

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

CIRCULAR NO. 141/2023-GST

Dated Dispur the 21st July, 2023.

Subject: Clarification on taxability of shares held in a subsidiary company by the holding company.

No. CT/GST-15/2017/843.— Representations have been received from the trade and field formations seeking clarification on certain issues whether the holding of shares in a subsidiary company by the holding company will be treated as ‘supply of service’ under GST and will be taxed accordingly or whether such transaction is not a supply.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Principal Commissioner of State Tax, Assam, 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
<u>Taxability of share capital held in subsidiary company by the parent company</u>		
1.	Whether the activity of holding shares by a holding company of the subsidiary company will be treated as a supply of service or not and whether the same will attract GST or not.	<p>Securities are considered neither goods nor services in terms of definition of goods under clause (52) of section 2 of Assam GST Act and the definition of services under clause (102) of the said section. Further, securities include ‘shares’ as per definition of securities under clause (h) of section 2 of Securities Contracts (Regulation) Act, 1956.</p> <p>This implies that the securities held by the holding company in the subsidiary company are neither goods nor services. Further, purchase or sale of shares or securities, in itself is neither a supply of goods nor a supply of services. For a transaction/activity to be treated as supply of services, there must be a supply as defined under section 7 of Assam GST Act. It cannot be said that a service is being provided by the holding company to the subsidiary company, solely on the basis that there is a SAC entry ‘997171’ in the scheme of</p>

	<p>classification of services mentioning; “<i>the services provided by holding companies, i.e. holding securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest.</i>”, unless there is a supply of services by the holding company to the subsidiary company in accordance with section 7 of Assam GST Act.</p> <p>Therefore, the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.</p>
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3. This Circular is clarificatory in nature and not meant for any interpretation of provisions of the Act and rules.
4. Difficulties, if any, in implementation of the above instructions may be brought to the notice of the Commissioner at an early date.
5. This Circular shall be deemed to have been issued on 17th July, 2023.

Sd/=

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

Memo No. CT/GST-15/2017/843-A

Dated Dispur the 21st 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