

NO.F.1-11(8)-TAX/GST/2019/222-321
GOVERNMENT OF TRIPURA
OFFICE OF THE CHIEF COMMISSIONER OF STATE TAX
PANDIT NEHRU COMPLEX, GURKHABASTI
AGARTALA, TRIPURA WEST, PIN-799006.

Dated, Agartala, the 3rd January, 2019.

Circular No. 02/2019 – GST (State)

To
The Additional Commissioner of State Tax /
Deputy Commissioner of State Tax/
Superintendent of State Tax (All) /
Inspector of State Tax (All)

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

The Department of Revenue, Tax Research Unit vide Circular No. 83/02/2019–GST dated 1st January, 2019 has issued clarifications regarding applicability of GST on Asian Development Bank (ADB) and International Finance Corporation (IFC), in order to ensure uniformity in the implementation of the provisions of law across the field formations, which is annexed herewith.

In exercise of powers conferred by section 168 of the Tripura State Goods and Services Tax Act, 2017 (Tripura Act No. 9 of 2017) for the purpose of uniformity in the implementation of the Act it is instructed to follow the clarification issued vide Circular No. 83/02/2019–GST dated 1st January, 2019 by the Department of Revenue, Tax Research Unit.

Enlco: Circular No.83/02/2019–GST.

(Nagesh Kumar B, IAS)
Chief Commissioner of State Tax
Government of Tripura

Copy to:

1. The P.S. to the Chief Secretary, Finance, Government of Tripura for favour of kind information.
2. The Assistant Statistical Officer, Statistical Section, O/o the Commissioner of Taxes & Excise, Agartala with request to upload the Circular in the Official website www.tripurataxes.nic.in.
3. Guard File.

(Nagesh Kumar B, IAS)
Chief Commissioner of State Tax
Government of Tripura

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.

Circular No. 83/02/2019- GST

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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