



# Indian Overseas Bank Officers' Association

(Regd. No. 321/MDS) (Recognised by the Management) (Affiliated to All India Bank Officers' Confederation)

Administrative Office : Post Box No. 304, 763, Anna Salai, Chennai - 600 002.

Tel : General : 044 - 2852 1925, 2852 5214, President / General Secretary : 2851 4134

Email : ioboa@iobnet.co.in Website : www.ioboa.org.in

24<sup>th</sup> April .2023

Sri. Ajay Kumar Srivastava  
Managing Director & Chief Executive Officer  
Indian Overseas Bank  
Central Office  
Chennai

Respected Sir,

## **Request to revisit the proposed guidelines on recovery of GST on leased quarters from Officers' Salary – Reg.**

We are shocked and pained to read Circular No. EST/3/2023-24 dated 12/04/2023 issued by HRMD-IR Section, Central Office, on the captioned subject. When the whole family of IOB have been celebrating Regional New year in many parts across the country, their joy has been plucked away through the contents of the above circular. Our office has been flooded with calls from PanIndia by members expressing anguish over this sudden communication of heavy deduction proposed in their salary from April, 2023.

Sir, while the workforce has successfully completed the Financial Year 2022 – 23 ensuring excellent results for the bank and stepped into the current Financial Year to work with more vigor, the above communication has pushed them to feel having penalized than rewarded with appreciation for their hard work which has been yielding good results to the bank for the past consecutive three years.



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Sir, we would like to submit for your kind reference the professional opinion obtained on this matter which invariably consider the proposed recovery of GST on leased accommodation from Officers' salary as unfair and impermissible on the following grounds.

- 1) In respect of leased accommodation, the officers are already foregoing HRA and are also paying direct tax on quarters rent considered as perquisite under the Income Tax Act.
- 2) Recovery other than what is already prescribed by Law and Service Regulations is non-permissible in respect of a perquisite provided by the bank.
- 3) Leased accommodation is a benefit provided by the bank as a perk and not a service sold to an officer by the Bank.
- 4) The lease agreement (a service under GST Act) is between the Bank and the Landlord as the consideration is being paid by the Bank to the Landlord.
- 5) An officer is only a beneficiary of the service and not the recipient of the service.
- 6) Even if the officer is considered as the recipient of the service by any interpretation, **an officer, being an individual not registered under GST Act, is not liable to pay any GST under the Notification No. 05/2022-Central Tax (Rate) dated 13<sup>th</sup> July, 2022.**
- 7) When no GST is payable by an officer even as a recipient of the service, no recovery of GST payable/paid by the Bank under Reverse Charge Mechanism (RCM) is permissible from an officer's salary.
- 8) **In nutshell, the quarters/leased accommodation is a perquisite provided by the Bank to an officer in which case, the officer need to pay only perquisite tax and not GST (OR) if the facility is considered as a service supplied to an officer, being an individual not registered under GST Act, the officer is not liable to pay GST.**
- 9) Further, as per Clarification vide The Central Board of Indirect Tax and Customs (CBIC) Circular No.172/04/2022 - GST dated 6<sup>th</sup> July, 2022, on Sec 17(5) of GST Act, **availment of Input Tax Credit (ITC) is not barred** under sub-clause (i) of clause (b) of subsection(5) of section 17 of the CGST Act **in case of leasing, other than** leasing of motor vehicles, vessels and aircrafts. **Hence, ITC is available to the Bank on GST paid on leased quarters.**





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- 10) The above circular also clarifies that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee. HR Policy of providing quarters as per prescribed rules is very much a contract of employment. As such, there shall be no GST payable by an officer for the perquisite of residential accommodation leased or otherwise and with or without consideration.
- 11) Since there is a legal provision available by way of ITC to the Bank as shown herein above, the Bank can utilize the ITC against its future tax liability by which neither the Bank nor the officers suffer.

Sir, as you are aware that bank had successfully completed the balancing of officers' strength in the transfer exercise held last year. In the process, most of the officers are presently working far away from their native place and are necessarily subject to avail leased accommodation. Due to high market rents, almost all officers are forced to shell out sizeable amount from their pocket to meet out the rent and also the shortfall in payment of advance to the landlord over and above the quantum sanctioned by the bank. **Hence an officer is burdened with excess rent over eligibility and loss of interest on rental advance.**

Sir, after a gap of 7 years, it was a great gesture from the top management of our bank in increasing the rental limit during February, 2022, which gave these officers a huge sigh of relief, But, the proposed recovery of 18% GST on leased accommodation is a blow to them beyond imagination.

**Sir, as you have been travelling with us and guiding us since 2017, the most difficult period of IOB, you would agree that IOBOA is an organization with a difference and this has always been acknowledged by the Bank and many a time, we were taken into confidence even about Bank's policies. By the sheer hard work of officers, fully dedicated to the policy directives of the top management and motivated by IOBOA, our beloved bank had come out of the PCA regime.**



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**Sir, in view of the above observations submitted by us on the subject, both technically and logically, with an alternative mechanism available to the bank under ITC to claim the GST payment which is not available to an individual, we request your good selves to kindly take a sympathetic view and render justice by restoring the existing practice adapted since July 2022 to March 2023 and not to recover the 18% GST from the salary of officers.**

**We also wish to submit to your good selves that on enquiry with all the Public Sector Banks, we understand that the GST on residential accommodation provided to Officers is being met out by the individual banks only.**

Sir, on behalf of Officers community, we assure you that our membership would remain ever more grateful to our bank for your act of kindness and fairness in the captioned matter.

Kindly oblige.

Thanking you,

Yours faithfully,

  
(Bhabani Shankar Mishra)  
General Secretary