

**GOVERNMENT OF ASSAM**  
**OFFICE OF THE PRINCIPAL COMMISSIONER OF STATE TAX**  
**CUM COMMISSIONER OF TAXES, ASSAM**  
**KAR BHAWAN :: DISPUR, GUWAHATI-6**

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**CIRCULAR NO. 144/2023-GST**

Dated Dispur the 21<sup>st</sup> July, 2023.

**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.**

**No. CT/GST-15/2017/853.**— 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 Assam Goods and Services Tax Act, 2017 (hereinafter referred to as ‘the Assam GST 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 Principal Commissioner of State Tax, Assam, in exercise of its powers conferred under section 168 of the Assam GST Act hereby clarifies the issue in succeeding paras.

2. Let us consider a business entity which has Head Office (HO) located in State-1 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 Assam GST Act are being clarified in the Table below: -

<b>S. No</b>	<b>Issues</b>	<b>Clarification</b>
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 is it mandatory for the HO	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 Assam GST Act read with rule 39 of the Assam Goods and Services Tax Rules, 2017 (hereinafter referred to as ‘the Assam GST Rules’). However, as per the present

	<p>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?</p>	<p>provisions of the Assam GST Act and Assam GST 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 Assam GST 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 Assam GST Act.</p> <p>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 Assam GST Act read with rule 39 of the Assam GST Rules, HO is required to get itself registered mandatorily as an ISD in accordance with Section 24(viii) of the Assam GST Act.</p> <p>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 Assam GST 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.</p>
2.	<p>In respect of internally generated services, there may be cases where HO is providing certain services to the BOs <b>for which full input tax credit is available to the concerned BOs.</b> However, HO may not be issuing tax invoice to the concerned BOs with respect to</p>	<p>The value of supply of services made by a registered person to a distinct person needs to be determined as per rule 28 of Assam GST Rules, read with sub-section (4) of section 15 of Assam GST 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</p>



	<p>such services, or the HO 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 Assam GST 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 <b>when full input tax credit is available to the concerned BOs.</b></p>	<p><b>second proviso to rule 28</b> of Assam GST 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, <b>if the recipient BO is eligible for full input tax credit.</b></p> <p>Accordingly, in cases <b>where full input tax credit is available to a BO</b>, 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.</p> <p>Further, in such <b>cases where full input tax credit is available to the recipient</b>, 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 Assam GST Rules.</p>
3.	<p>In respect of internally generated services provided by the HO to BOs, in cases where <b>full input tax credit is not available to the concerned BOs</b>, 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.</p>	<p>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 <b>where full input tax credit is not available to the concerned BO.</b></p>

4. This Circular is clarificatory in nature and not meant for any interpretation of provisions of the Act and rules.
5. Difficulties, if any, in implementation of the above instructions may be brought to the notice of the Commissioner at an early date.
6. This Circular shall be deemed to have been issued on 17<sup>th</sup> July, 2023.

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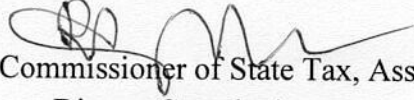
( Rakesh Agarwala, IAS.,)  
Principal Commissioner of State Tax, Assam,  
Dispur, Guwahati

Memo No. CT/GST-15/2017/853-A

Dated Dispur the 21<sup>st</sup> July, 2023.

Copy to :

1. The Commissioner & Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information.
2. The Commissioner of Central GST, Guwahati / Dibrugarh for information.
3. The Special Commissioner of State Tax (All) / Additional Commissioner of State Tax (All)/ Joint Commissioner of State Tax (All) / Deputy Commissioner of State Tax (All) / Assistant Commissioner of State Tax (All) / Superintendent of State Tax (All) for information and necessary action.
4. The Information Technology Officer, Office of the Commissioner of State tax, Assam for uploading it on the website of the Commissionerate for information of all concerned.

  
Principal Commissioner of State Tax, Assam,  
Dispur, Guwahati