

पत्रांक: जी.एस.टी. / 2018-19 /

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/ वाणिज्य कर

कार्यालय- कमिश्नर, वाणिज्य कर,
उत्तर प्रदेश।

(जी.एस.टी. अनुभाग)

लखनऊ: दिनांक: 07 जनवरी, 2019

समस्त जोनल एडीशनल कमिश्नर, ग्रेड-1
एडीशनल कमिश्नर ग्रेड-2 (वि0अनु0शा0)
समस्त ज्वाइन्ट कमिश्नर (कार्य0) / (वि0अनु0शा0)
वाणिज्य कर, उत्तर प्रदेश।

विषय:- एशियन डेवलपमेन्ट बैंक (ADB) तथा इण्टरनेशनल फाईनेन्स कार्पोरेशन (IFC) पर जी0एस0टी0 की देयता के सम्बन्ध में।

भारत सरकार, वित्त मंत्रालय, राजस्व विभाग सेन्ट्रल बोर्ड ऑफ इन्डायरेक्ट टैक्सेस एण्ड कस्टम द्वारा एशियन डेवलपमेन्ट बैंक (ADB) तथा इण्टरनेशनल फाईनेन्स कार्पोरेशन (IFC) पर जी0एस0टी0 की देयता के सम्बन्ध में परिपत्र सं0- 83/02/2019-जी0एस0टी0 दिनांक 01.01.2019 को जारी किया गया। उल्लेखनीय है कि सी0जी0एस0टी0 अधिनियम/नियमावली के समतुल्य प्रावधान उत्तर प्रदेश एस0जी0एस0टी0 अधिनियम/नियमावली में भी हैं। इस परिपत्र में अंकित तथ्य उत्तर प्रदेश एस0जी0एस0टी0 अधिनियम/नियमावली के सम्बन्ध में भी प्रभावी होंगे।

उक्त परिपत्र की छायाप्रति इस पत्र के साथ संलग्न कर इस अनुरोध के साथ प्रेषित है कि कृपया अपने अधीनस्थ अधिकारियों को अवगत कराते हुए तदनु रूप कार्यवाही हेतु निर्देशित करने का कष्ट करें।

यह पत्र कमिश्नर, वाणिज्य कर, उत्तर प्रदेश के अनुमोदनोपरांत जारी किया जा रहा है।

संलग्नक:- उपरोक्तानुसार।

भवदीय,



(विवेक कुमार)

एडीशनल कमिश्नर (जी.एस.टी.),
वाणिज्य कर, उत्तर प्रदेश।

F. No. 354/428/2018-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

North Block, New Delhi,
Dated the 1st January, 2019

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/
Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject: Applicability of GST on Asian Development Bank (ADB) and International Finance Corporation (IFC) - reg.

Representations have been received seeking clarification regarding applicability of GST on Asian Development Bank (ADB) and International Finance Corporation (IFC). The matter has been examined.

2. The ADB Act, 1966 provides that notwithstanding anything to the contrary contained in any other law, the Bank, its assets, properties, income and its operations and transactions shall be exempt from all the taxation and from all customs duties. The Bank shall also be exempt from any obligation for payment, withholding or collection of any tax or duty [Section 5 (1) of the ADB Act, 1966 read with Article 56 (1) of the schedule thereto refers]. DEA has already conveyed vide letter No. 1/28/2002-ADB dated 22-01-2004 addressed to ADB that taxable services provided by ADB are exempted from service tax.

2.1 Similarly, IFC Act, 1958 also provides that notwithstanding anything to the contrary contained in any other law, the Corporation, its assets, properties, income and its operations and transactions authorised by the Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty [Section 3 (1) of IFC Act, 1958 read with Article VI, Section 9 (a) of the Schedule thereto refers].

3. CESTAT Mumbai vide final order dated 17-10-2016 in the case of M/s Coastal Gujarat Power Ltd. has held that when the enactments that honour international agreements specifically immunize the operations of the service provider from taxability, a law contrary to that in the form of Section 66A of Finance Act, 1994 will not prevail. With the provider being not only immune from taxation but also absolved of any obligation to collect and deposit any tax, there is no scope for subjecting the recipient to tax. There is no need for a separate exemption and existing laws enacted by the sovereign legislature of the Union suffice for the purpose of giving effect to Agreements.

4. Accordingly, it is clarified that the services provided by IFC and ADB are exempt from GST in terms of provisions of IFC Act, 1958 and ADB Act. The exemption will be available only to the services provided by ADB and IFC and not to any entity appointed by or working on behalf of ADB or IFC.

5. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board.

Yours Faithfully,

(Shashikant Mehta)

OSD, TRU

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