

Tax Axe Still Looms for Banks on Free Services

Despite FAQs mentioning GST exemption, banks will have to slug it out before adjudicating authority.

India's banks, faced with having to pay thousands of crores in taxes on services provided in lieu of customers maintaining a minimum balance in their accounts, will have to slug it out before the adjudicating authority with the tax department.

ET had reported earlier that State Bank of India, HDFC Bank, ICICI Bank, Axis Bank and others have been sent notices by Directorate General of Goods and Services Tax Intelligence (DGGSTI). "Show-cause notices have been issued so due process of law will have to follow," a senior government official aware of the matter told ET.

This comes even as the government has clarified that free services to unrelated parties will not attract goods and services tax (GST) through detailed frequently asked questions (FAQs) for the financial services industry.

The indirect tax authorities are convinced about the taxability of the services provided 'free of cost' by banks against minimum account balances. However, the total liability is expected to be much lower than the Rs. 45,000 crore estimated by the banking industry. Experts Call for Giving Exemption to Banks from Retrospective Levies. All notices could be disposed of by a single authority to ensure the process is completed quickly without the risk of divergent rulings on the same issue.

"Now that it is clarified that under GST, free services to customers are not liable, it would be interesting to see how the government handles the show-cause notices under service tax regime on this issue," said Sumit Lunker, indirect tax partner, PwC. "It is important that, if the matter is pursued further, it should be ensured that there is a common adjudicating authority given the magnitude and complex nature of issue involved."

The Indian Banks' Association has raised the matter with the finance ministry, particularly with regard to levies over the past five years. The banking division of the finance ministry has also taken up the issue with the department of revenue as well as the Central Board of Indirect Taxes and Customs (CBIC).

Experts called for giving an exemption to banks from retrospective application of levies. "The taxing of free services provided by the banking Industry retrospectively through a demand mechanism brings uncertainty and increases the transaction cost of doing business for this industry," said Bipin Sapra, partner, EY.

The dispute needs to be resolved at the earliest and at least for the past period no demands should accrue as it can have an impact on other sectors as well, increasing unnecessary litigation, he said. The adjudicating authority can also take a call on the levy of service tax over last five years as this is an industry issue and banks cannot be charged with concealing tax, said the official cited above.

Already burdened with balance sheet concerns, banks are worried they may have to cough up tax for the past few years, a cost that would not be recoverable from customers. DGGSTI had initiated an investigation into services offered by banks to their customers for which they collect some charges or come bundled free with accounts where the customer is required to maintain a minimum balance.

Fee-based services include ATM transactions beyond a certain number, use of airport lounges, refund of fuel surcharge, issue of cheque books and debit cards, among others. These levies are, however, waived for accounts that maintain a certain minimum balance or for privileged customers. But these benefits are treated as a 'deemed service' under the service tax law.

(Economic Times)