

Panaji, 4th August, 2023 (Savana 13, 1945)

SERIES II No. 18

OFFICIAL GAZETTE



GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

EXTRAORDINARY

GOVERNMENT OF GOA

Department of Finance

Office of the Commissioner of Commercial Taxes

No. CCT/26-4/2023-24/G/1374

Subject: Clarification regarding 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.

Ref.: Circular No. 199/11/2023-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. 08/2023-24-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. 199/11/2023-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 regarding 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.

Various representations have been received seeking clarification on the taxability of activities performed by an office of an organisation in one State to the office of that organisation in another State, which are regarded as distinct persons under Section 25 of Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act'). The issues raised in the said representations have been examined and to ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under Section 168 (1) of the CGST Act hereby clarifies the issue in succeeding paras.

2. Let us consider a business entity which has Head Office (HO) located in State-I and a Branch Offices (BOs) located in other States. The HO

procures some input services e.g. security service for the entire organisation from a security agency (third party). HO also provides some other services on their own to branch offices (internally generated services).

3. The issues that may arise with regard to taxability of supply of services between distinct persons in terms of sub-section (4) of Section 25 of the CGST Act are being clarified in the Table below: -

Sr. No.	Issues	Clarification
1	2	3
1.	Whether HO can avail the input tax credit (hereinafter referred to as 'ITC') in respect of common input services procured from a third party but attributable to both HO and BOs 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 (hereinafter referred to as 'ISD') mechanism for distribution of ITC in respect of common input services procured by them from a third party but attributable to both HO and BOs or exclusively to one or more BOs?	It is clarified that in respect of common input services procured by the HO from a third party 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 laid down in Section 20 of CGST Act read with Rule 39 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules'). However, as per the present provisions of the CGST Act and CGST Rules, it is not mandatory for the HO to distribute such input tax credit by ISD mechanism. HO can also issue tax invoices under Section 31 of CGST Act to the concerned BOs in respect of common input services procured from a third party by HO but attributable to the said BOs and the BOs can then avail ITC on the same subject to the provisions of Section 16 and 17 of CGST Act. In case, the HO distributes or wishes to distribute ITC to BOs in respect of such common input services through the ISD mechanism as per the provisions of Section 20 of CGST Act read with Rule 39 of the CGST Rules, HO is required to get itself registered mandatorily as an ISD in accordance with Section 24(viii) of the CGST Act. Further, such distribution of the 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 the said input services are attributable to the said BO or have actually been provided to the said BO. Similarly, the HO can issue tax invoices under Section 31 of CGST Act to the concerned BOs, in respect of any input services, procured by HO from a third party for on or behalf of a BO, only if the said services have actually been provided to the concerned BOs.
2.	In respect of internally generated services, there may be cases where HO is providing certain services to the BOs for which full input tax credit is available to the concerned BOs. However, HO may not be issuing tax invoice to the concerned BOs with respect to such services, or the HO	

1	2
may not be including the cost of a particular component such as salary cost of employees involved in providing said services while issuing tax invoice to BOs for the services provided by HO to BOs. Whether the HO is mandatorily required to issue invoice to BOs under Section 31 of CGST Act for such internally generated services, and/or 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 concerned BOs.	The value of supply of services made by a registered person to a distinct person needs to be determined as per Rules 28 of CGST Rules, read with sub-section(4) of Section 15 of CGST Act. As per Clause (a) of Rule 28, the value of supply of goods or services or both between distinct persons shall be the open market value of such supply. The second proviso to Rule 28 of CGST Rules provides that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Accordingly, in respect of supply of services by HO to BOs, the value of the said supply of services declared in the invoice by HO shall be deemed to be open market value of such services, if the recipient BO is eligible for full input tax credit. Accordingly, in cases where full input tax credit is available to a BO, the value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the open market value of such services, 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. Further, in such cases where full input tax credit is available to the recipient, if HO has not issued a tax invoice to the BO in respect of any particular services being rendered by HO to the said BO, the value of such 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.
3. In respect of internally generated services provided by the HO to BOs, in cases where full input tax credit is not available to the concerned BOs, whether the cost of salary of employees of the HO involved in providing said services to the BOs is mandatorily required to be included while computing the taxable value of the said supply of services provided by HO to BOs.	In respect of internally generated services provided by the HO to BOs, the cost of salary of employees of the HO, involved in providing the said services to the BOs, is not mandatorily required to be included while computing the taxable value of the supply of such services, even in cases where full input tax credit is not available to the concerned BO.
4. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.	
5. Difficulty, if any, in the implementation of this circular may be brought to the notice of the Board. Hindi version would follow.	
(Sanjay Mangal), Principal Commissioner (GST).	

No. CCT/26-2023-24/G/1375

Circular No. 198/10/2023-GST

Subject: Clarification on issue pertaining to e-invoice.

Ref.: Circular No. 198/10/2023-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.

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 issue pertaining to e-invoice.

Representations have been received seeking clarification with respect to applicability of e-invoice under Rule 48(4) of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules") w.r.t. supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to 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 Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act").

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 CGST Act, hereby clarifies the issue as under:

Circular
 (No. 07/2023-24-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.

Sr. No.	Issue	Clarification
1	2	3
1.	Whether e-invoicing is applicable for supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to Government Departments or establishments/Government agencies/local authorities/PSUs which are registered solely for the purpose of deduction of tax at source as per provisions of Section 51 of the CGST Act?	Government Departments or establishments/ Government agencies/local authorities/PSUs, which are required to deduct tax at source as per provisions of Section 51 of the CGST/SGST Act, are liable for compulsory registration in accordance with Section 24(vi) of the CGST Act. Therefore, 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 to be treated as registered persons under the GST law as per provisions of Clause (94) of Section 2 of CGST Act. Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of