



The Institute of Chartered Accountants of India

GST & Indirect Taxes Committee

GOODS & SERVICES TAX UPDATE-226

1. Clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person in India to a related person

S. No.	Issue	Clarification
1.	Whether the activity of providing loans by an overseas affiliate to its Indian affiliate or by a person to a related person, where there is no consideration in the nature of processing fee/ administrative charges/ loan granting charges etc., and the consideration is represented only by way of interest or discount, will be treated as a taxable supply of service under GST or not?	<p>In cases, where no consideration is charged by the person from the related person, or by an overseas affiliate from its Indian party, for extending loan or credit, other than by way of interest or discount, it cannot be said that any supply of service is being provided between the said related persons in the form of processing/ facilitating/ administering the loan, by deeming the same as supply of services as per clause (c) of sub-section (1) of section 7 of the CGST Act, read with S. No. 2 and S. No. 4 of Schedule I of CGST Act. Accordingly, there is no question of levy of GST on the same by resorting to open market value for valuation of the same as per rule 28 of Central Goods and Services Tax Rules, 2017.</p> <p>However, in cases of loans provided between related parties, wherever any fee in the nature of processing fee/ administrative charges/ service fee/ loan granting charges etc. is charged, over and above the amount charged by way of interest or discount, the same may be considered to be the consideration for the supply of services of processing/ facilitating/ administering of the loan, which will be liable to GST as supply of services by the lender to the related person availing the loan.</p>

2. Clarification on availability of input tax credit on ducts and manholes used in network of optical fibre cables (OFCs) in terms of section 17(5) of the CGST Act, 2017

Ducts and manholes are basic components for the optical fiber cable (OFC) network used in providing telecommunication services. The OFC network is generally laid with the use of PVC ducts/sheaths in which OFCs are housed and service/connectivity manholes, which serve as nodes of the network and are necessary for not only laying of optical fiber cable but also their upkeep and maintenance. In view of the Explanation in section 17 of the CGST Act, it appears that ducts and manholes are covered under the definition of “plant and machinery” as they are used as part of the OFC network for making outward supply of transmission of telecommunication signals from one point to another. Moreover, ducts and manholes used in network of OFCs have not been specifically excluded from the definition of “plant and machinery” in the Explanation to section 17 of CGST Act, as they are neither in nature of land, building or civil structures nor are in nature of telecommunication towers or pipelines laid outside the factory premises.

Accordingly, it is clarified that availment of input tax credit is not restricted in respect of such ducts and manhole used in network of optical fiber cables (OFCs), either under clause (c) or under clause (d) of section 17(5) of CGST Act.

[Circular No. 219/13/2024- GST dt. 26.06.2024](#)

3. Clarification on place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors

As per clause (a) of sub-section (8) of section 13 of IGST Act, place of supply of services supplied by banking company or a financial institution or a non-banking company to account holders shall be the location of the supplier of services.

Provisions of Rule 9(a) of the Service Tax Place of Provision of Supply Rules, 2012 were identical to that of section 13(8)(a) of the IGST Act. As per clarification given in Education Guide under Service Tax Regime, the custodial services are not considered to be covered under the services provided by bank to account holders but have been considered to be covered under the services which are not provided to account holder. The clarification given in the Education Guide under Service Tax Regime is equally applicable under GST Regime.

Accordingly, it is clarified that the custodial services provided by banks or financial institutions to FPIs are not to be treated as services provided to 'account holder' and therefore, the said services are not covered under section 13(8)(a) of the IGST Act. Therefore, the place of supply of such services is to be determined under the default provision i.e., section 13(2) of the IGST Act.

[Circular No. 220/14/2024- GST dt. 26.06.2024](#)

***Vice - Chairman
GST & Indirect Taxes Committee***

***Chairman
GST & Indirect Taxes Committee***

The GST Update is an endeavour of the GST & Indirect Taxes Committee of ICAI to apprise the readers with the amendments made in the GST law vide significant notifications, circulars etc. The Committee welcomes your feedback on the Update at gst@icai.in. Please visit the website of the Committee <https://idtc.icai.org/index.php> for previous GST Updates and other knowledge resources on GST like articles, publications, legal updates, newsletter etc. as also for the information on upcoming events on GST organised by the Committee.

Information published in the Update is taken from publicly available sources and is believed to be accurate. The GST & Indirect Taxes Committee of ICAI takes no responsibility of accuracy and reliability of information published in the Update. No part of this Update may be reproduced, stored in a retrieval system, or transmitted in any form or by any means – electronic, mechanical, photocopying, recording, or otherwise without the permission of GST & Indirect Taxes Committee of ICAI.

The Institute of Chartered Accountants of India, ICAI Bhawan, A-29, Sector 62, Noida (U.P.)-201301