

FIDC

Finance Industry Development Council

(A body incorporated as a Self Regulatory Organization for Registered NBFCs)
101/103, Sunflower, 1st Floor, Rajawadi Road No.2, Ghatkopar (East), Mumbai – 400 077 (India)
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April 10, 2017

Shri Upender Gupta

Commissioner, GST
The Working Group for GST
(Banking, Financial and Insurance Sector)
New Delhi

Respected Sir,

Re: **Concerns of the NBFC Sector – Discussion held on April 08, 2017**

Finance Industry Development Council (FIDC) is a Self-Regulatory Organization (SRO) cum Representative Body of the NBFCs, registered with the Reserve Bank of India. FIDC was formed 12 years ago, and is the recognized face of NBFCs, especially, those engaged in asset financing. We have been engaged in regular interactions both with Reserve Bank of India and Govt. of India, which include pre-budget meetings and also important policy related meetings with RBI. Almost all the leading NBFCs and a large number of small and medium sized NBFCs are our members.

We hereby convey our most sincere thanks to you and other members of the Working Group, for providing us an opportunity to present our concerns and give a patient hearing to them, during the Meeting held on April 08, 2017 in Mumbai.

Based on the discussion held, we hereby submit our key concerns and the suggestions thereon :

1. Sale of Repossessed Assets Should Be Exempted

If a borrower commits default in case of asset backed financing, the asset is repossessed by the Financier (Bank/NBFC) and after giving sufficient opportunities, if the default continues, such Financier sells the asset and appropriates the sale proceeds towards the account of the borrower. In this scenario, there won't be any value addition and only value dilution, as the asset is depreciated.

As such, the asset is never reflected in the books of NBFCs, and NBFCs merely facilitate sale on behalf of the defaulting borrower to recover our dues and settle his account. Further, the input at the time of purchase would not have been utilised by the customer. So, in case of any levy of GST on sale of repossessed assets, No ITC shall be possible as the asset is owned by the defaulting borrower and the invoice of the asset is also with the borrower.

In a scenario, where banks and financial institutions are grappling with the menace of NPAs, repossession and subsequent sale of repossessed assets, is an important tool to fight this menace.

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As discussed in the meeting, currently such sales are not subject to the levy of VAT.

Suggestion: Hence sale of assets repossessed in case of default (ITC not utilised cases) should be exempt from the levy of GST.

2. Assignment of Receivables Need to be Exempted

The CGST Bill exempts “Actionable Claims” from the levy of GST. The definition of actionable claims under the CGST bill has been derived from the Transfer of Property Act, 1882. As per this definition, assignment of receivables secured by hypothecation or pledge of movable assets are not treated as actionable claims. As such, as per the prevailing provisions, assignment of receivables falls under the definition of “supply” and shall be subject to the levy of GST.

Assignments of receivables are effectively used for securitization. They act as a very important mode of refinancing for NBFCs. Bilateral assignment of receivables by NBFCs to banks, especially, in retail lending not only provides funding to NBFCs but adds tremendous value to the asset book of the banks. Both RBI and SEBI have been working to create an enabling environment for such transactions.

Suggestion: We therefore request that assignment of receivables secured by hypothecation or pledge of movable assets should be exempted from the levy of GST.

3. Leasing Needs to be Promoted for Financing of MSMEs and Farm Sector- GST Rate on Lease Rentals should be the Lowest

100% ITC can be Availed u/s 17(2) on Goods to be Given on Lease

As discussed and advised by you, in case of lease transactions, NBFCs have the option to follow Section 17 (2) and avail 100% ITC on the goods to be given on lease / hire purchase, instead of Section 17(4) where only 50% ITC shall be available.

GST Rate on Lease Rentals

Govt of India has laid lot of impetus on the growth and development of MSEM, Agriculture and Infrastructure sectors, for which making capital investment is the biggest challenge for any entrepreneur and a farmer. World over, “Leasing” has been the most suitable tool and has been effectively used for :

1. Financing MSMEs, including Start-ups, by addressing their need for capital investment required for acquisition of assets like equipment, machinery etc.

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2. Enabling farmers to use the right equipment without making any capital investment
3. Making capital investment in the equipment to be used for building infrastructure

International Finance Corporation (IFC) report on “Leasing in Development” talks about how leasing has played a key role in the development of MSME and Farm sectors in the emerging economies of Uzbekistan, Ravanda, Yemen, Tanzania and many other countries. Unfortunately, leasing has suffered in India due to imprudent taxation policies primarily due to dual / multiple taxation.

Suggestion: There is a crying need to promote leasing of movable assets, especially, for the development of MSMEs(including Start-Ups) and Farm Sector. The best way to do this would be to put the Lease Rentals in the lowest rate category. However, the same may not apply to lease rentals on luxury goods

We hope that our above said concerns shall be given a favorable consideration, as they shall also have the potential to affect the development of important sectors like MSMEs, Small Road Transport Operators and Agriculture.

Thanking you in anticipation

Warm Regards
For **Finance Industry Development Council**



Raman Aggarwal
Chairman