



The Institute of Chartered Accountants of India GST & Indirect Taxes Committee

GOODS & SERVICES TAX UPDATE-189

Clarification with respect to applicability of e-invoice where supply is made by a registered person who is required to generate e-invoice, to Government Departments or establishments/ Government agencies/ local authorities/ PSUs registered solely for the purpose of deduction of tax at source under section 51 of the CGST Act, 2017.

The Government Departments or establishments/Government agencies/ local authorities/ PSUs, registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act, are liable for compulsory registration in accordance with section 24(vi) of the CGST Act, 2017. Hence, they are treated as registered persons as per section 2(94) of the said Act.

Therefore, the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, is required to issue e-invoices for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc. under rule 48(4) of CGST Rules.

[Circular 198/10/2023-GST dt. 17.07.2023](#)

Clarification on the taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons

Issue: Whether Head Office (HO) can avail the input tax credit ('ITC') in respect of common input services procured from a third party but attributable to both HO and BOs (Branch Offices) or exclusively to one or more BOs, issue tax invoices under section 31 to the said BOs for the said input services and the BOs can then avail the ITC for the same or whether it is mandatory for the HO to follow the Input Service Distributor ('ISD') mechanism for distribution of such ITC?

Eg., A business entity which has Head Office (HO) located in State-1 and branch offices (BOs) located in other States. The HO procures some input services e.g., security service for the entire organization from a security agency (third party). HO also provides some other services on

their own to branch offices (internally generated services).

Clarifications:

A) Input services procured from the third party for the entire organization by HO but attributable to both HO and BOs or exclusively to one or more BOs

HO has an option to distribute ITC in respect of such common input services by following ISD mechanism or it can issue tax invoice under section 31 of CGST Act to the concerned BOs and the BOs can then avail ITC on such common ITC subject to the provisions of section 16 and 17 of CGST Act.

However, the distribution of ITC in respect a common input services procured from a third party can be made by the HO to a BO through ISD mechanism only if -

- it gets itself registered mandatorily as an ISD in accordance with section 24(viii) of the CGST Act, and
- the said input services are attributable to the said BO or have actually been provided to the said BO, and

B) Whether the cost of all components including salary cost of HO employees involved in providing the said services has to be included in the computation of value of services provided by HO to BOs when full input tax credit is available to the BOs

In respect of internally generated services provided by the HO to BOs, the value declared in the invoice by HO shall be deemed to be the open market value of such services, in terms of second proviso to rule 28 of CGST Rules, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice.

C) Value of supply of internally generated services provided by HO to BOs in cases where HO is not issuing tax invoice, but full input tax credit is available to the concerned BO

In such cases, the value of services may be deemed to be declared as Nil by HO to BO and may be deemed as open market value in terms of second proviso to rule 28 of CGST Rules.

D) Value of internally generated services where HO is issuing tax invoice to the BOs and full input tax credit is not available to the concerned BO

In respect of internally generated services provided by the HO to BO but full ITC is not available to the BO, the cost of salary of employees of the HO, involved in providing services to BOs is not mandatorily required to be included while computing the taxable value of supply of services.

Circular 199/11/2023-GST dt. 17.07.2023

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