

EXEMPTIONS FROM GST

Topic Referencer

- ☑ Exemption from Tax
- ☑ List of Services Exempt from CGST
- ☑ List of Services Exempt from IGST
- ☑ Other Exemptions

EXEMPTION FROM TAX

1. Explain the power of the Government to grant exemption from tax.

Ans: Power to grant exemption from tax [Section 11] :

(1) **General Exemption [Section 11(1)]** : Where the Government is satisfied that it is necessary in the public interest so to do, it may, –

- on the recommendations of the Council,
- by notification,
- exempt generally, –
 - either absolutely; or
 - subject to such conditions as may be specified therein,
- goods or services or both of any specified description
- from the whole or any part of the tax leviable thereon
- with effect from such date as may be specified in such notification.

It must be noted that the exemption would be in respect of goods or services or both, and not specifically for any classes of persons.

(2) **Special exemption or Adhoc Exemption [Section 11(2)]** : Where the Government is satisfied that it is necessary in the public interest so to do, it may, –

- on the recommendations of the Council,
- by special order in each case,
- under circumstances of an exceptional nature to be stated in such order,
- exempt from payment of tax any goods or services or both on which tax is leviable.

(3) **Power to clarify scope of exemption - Within a period of 1 year from date of issue of exemption notification [Section 11(3)]** : The Government may, if it considers necessary or expedient so to do –

- for the purpose of clarifying the scope or applicability of any notification issued under Section 11(1) or order issued under Section 11(2),
- insert an explanation in such notification or order, as the case may be,
- by notification at any time within one year of issue of the notification under Section 11(1) or order under Section 11(2), and
- every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

(4) **Unconditional Exemption - Mandatory [Explanation]** : Where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both. Thus, the person supplying exempted goods or services or both shall not collect the tax in excess of the effective rate.

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| <p><i>Circular No. 120/39/2019-GST dated 11-10-2019</i></p> | <p>Clarification on the effective date of insertion of explanation in notification : Section 11(3) of CGST Act provides that the Government may insert an explanation in any notification issued under section 11, for the purpose of clarifying its scope or applicability, at any time within 1 year of issue of the notification and every such explanation shall have effect as if it had always been the part of the first such notification.</p> <p>It is hereby clarified that the explanation having been inserted under section 11(3) of the CGST Act, is effective from the inception of the entry in notification and not from the date from which the notification (that inserted said explanation) becomes effective.</p> <p><i>For example,</i> the principal Notification No. 11/2017-CT (R) dated 28-06-2017 came into force with effect from 1-07-2017. Thereafter, a new entry - Entry no. 3(vi) is inserted w.e.f. 21-09-2017. Subsequently, an explanation is also inserted with respect to entry no. 3(vi) on 26-07-2018. Although the effective date mentioned in the notification which inserted said explanation is 27-07-2018, said explanation will be effective from the inception of entry in notification <i>i.e.</i> 21-09-2017 and not 27-07-2018.</p> |
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Similar provisions granting power to exempt IGST have been provided under section 6 of the IGST Act.

LIST OF SERVICES EXEMPT FROM CGST

Notification No. 12/2017-CT (R) dated 28-06-2017/ Notification No. 9/2017-IT (R) dated 28-06-2017 unless otherwise specified, has exempted the following services wholly from CGST/IGST respectively :

SERVICES BY CHARITABLE INSTITUTION

(1) SERVICES BY CHARITABLE ENTITY [Entry 1 of Notification No. 12/2017-CT (Rate)] :

Services by an entity registered u/s 12AA or 12AB of the Income-tax Act, 1961 by way of **charitable activities** are exempt.

- ☛ **“Charitable activities”** means activities relating to—
- (i) public health by way of, —
 - (A) care or counseling of—
 - (I) terminally ill persons or persons with severe physical or mental disability;
 - (II) persons afflicted with HIV or AIDS;
 - (III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol;
 or
 - (B) public awareness of preventive health, family planning or prevention of HIV infection;
 - (ii) advancement of religion, spirituality or yoga;
 - (iii) advancement of educational programmes or skill development relating to, —
 - (A) abandoned, orphaned or homeless children;
 - (B) physically or mentally abused and traumatized persons;
 - (C) prisoners; or
 - (D) persons over the age of 65 years residing in a rural area;
 - (iv) preservation of environment including watershed, forests and wildlife. [Para 2(r) of Notification No. 12/2017-CT (Rate)]

Other Aspects:

- (i) **Conditions to be satisfied for exemption :** In order to claim exemption under Entry 1 of the Notification, following two conditions must be satisfied :
 - (a) The entity is **registered under section 12AA or 12AB of the Income tax Act, 1961,** and
 - (b) The entity carries out one or more of the specified **charitable activities.**

There could be many services provided by charitable trusts registered under section 12AA or 12AB of the Income-tax Act, 1961 which are not covered by the definition of charitable activities and hence, such

services would attract GST. **For instance**, grant of advertising rights to a person on the premises of the charitable/religious trust or on publications of the trust, or granting admission to events, functions, celebrations, shows against admission tickets or fee etc. would attract GST.

(ii) **Advancement of any other object of general public utility - Not charitable purpose** : In case if any charitable trust is carrying out any activities relating to advancement of any other object of general public utility the same shall not be exempt from GST. However, the trust can avail threshold exemption as available to all other taxable services upto ₹ 20 lakh. (₹ 10 lakhs in State of Manipur, Mizoram, Nagaland, and Tripura).

