

F.No. 349/40/2017-GST  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
GST Policy Wing  
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Dated 05<sup>th</sup> September, 2017

OFFICE MEMORANDUM

**Subject:** ANMI's letter dated 14<sup>th</sup> July, 2017 seeking clarification and exemptions on certain aspects of GST Law - reg.

Please refer to your office letter F. No. 1/11/SM/2017 dated 21<sup>st</sup> July, 2017 enclosing therein a copy of letter dated 14<sup>th</sup> July, 2017 from the Association of National Exchanges Members of India (ANMI) on the above captioned subject.

2. The issues pertaining to this department have been examined and the comments are delineated hereunder:

i. **Issue:** Registration requirement of Sub-Brokers and authorized persons under GST Law and request for granting exemption to sub brokers and authorized persons from GST law.

**Comment:** As per Sec 2(5) of CGST Act "agent means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another".  
In the current scenario the relation between the broker, sub-broker and client has to be understood. As per the PUC "sub brokers/authorized persons do not raise any bill to the client and bills and contract notes are issued by the main broker itself". Thus in the given case, sub broker is providing service to broker and not providing service of purchasing and selling of shares to the client directly. He is providing supply of services to broker on behalf of another; rather he is providing this service as an independent entity. Thus, will be liable to get registered as per Section 22 of the CGST Act, 2017.

ii. **Issue:** Clarification regarding applicability of GST on Securities Transaction Tax and Stamp Duty.

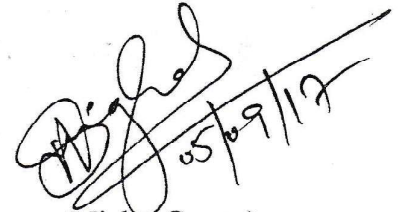
**Comment:** The Central Board of Excise and Customs (CBEC) had earlier issued clarification F. No. 187/107/2010 –CX.4 dated 17th September 2010 (Annexure A) clarifying that in the case of stock broking services, the liability for stamp duty and the securities transaction tax (STT) is that of the purchaser or seller of the securities and not of the stock broker. The stock broker collects and deposits the same on behalf

of the purchaser and seller, that is, in the capacity of a pure agent. Therefore, Service Tax is not payable on STT and Stamp Duty. In the light of the fact that even under the GST regime, the rationale for excluding the Stamp Duty and STT component, recovered by a stock broker from the client (seller/ buyer), from the levy of GST, remains valid, GST is not payable by the Stock Broker on these recoveries and as long as the conditions of pure agent as provided in Rule 33 of the CGST Rules are met.

- iii. **Issue:** Applicability of GST on interest earned by a broker on temporary funding extended to clients towards pay in obligations.

**Comments:** Section 15(2)(d) states that value of supply shall include interest or late fee or penalty for delayed payment of any consideration for any supply. If the facility of temporary funding extended to clients forms part of contract between the broker and client, then interest earned on such an activity should be included under value of supply and chargeable to GST. But if this service is provided as a loan to client then, interest on such service is nil as per Notification No. 12/2017- Central Tax (Rate)

Yours faithfully,



(Nisha Gupta)

Deputy Commissioner (GST)

To,

**Smt. Shalini Mahajan**

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