

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

CIRCULAR NO. 163/2024-GST

Dated Dispur the 8th July, 2024.

Subject: Clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person- reg.

No. CT/GST-15/2017/1030.— Representations have been received from trade and industry seeking clarity on whether there is any supply involved in the transaction of granting of loan by a person to a related person or by an overseas affiliate to its Indian entity, where the consideration being paid is only by way of interest or discount, and whether any GST is applicable on the same.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Commissioner, in exercise of its powers conferred by section 168 of the Assam Goods and Services Tax Act, 2017 (hereinafter referred to as “Assam GST Act”), hereby clarifies the issues as under:

S.No.	Issue	Clarification
Clarification regarding taxability of the transaction of providing loan by an overseas entity to its Indian related entity or by a person in India to a related person		
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>1. As per clause (c) of sub-section (1) of section 7 of the Assam GST Act, read with S. No. 2 and S. No. 4 of Schedule I of Assam GST Act, supply of goods or services or both between related persons, when made in the course or furtherance of business, shall be treated as supply, even if made without consideration. Therefore, it is evident that the service of granting loan/ credit/ advances by an entity to its related entity is a supply under GST.</p> <p>2. Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) are exempted under sub entry (a) of entry 27 of <u>Notification No. FTX.56/2017/14 State Tax (Rate) dtd. 29.06.2017</u>. Therefore, it is clear that the supply of services of granting loans/ credit/ advances, in so far as the consideration is represented by</p>

		<p>way of interest or discount, is fully exempt under GST.</p> <p>3. It is mentioned that overseas affiliates or domestic related persons are generally charging no consideration in the form of processing fee/ service fee, other than the consideration by way of interest or discount on the loan amount. Doubts are being raised regarding the taxability of the services of processing/ administering/ facilitating the loan in such cases, by deeming the same as supply as per clause (c) of sub-section (1) of section 7 of the Assam GST Act, read with S. No. 2 and S. No. 4 of Schedule I of Assam GST Act. The processing fee/ service fee is generally a one-time charge that lenders levy on applicants when they apply for a loan. This fee is generally non-refundable and is used to cover the administrative cost of processing the loan application. Charges of any other nature in respect of loan, other than by way of interest or discount, would represent taxable consideration for providing the facilitation/ processing/ administration services for the loan and hence would be liable to GST. This has been clarified at serial number 42 in the <u>Sectoral FAQ on Banking, Insurance and Stock Brokers Sector</u> issued by CBIC.</p> <p>4. It is significant to note that the processing/ service fee is generally charged by the bank/ financial institution from the recipient of the loan in order to cover the administrative cost of processing the loan application. An independent lender may carry out a thorough credit assessment of the potential borrower to identify and evaluate the risks involved and to consider methods of monitoring and managing these risks. Such credit assessment may include understanding the business of the applicant, as well as the purpose of the loan, financial standing and credibility of the applicant, how it is to be structured and the source of its repayment which may include analysis of the borrower's cash flow forecasts, the strength of the borrower's balance sheet, and where any collateral is offered, due diligence on the collateral offered may also be required to be carried out. To cover such costs, the independent lender generally collects a fee that is in the nature of processing fee/ administrative charges/ service fee/ loan granting charges, which is leviable to GST.</p>
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		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.
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3. The above may be brought to the notice of all concerned.
4. Difficulties, if any, in implementation of the above instructions may be brought to the notice of the Principal Commissioner at an early date.

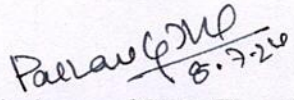
Sd/=
(Pallav Gopal Jha, IAS)
Principal Commissioner of State Tax, Assam,
Dispur, Guwahati

Memo No. CT/GST-15/2017/1030-A

Dated Dispur the 8th July, 2024

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