
 आजादी का अमृत महोत्सव	भारत सरकार/ GOVERNMENT OF INDIA प्रधान आयुक्त का कार्यालय/OFFICE OF THE PRINCIPAL COMMISSIONER केन्द्रीय वस्तु एवं सेवाकर एवम उत्पाद शुल्क/CGST & CENTRAL EXCISE RANCHI 5ए, केंद्रीय राजस्व भवन, महात्मा गांधी मार्ग, रांची - 834 001 5A, Central Revenue Building, Mahatma Gandhi Road, Ranchi-834001 दूरभाष/Tel: 0651-2330218; फ़ैक्स/Fax: 0651-2332420: Email: commr-cexranchi1@nic.in / comm.ranchi@icegate.gov.in	
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TRADE NOTICE NO. 08/ 2023-24

DATED: 24.07.2023

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.

Kind attention of the Trade & Industries and Departmental Officers is invited to the Circular No. 199/11/2023-GST issued by the Central Board of Indirect Taxes & Customs (hereinafter referred to as 'Board'). The said Circular is available on CBIC website <https://www.cbic.gov.in/> <https://cbic-gst.gov.in>.

2. Various representations have been received by Board 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 by the Board 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.

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:

S. No.	Issue	Clarification
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 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	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

	<p>or exclusively to one or more BOs?</p>	<p>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.</p>
<p>2.</p>	<p>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 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,</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 CGST Rules, read with subsection (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</p>

	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.	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. All Trade Associations/ Chamber of Commerce, Members of RAC (Organized and SSI) falling within the jurisdiction of Central GST & CX Commissionerate, Ranchi are requested to bring the content of this Trade Notice to the knowledge of their constituent members and other concerns for wider dissemination.

5. Hindi version will follow.



(Dr. Balbir Singh)
Principal Commissioner
CGST & CX, Ranchi.

24/07/23

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C.No.GEXCOM/TECH/MISC/598/2023-TECH/

Date: 26 07.2023

Copy forwarded for information and necessary action to:-

1. Federation of Jharkhand Chamber of Commerce & Industries, Jharkhand Chamber Bhawan, Main Road, Ranchi 834001.
2. Jharkhand Small Industries Association, Udyog Bhawan, Kokar Industrial Area, Kokar, Ranchi-834001
3. The Director General (Systems), Directorate General of Systems & Data Management, 4th & 5th Floor, Samrat Hotel, Chanakyapuri, New Delhi-110021.
4. The Director General, Directorate General of Tax-Payer Services, C.R. Building, I P Estate, New Delhi-110002.
5. The Chief Commissioner, Central GST & Central Excise, Ranchi Zone, Patna.
6. The Commissioner (Appeal), Central GST & Central Excise, Ranchi for information please.
7. The Commissioner (Appeal), Central GST & Central Excise, Patna for information please.
8. The Commissioner of State Tax, Government of Jharkhand for information please.
9. The Additional Commissioner, Central GST & Central Excise Sub-Commissionerate, Dhanbad.
10. The Deputy/ Assistant Commissioner, Central GST & Central Excise, Bokaro-I Division/ Bokaro-II Division/ Deoghar Division/ Dhanbad North Division/ Dhanbad South Division/ Giridih Division/ Hazaribagh Division/ Ramgarh Division/ Ranchi North Division/ Ranchi South Division for information please.
11. The Deputy /Assistant Commissioner (Systems), Central GST & Central Excise (Hqrs.), Ranchi, with request to arrange the uploading of the notice on the Departmental website.
12. The Administrative Officer, CGST & CX (H), Ranchi with request to arrange the publishing of notice in local news papers.
13. Notice Board.
14. Guard File.

(G Naveen Kumar)

Assistant Commissioner (Tech)
CGST & CX, Ranchi.