

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DEPARTMENT OF TRADE & TAXES
VYAPAR BHAWAN, I.P. ESTATE, NEW DELHI-110002
(POLICY BRANCH)

No. F.3(561)/GST/Policy/2024/ 1891-1900

Dated: 22 / 08 / 2024

Circular No. 13/2024- GST of State Tax
(Ref. Circular No. 219/13/2024 GST of Central Tax)

Sub:- Clarification on availability of input tax credit on ducts and manholes used in network of optical fiber cables(OFCs) in terms of section 17(5) of the CGST Act, 2017-reg.

Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity, it has been decided that the said circular issued by the CBIC is being made applicable, mutatis mutandis, in implementation of the DGST Act, 2017. Copy of the referred CBIC circular is attached herewith.

This Circular is clarificatory in nature. Difficulty if any, in the implementation of this Circular may be brought to the notice of the office of the Commissioner of State Tax, Delhi.

Chanchal 13/8/2024

(CHANCHAL YADAV)
COMMISSIONER (STATE TAX)

No. F.3(561)/GST/Policy/2024/ 1891-1900

Dated: 22 / 08 / 2024

Copy to:-

1. All Spl./Addl./Joint Commissioners, Department of Trade & Taxes, GNCT of Delhi, Vyapar Bhawan, I.P. Estate, New Delhi-02.
2. Special Commissioner,(PR), Department of Trade & Taxes, GNCT of Delhi, Vyapar Bhawan, I.P. Estate, New Delhi-02 for publicity of the contents of this circular.
3. Joint Director, IT for uploading the circular on website of the Department.
4. The President/General Secretary, Sales Tax Bar Association (Regd.), Vyapar Bhawan, I.P. Estate, New Delhi-02
5. All Assistant Commissioner/AVATOs Department of Trade & Taxes, GNCT of Delhi, Vyapar Bhawan, I.P. Estate, New Delhi-02 through Zonal Commissioners.
6. PS to the Commissioner, Department of Trade & Taxes, GNCT of Delhi, Vyapar Bhawan I.P. Estate, New Delhi-02.
7. Guard File.

Rita Kaushik

(RITA KAUSHIK)
ASSISTANT COMMISSIONER (POLICY)

Circular No. 219/13/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi,
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/
Commissioners of Central Tax (All)
The Principal Directors General/ Directors General (All)

Madam/Sir,

Subject: Clarification on availability of input tax credit on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5) of the CGST Act, 2017 - reg.

Representations have been received from Cellular Operators Association of India (COAI) submitting that input tax credit (ITC) is being denied by some tax authorities on ducts and manholes used in network of optical fiber cables (OFCs) on the ground that the same is blocked as per section 17(5) of the Central Goods & Services Tax Act, 2017 (herein after referred to as the 'CGST Act'), being in nature of immovable property (other than Plant and Machinery). It has been requested to issue clarification in respect of availability of ITC on ducts and manholes used in network of optical fiber cables (OFCs), so as to prevent unwarranted litigation in the telecommunication sector across the country.

2. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issue as below.

Issue	Clarification
Whether the input tax credit on the ducts and manholes used in network of optical fiber	1. Sub-section (5) to Section 17 of the CGST Act provides that input tax credit shall not be available, inter alia, in respect of the following:

cables (OFCs) for providing telecommunication services is barred in terms of clauses (c) and (d) of sub-section (5) of section 17 of the CGST Act. read with Explanation to section 17 of CGST Act ?

i. works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service; or

ii. goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

2. Explanation in section 17 of CGST Act provides that the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes land, building or any other civil structures; telecommunication towers; and pipelines laid outside the factory premises.

3. Ducts and manholes are basic components for the optical fiber cable (OFC) network used in providing telecommunication services. The OFC network is generally laid with the use of **PVC ducts/sheaths** in which OFCs are housed and **service/connectivity manholes**, which serve as nodes of the network, and are necessary for not only laying of optical fiber cable but also their upkeep and maintenance. In view of the Explanation in section 17 of the CGST Act, it appears that ducts and manholes are covered under the definition of "plant and machinery" as they are used as part of the OFC network for making outward supply of transmission of telecommunication signals from one point to another. Moreover, ducts and manholes used in network of optical fiber cables (OFCs) have not been specifically excluded from

the definition of "*plant and machinery*" in the Explanation to section 17 of CGST Act, as they are neither in nature of land, building or civil structures nor are in nature of telecommunication towers or pipelines laid outside the factory premises.

4. Accordingly, it is clarified that availment of input tax credit is not restricted in respect of such ducts and manhole used in network of optical fiber cables (OFCs), either under clause (c) or under clause (d) of sub-section (5) of section 17 of CGST Act.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal)
Pr. Commissioner (GST)