

<p><b>OFFICE OF THE GUJARAT AUTHORITY FOR ADVANCE RULING</b> <b>COMMISSIONERATE OF GOODS AND SERVICES TAX</b> <b>GUJARAT STATE</b> <b>D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,</b> <b>AHMEDABAD – 380 009.</b></p>	
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ADVANCE RULING NO. GUJ/GAAR/R/10/2019  
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/08)

Date: 27.06.2019

Name and address of the applicant	:	Gujarat State Financial Services Ltd Wing-B, 3 <sup>rd</sup> Floor, Khanij Bhavan, 132 Feet Ring Road, Vastrapur, Ahmedabad-380052
GSTIN of the applicant	:	24AAACG5581B1Z0
Date of application	:	31.01.2018
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(e) Determination of the liability to pay tax on any goods or services or both.
Date of Personal Hearing	:	25.4.2019
Present for the applicant	:	Shri N.B.Shah(CFO-GSFS)

1. The Applicant M/s. Gujarat State Financial Services Ltd (GSFS) is a wholly owned subsidiary of Government of Gujarat has 100% holding and is registered with RBI as a Non-Banking Finance Company. It has been given the mandate by the State Government to manage the surplus funds of various state owned entities. The State Government has directed all the State Government owned entities to park all their surplus funds with GSFS i.e applicant. The funds received by GSFS from the Government entities are provided to the other Gujarat State owned entities as loans, which are in need of funds. The idea of formation of GSFS is to manage in-house funds of state owned entities. This results into the circulation of funds of Government entities within the ambit of State Government and its entities.

2. The applicant has requested for advance ruling in the given matter.

1. The Applicant is providing financial assistance in the form of loan to various Government of Gujarat entities, whether all such Gujarat Stated owned entities and GSFS become related persons in GST?
2. The Applicant is not charging any processing fees/ any other charges, for providing to Government of Gujarat State owned entities, and interest being charged as full consideration, then whether GST will be chargeable on, notional processing fees/ notional any other charges, provided by way of loans to Gujarat state owned entities?

3. The applicant submitted that as per direction of Gujarat State Government all the State Government owned entities are required to park all their surplus funds with Gujarat State Financial Services Ltd (i.e GSFS). The funds received by GSFS from the Government entities are provided to the other state owned entities in the form of financial assistance, which are in need of funds. GSFS provides financial Assistance to the Government of Gujarat entities ranging from 90 days to 3-5 years. The loans provides by GSFS are kept hassle free in nature without any incremental cost over and above the interest rate. Therefore, since beginning GSFS does not charge any kind of financial charges/processing fees for providing financial assistance in the form of loans to Government entities other than interest.

In terms of section 15(5)(a)(iv) of CGST Act 2017, "persons shall be deemed to be 'related person' if any person directly or indirectly owns, controls or holds twenty-five percent or more of the outstanding voting stock or shares of both of them". As per this definition GSFS and other Gujarat State Government entities are related person as Gujarat State Government is holding more than 25 % of outstanding voting stock or shares of both of them.

- 3.1 The applicant has submitted that as per sr no 27 of Notification No. 12/2017-Central Tax (Rate) under CGST Act 2017 and corresponding State notification No. 12/2017-State Tax (Rate) under GGST Act 2017 services by way of extending deposits loan or advances in so far the consideration is represented by way of interest or discount (other than interest involved in credit card services) is exempted.

As per FAQs issued on financial services, the services of loan, advances or deposits are exempt in so far as the consideration is represented by way of interest or discount. Any charges or amounts collected over and above the interest or discount would represent taxable consideration and hence liable to GST. In case of GSFS, no charges other than interest are collected from client.

- 3.2 The applicant submitted that they are receiving interest as consideration from various Government of Gujarat entities to whom financial assistance is provided. As a policy of the company, it is not charging any processing fees or any other charges for providing financial assistance to any clients i.e. from any Government entities.

- 3.3 They further submitted that there is no specific RBI guideline that a Bank or Non-Banking Financial Institution has to compulsorily charge processing fees to clients on financial assistance provided. In today's competitive/aggressive financial and capital market, there may be a practice in the financial business market or there may be aggressive marketing strategy not to charge processing charges on corporates for financial assistance. They submitted that they are charging only interest which is not subject to GST. The submitted that in case of applicant, the company is not charging any processing fees to any client for any financial assistance. They also mentioned that there is not any specific guideline by RBI to NBFC to compulsorily charge processing fees. GSFS is getting consideration from various entities to whom financial assistance have been provided in the form of interest. Hence in the said transaction consideration is received by way of interest only which is exempt under GST. The applicant concluded by mentioning that considering facts of the case, relevant provisions of the law and above analysis, according to applicant since he is not charging processing fees or any other charges to any client and interest being charged as a full consideration against financial assistance given by GSFS, GST shall not be chargeable on notional processing fees or any other notional charges on services of loans provided by him to its client.

4. The notification No. 12/2017-CT (Rate) dated 28/6/2018 provided as under:

(1)	(2)	(3)	(4)	(5)
27	Heading 9971	Services by way of- (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount ( other than interest involved in credit services);	Nil	Nil

4.1 We have considered the submissions made by the applicant in their application for advance ruling.

4.2 We find that the applicant makes the supply of loan and for which consideration is only interest. As stated by the applicant there is no other consideration so even if the service is provided to related party the applicant will be eligible for exemption under sub entry (a) of entry 27 of Notification No. 12/2017-Central Tax (Rate) under CGST Act 2017 and corresponding State notification No. 12/2017- State Tax (Rate) under GGST Act 2017. The said notification neither talks about related – unrelated party nor about notional consideration. Therefore the question of charging GST on notional consideration does not arise in this case. If they actually charge processing fee or any other charges, other than interest, then applicant will be liable for GST.

5. In view of the foregoing, we rule as under –

**RULING**

Question – 1 The Applicant is providing financial assistance in the form of loan to various Government of Gujarat entities, whether all such Gujarat Stated owned entities and GSFS become related persons in GST?

Answer: The relationship between Gujarat State Financial Services Ltd. and Government or Government entities is that of related person as defined under Section 15 of Central Goods and Services Tax Act 2017 and Gujarat Goods and Services Tax Act 2017.

Question – 2 The Applicant is not charging any processing fees/ any other charges, for providing to Government of Gujarat State owned entities, and interest being charged as full consideration, then whether GST will be chargeable on, notional processing fees/ notional any other charges, provided by way of loans to Gujarat state owned entities?

Answer : Looking to the facts of the case, as there is no other consideration except interest, the Services by way of extending deposits, loans or advances provided by M/s. Gujarat State Financial Services ltd (GSTIN 24AAACG5581B1Z0) is covered under sub entry (a) of entry 27 of Notification No. 12/2017-Central Tax (Rate) under CGST Act 2017 and corresponding State notification No. 12/2017- State Tax (Rate) under GGST Act 2017.

**(R.B. Mankodi)**  
Member

**(G.C. Jain)**  
Member

Place: Ahmedabad  
Date: 27.6.2019.