also advised to take necessary action ensuring that taxes/fees are not imposed/levied only on the basis of the nomenclature of the said tax/fee. And thus it is very clear that the Taxes as well as Non-Taxes levied under the provisions of Cantonments Act, 2006 are utterly unaffected by the introduction of GST. As far as the toll tax levied by the Board u/s 66 of Cantonments Act, 2006, the same includes under the nomenclature to the erstwhile entry 57 of the state list in seventh Schedule. Therefore, the same has also not been subsumed by the GST and the Board has rights to levy/collect the toll tax the same may be re-continued immediately to avoid further loss of revenue and in accordance with that and in regard to the approval of the President, Cantt. Board, Babina vide office note dated 28/07/2017, the Contractor i.e. M/s Neha Traders, 208, Shastri Nagar, Babina Dist-Jhansi vide this office letter No. टी.आई./नीलामी/टौल टैक्स वसूली/2016-17/592 dated 29/07/2017 has also been intimated to continue the collection of toll tax w.e.f. 12:01 AM, mid night of 30-07-2017 by virtue of CBR No. 04 dated 14-10-2016 and the agreement executed on 06-12-2016. The number of days i.e. 29 days during the lapse period w.e.f. 01/07/2017 to 29/06/2017 will be added to last date of the contract period i.e. 20-12-2017 to complete the one year of the contract and hence the contract will conclude at 12:00 PM on 18/01/2018.

It is further informed to the Board that the President, Cantonment Board, Babina has approved the same vide this office note dated 28/07/2017 received in this office on 03/08/2017.

In this connection letter from Dte. of Defence Estates, Southern Command, Pune Govt. of India, Ministry of Defence (DGDE), Delhi Cantt., Govt. of India, Ministry of Defence and Govt. of India, Ministry of Finance, Department of Revenue alongwith legal advices rendered by Shri Ashok Mehta, Additional Solicitor General, (Allahabad High Court and its bench at Lucknow) and concerned file are placed on the table.

