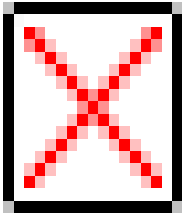


Banking Industry GST woes

JANUARY 07, 2023

By Satish Bhanushali, Director & Vivek Shah, Price Waterhouse & Co LLP



WHILE

various measures were announced in the 48th GST Council meeting for rationalization of tax rates, taxability of certain transactions, facilitation of trade and further streamlining of GST compliances, one of the important clarifications for the banking industry was in relation to the taxability of incentives paid by the Central Governments for promotion of RuPay Debit Cards and low value BHIM-UPI transactions.

Typically, Banks receive various incentives from the Governments including the Central Government for promotion of (1) any particular medium of payment such as RuPay debit cards / BHIM UPI (upto a certain limit); (2) digital infrastructure in certain rural regions; etc. Such incentives are based on various conditions as may be prescribed.

Under GST, there has always been a dispute whether such incentives are in the nature of consideration for supply of services by Banks or in the nature of subsidy and whether GST is required to be discharged on such incentives.

In the last concluded GST Council meeting, it was decided that 'incentives paid to banks by the Central Government under the scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable'. To implement the aforesaid decision of the GST Council, it was expected that the Government will issue necessary Circular/Notification with a rationale on why such incentives are considered as subsidy and not consideration.

On 27 December 2022, the Government has released various Circulars/Notifications to implement the recommendations of 48th GST Council Meeting. However, a clarification on incentives paid to Banks by the Central Government for promotion of RuPay debit cards and low value BHIM-UPI transactions are considered as subsidy was not issued.

There have been instances in the past wherein the intent of the Government and content of the Circular / Notification to implement the aforesaid intent of the Government are not aligned. Thus, it is pertinent for the Banking industry to make a representation covering following suggestions to do away with any future ambiguity and litigations:

- 1) A detailed Circular/ Notification with clarification that similar incentives received from the Governments including the Central Government will also be considered as subsidy and not just the incentives received on RuPay debit cards and low value BHIM UPI transactions;
- 2) The Circular should also clarify that such position of treating similar incentives as subsidy will be applicable retrospectively.
- 3) We understand that various banks have paid GST on such incentives received from the Central Government in the recent past. Hence, it is important to also clarify that the refund of GST paid on such incentives should be available to Banks and process of claiming such refund should also be prescribed.

Based on the past trends of various Circulars/Notifications issued by the Government, it has been observed that, on various occasions, the Government had made amendments / clarifications applicable retrospectively from 1 July 2017. However, on each such occasion, it was mentioned that the taxes paid in the past will not be available as refund.

Thus, it is pertinent for the Banking industry to make an immediate representation to the Government before the Circular is issued by the Government so that the aforesaid ambiguities are taken into consideration.

[The views expressed above are strictly personal.]

*(DISCLAIMER : The views expressed are strictly of the author and Taxindiaonline.com doesn't necessarily subscribe to the same.
Taxindiaonline.com Pvt. Ltd. is not responsible or liable for any loss or damage caused to anyone due to any interpretation, error, omission in the articles being hosted on the site)*