

- (a) fifteen days after the expiry of three months, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the goods are not exported out of India; or
- (b) fifteen days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange or in Indian rupees, wherever permitted by the Reserve Bank of India.

4.3 In this context, it has been clarified inter alia in para 45 of Circular No. 125/44/2019-GST dated 18-11-2019 that:

“..... exports have been zero rated under the IGST Act and as long as goods have actually been exported even after a period of three months, payment of Integrated tax first and claiming refund at a subsequent date should not be insisted upon. In such cases, the jurisdictional Commission may consider granting extension of time limit for export as provided in the said sub-rule on post facto basis keeping in view the facts and circumstances of each case. The same principle should be followed in case of export of services” .

4.4 Further, in Para 44 of the aforesaid Circular, it has been emphasized that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made.

4.5 The above clarifications imply that as long as goods are actually exported or as the case may be, payment is realized in case of export of services, even if it is beyond the time frames as prescribed in sub-rule (1) of Rule 96A, the benefit of zero-rated supplies cannot be denied to the concerned exporters. Accordingly, it is clarified that in such cases, on actual export of the goods or as the case may be, on realization of payment in case of export of services, the said exporters would be entitled to refund of unutilized input tax credit in terms of sub-section(3) of Section 54 of the CGST Act, if otherwise admissible.

4.6 It is also clarified that in such cases subsequent to export of the goods or realization of payment in case of export of services, as the case may be, the said exporters would be entitled to claim refund of the integrated tax so paid earlier on account of goods not being exported, or as the case be, the payment not being realized for export of

services, within the time frame prescribed in Clause (a) or (b), as the case may be, of sub-rule (1) of Rule 96A. It is further being clarified that no refund of the interest paid in compliance of sub-rule (1) of Rule 96A shall be admissible.

4.7 It may further be noted that the refund application in the said scenario may be made under the category “Excess payment of tax”. However, till the time the refund application cannot be filed under the category “Excess payment of tax” due to non-availability of the facility on the portal to file refund of IGST paid in compliance with the provisions of sub-rule (1) of Rule 96A of CGST Rules as “Excess payment of tax”, the applicant may file the refund application under the category “Any Other” on the portal.

5. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

6. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal), Principal Commissioner (GST).

No. CCT/26-4/2023-24/G/1377

Subject: Clarification of taxability of share capital held in subsidiary company by the parent company.

Ref.: Circular No. 196/08/2023-GST dated 17th July, 2023 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI, New Delhi.

Circular

(No. 05/2023-24-GST)

The Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the CBIC shall be applicable, mutatis mutandis, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017). Copy of the referred CBIC Circular is attached herewith as Annexure.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.
Panaji, 4th August, 2023.

F. No. CBIC-20001/5/2023-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 17th July, 2023.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Clarification on taxability of shares held in subsidiary company by the holding company.

Representations have been received from the trade and field formations seeking clarification on certain issues whether the holding of shares in a subsidiary company by the holding company will be treated as 'supply of service' under GST and will be taxed accordingly or whether such transaction is not a supply.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as under:

Sr. No.	Issue	Clarification
Taxability of share capital held in subsidiary company by the parent company		
1.	Whether the activity of holding shares by a holding company of the subsidiary company will be treated as a supply of service or not and whether the same will attract GST or not.	Securities are considered neither goods nor services in terms of definition of goods under Clause (52) of Section 2 of CGST Act and the definition of services under Clause (102) of the said Section. Further, securities include 'shares' as per definition of securities under Clause (h) of Section 2 of Securities Contracts (Regulation) Act, 1956. This implies that the securities held by the holding company in the subsidiary company are neither goods nor services. Further, purchase or sale of shares or securities, in itself is neither a supply of goods nor a supply of services. For a transaction/ activity to be treated as supply of services, there must be a supply as defined under Section 7 of CGST Act. It cannot be said that a service is being provided by the holding company to the subsidiary company, solely on the basis that there is a SAC entry '997171' in the scheme of classification of services mentioning; "the services provided by holding companies, i.e. holding securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest", unless there is a supply of services by the holding company to the subsidiary company in accordance with Section 7 of CGST Act. Therefore, the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal), Principal Commissioner (GST).

No. CCT/26-4/2023-24/G/1378

Subject: Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period.

Ref.: Circular No. 195/07/2023-GST dated 17th July, 2023 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI, New Delhi.

Circular

(No. 04/2023-24-GST)

The Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the CBIC shall be applicable, mutatis mutandis, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017). Copy of the referred CBIC Circular is attached herewith as Annexure.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.
 Panaji, 4th August, 2023.

Circular No. 195/07/2023-GST

F. No. CBIC-20001/5/2023-GST

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes and Customs

GST Policy Wing

New Delhi, Dated the 17th July, 2023.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period.

Representations have been received from trade and industry that as a common trade practice, the original equipment manufacturers/suppliers offer warranty for the goods/services supplied by them. During the warranty period, replacement goods/services are supplied to customers free of charge and as such no separate consideration is charged and received at the time of replacement. It has been represented that suitable clarification may be issued in the matter as unnecessary litigation is being caused due to contrary interpretations by the investigation wings and field formations in respect of GST liability as well as liability to reverse ITC against such supplies of replacement of parts and repair services during the warranty period without any consideration from the customers.

2. The matter has been examined. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under Section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act), hereby clarifies as follows:

Sr. No.	Issue	Clarification
1	2	3
1.	There are cases where the original equipment manufacturer offers warranty for the goods supplied by him to the customer and provides replacement of parts and/or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/repair services.	The value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and/or repair services to be incurred during the warranty period, on which tax would have already been paid at the time of original supply of goods. As such, where the manufacturer provides replacement of parts and/or repair services to the customer during the warranty period, without separately charging any consideration at the time of