



The Secretary,
Dept of Economic Affairs,
Ministry of Finance,
New Delhi.

Respected Sir,

REPRESENTATION ON THE LEVY OF GST ON COMMISSION PAID TO MUTUAL FUND DISTRIBUTORS NOT ALLOWED TO BE PASSED ON TO THE RECIPIENT OF SERVICE.

1. Burden of GST

Sir, with the introduction of service tax (earlier) and now GST we would like to bring to your attention the serious issue of the GST (earlier Service Tax) burden put on the mutual fund distribution community, the providers of service, rather than on the recipient of the services, the Asset Management Companies/Mutual Fund Schemes (representing investors).

We summarise the issue faced by the mutual fund distribution community with respect to the levy and other aspects of GST

2. Applicability and charge of Goods and Services Tax

Under the provisions of the Goods and Services Act, 2016, Goods and Services Tax (GST) is applicable on commission earned by a mutual fund distributor in respect of services provided by the mutual fund distributor to the Asset Management Company and/ or to the Mutual Fund Schemes.

In the case of mutual fund distributors, GST on commission earned should be borne by the Asset Management Company and/or Mutual Fund Schemes who are the recipients of the service as GST is inherently a levy on the recipient of the service. The person providing the service (mutual fund distributor) is only a



conduit for collecting the GST from the recipient of the service and paying the same to the government.

However, with the introduction of service tax (earlier) and now GST, the mutual fund distributors (the service providers) have to bear the GST out of the commission earned by him in spite of the mutual fund distributor being the service provider and not the recipient of service. This situation has arisen as the SEBI regulations do not allow the service tax / GST on distributor's commission to be charged to the mutual fund scheme over and above the limits of TER (Total Expense Ratio) prescribed by SEBI.

As a consequence, the GST, though an indirect tax is in the nature of a direct tax to the distributors. The mutual fund distributors are now paying 30% income tax on the net profits as well as 18% GST on their gross commission income.

It may be noted that vide circular no. CIR\IMD\DF\21\2012 dated 13.9.2012, SEBI allowed the service tax (being an indirect tax) on Investment Management Fees levied by the AMC to the scheme, to be charged to the mutual fund scheme over and above the TER prescribed. Accordingly GST on Investment Management fees is charged to the scheme over and above the prescribed limits of TER under SEBI regulations.

3. GST tax will be levied as a direct tax

If the mutual fund distributors are to absorb the GST on distributor commission, then the effective tax rate (for the highest tax slab) would be 57.44%. The calculations are given in Annexure A.

Sir, you will appreciate that this is counterproductive, inequitable and importantly not the intention of the government or the policy makers.

4. Unfair and discriminatory treatment of levy of GST on mutual fund distribution commission.

In case of all other financial products too, the GST is borne by the final recipient of the service. Insurance companies unlike Asset Management Companies or



mutual funds are permitted to pass on their GST liability to their end consumers. In case of banking and other financial services also, the companies are allowed to pass on the burden of any sum paid to agents as service tax to their customers.

We give below a table illustrating that only in case of mutual funds, the service tax on commission earned is borne by the distributors (the service provider).

COMPARITIVE CHART OF SERVICE TAX TREATMENT ON FINANCIAL PRODUCTS

FINANCIAL SERVICE	WHO PAYS GST	WHO BEARS GST
INSURANCE AGENT	INSURANCE COMPANY	CUSTOMER (IN PREMIUM THE COMMISSION IS ADDED)
STOCK BROKING	STOCK BROKER	CUSTOMER (CONTRACTED RATE PLUS GST)
PMS (PORTFOLIO MANAGEMENT SERVICE)	PORTFOLIO MANAGER	CUSTOMER (CONTRACTED RATE PLUS GST)
FIXED DEPOSIT	FD AGENT	COMPANY (FD ISSUER)
ASSET MANAGEMENT COMPANY	AMC/ FUND	CUSTOMER (INVESTMENT MANAGEMENT FEES PLUS GST)
MUTUAL FUND DISTRIBUTION	AMC/ FUND	DISTRIBUTOR (COMMISSION RECIEVED LESS GST)

This treatment is unfair and discriminatory.

In order that justice is met and the levy is passed on to the final recipient of the service, keeping in mind the fundamental nature of the tax, it is requested that SEBI allows an increase in the TER to the extent of GST chargeable on commission paid to distributors just as it has allowed GST on fees charged by the asset management companies to be charged to the scheme over and above



the maximum chargeable TER and also as is the case in the case of GST on distribution commission in case of other financial products. If this is allowed, the treatment of chargeability of GST will be equitable.

It will be appreciated that the request will be revenue neutral to the government.

5. Financial inclusion and financial independence

This burden of bearing the GST coupled with the frequent reduction of TER in the past one year and the additional reduction of TER w.e.f. 1.4.2019 in the garb of economies of scale being reached in the mutual fund industry, will make mutual fund distribution an unviable option for young and budding professionals. We understand that the major burden of the reduction of TER will be passed on to the distributors as has been done in the past. This would surely hamper the desired level of growth of the industry and in turn, the goal of financial inclusion and independence of the citizens of our country.

6. Tax invoice to be raised on the mutual fund scheme and not the Asset Management Company.

SEBI circular SEBI/HO/IMD/DF2/CIR/P/2018/137 dated October 22, 2018 directs that all commissions and remuneration in any form paid to the distributors be charged to the mutual fund scheme and not to the asset management companies. It is common knowledge that mutual fund distributors provide service to the asset management companies. This has also been acknowledged at various meetings with SEBI. However, inspite of the above, the aforesaid SEBI circular prescribes that the commission paid to the mutual fund distributors be paid from the mutual fund scheme expenses and not by the asset management company. As such the distributors raise a Tax Invoice on the mutual fund scheme instead of the asset management company.



7. Our humble Requests

In view of the above we humbly request the following:

To increase the maximum limit of TER as prescribed in regulation 52 of The SEBI (MF) Regulations so as to allow GST on commission paid to mutual fund distributors to be charged to the scheme just as it is allowed on the investment management fees charged to the scheme

In the alternative to reduce the rate of GST on commission paid to mutual fund distributors to the lowest slab.

To seek a review of the provisions of SEBI circular dated October 22, 2018 directing that all commissions paid to the distributors be charged to the mutual fund scheme and not to the asset management companies in spite of the service being provided by the mutual fund distributors to the asset management companies.

We seek your sympathetic consideration in this matter and request a personal meeting to explain and discuss all the issues raised.

Thanking you,

Warm Regards,

Dhruv Mehta

Chairman



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ANNEXURE A

Percentage of Tax on Profits

Sr. No	Particulars	Tax % Before Levy of GST	Tax % After Levy of GST
1	Gross Commission (including GST)	100	100
2	Less: GST @ 18% (100/118*18)	0	15.25
3	Net commission received (1-2)	100	84.75
4	Approx. Cost of operations @60% of Gross Commission	60	60
5	Net Profit before tax (3-4)	40	24.75
6	Income Tax @ 30%	12	7.43
7	Add: Education Cess @4%	0.48	0.30
8	Total Income Tax Payable (6+7)	12.48	7.73
9	Net Profit after tax (5-8)	27.52	17.02
10	Adjusted Profits Before Taxes (5+2)	40	40
	Total Taxes Paid		
11	GST Paid (As a direct tax) (2)	0	15.25
12	Income Tax Paid (As a direct tax) (8)	12.48	7.73
13	Total taxes paid (11+12)	12.48	22.98
14	Tax paid as a percentage of adjusted profits (13/10)	31.20%	57.44%