(iii) **Arranging yoga and meditation camp by charitable trusts - Circular No. 66/40/2018-GST dated 26-09-2018** : As discussed above, services provided by entity registered under section 12AA or 12AB of the Income-tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt as such activities are covered in definition of charitable activities.

Fee or consideration charged in any other form from the participants for participating in a religious, yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt.

Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga.

However, if charitable trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable. Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable.

(iv) **Hospitals managed by charitable trusts** : Exemption available to health care services under Entry 74 of the Notification is also applicable to the services provided by a **clinical establishment, an authorised medical practitioner or paramedics of a charitable trust** also.

(v) **GST on services provided TO charitable trusts** : Services provided to charitable or religious trusts are not outside the ambit of GST. *Unless specifically exempted*, all goods and services supplied to charitable or religious trusts are leviable to GST.

Service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors - If the same is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, it will not be leviable to GST. [Circular No. 116/35/2019-GST dated 11-10-2019]

| Issue | Clarification |
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| Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc. The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude. Whether GST is applicable on donations or gifts received from individual donors by charitable | <p>If the same is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, it will not be leviable to GST - When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service).</p> <p>Therefore, there is no GST liability on such consideration.</p> <p>Some examples of cases where there would be no taxable supply are as follows:-</p> <p>(a) "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.</p> <p>(b) "Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.</p> |

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| organisations involved in advancement of religion, spirituality or yoga which is acknowledged by them by placing name plates in the name of the individual donor. | In each of these examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus, where all the three conditions are satisfied namely the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e. it leads to no commercial gain) and not advertisement, GST is not leviable. |
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(2) RECREATIONAL TRAINING OR COACHING [Entry 80 of Notification No. 12/2017-CT (Rate)] [Amended by Notification No. 04/2022-CT (Rate) dated 13-07-2022 w.e.f. 18-07-2022] :

Services by way of training or coaching in-

- (a) recreational activities relating to arts or culture, by an individual, or
(b) sports by charitable entities registered u/s 12AA or 12AB of the Income Tax Act,
are exempt from tax.

Other Aspect :

The exemption with regard to services provided by way of training or coaching in recreational activities relating to arts or culture has a restricted scope. Said exemption is available only when said services are provided by an individual. Similarly exemption in respect of sports activities is available when provided by charitable entity registered under section 12AA/12AB of Income-tax Act.

The term recreational activities is very wide. However, under this entry, the scope of training or coaching in recreational activities is restricted to the area of arts, culture and sports. Hence, the training or coaching in recreational activities in the areas other than arts, culture or sports is outside the purview of this entry.

Further, training or coaching relating to all forms of arts, culture or sports is covered under this entry, namely, dance, music, painting, sculpture making, literary activities, theatre, sports etc. of any school, tradition or language or any of the sports.

(3) IMPORT OF SERVICES BY CHARITABLE ENTITY [Entry 10 of Notification No. 9/2017-IT (R)] :

Services received from a provider of service located in a non-taxable territory by an entity registered u/s 12AA/12AB of the Income-tax Act, 1961 for the purposes of providing charitable activities are exempt. However, exemption shall not apply to OIDAR services and import sea freight.

(4) SERVICES BY AN OLD AGE HOME [Entry 9D of Notification No. 12/2017-CT (Rate)] :

Services by an old age home run by an entity registered u/s 12AA or 12AB of the Income-tax Act, 1961 to its residents (aged **60 years** or more) against consideration upto ₹ 25,000 per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance are exempt.

Illustration 1 – Services by Charitable Institutions : MTCT, an entity registered under section 12AB of the Income-tax Act, 1961, has furnished you the following details with respect to the activities undertaken by it. You are required to compute its GST liability from the information given below :

| Particulars | ₹ |
|---|-----------|
| Fees charged for yoga camp conducted by the trust | 6,00,000 |
| Amount received for advancement of educational programmes relating to abandoned, orphaned or homeless children | 10,50,000 |
| Amount received for renting of commercial property owned by the trust | 35,00,000 |
| Payment made for the services received from a service provider located in England, for the purposes of providing 'charitable activities' | 10,00,000 |
| Amount received for activities relating to preservation of forests and wildlife | 12,35,000 |
| Donation received from Mr. Daanveer for construction of orphanage in memory of his father. "Donated by Mr. Daanveer the memory of his father" was written on the main door of the orphanage constructed with the said donation. | 30,00,000 |
| Receipts of old age home meant for residents of 60 years or more [Consideration per month per member is ₹5,000 (inclusive of boarding lodging and maintenance)] | 10,00,000 |

Note: GST have been charged separately wherever applicable. Rate of GST is 18%.

Solution: Computation of GST liability of MTCT (amount in ₹)–

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| Fees charged for yoga camp conducted by the trust | [WN-1] | Nil |
| Amount received for advancement of educational programmes relating to abandoned, orphaned or homeless children | [WN-1] | Nil |
| Amount received for activities relating to preservation of forests and wildlife | [WN-1] | Nil |
| Receipts of old age home meant for residents of 60 years or more [Consideration per month per member is ₹5,000 (inclusive of boarding lodging and maintenance)] | [WN-4] | Nil |
| Donation received from Mr. Daanveer for construction of orphanage in memory of his father | [WN-5] | Nil |
| Amount received for renting of commercial property owned by the trust | [WN-3] | 35,00,000 |
| Value of Taxable supply | | 35,00,000 |
| GST payable @ 18% [A] | | 6,30,000 |
| Services to be taxed on reverse charge basis : | | |
| Payment made for the services received from a service provider located in England for the purposes of providing 'charitable activities' [B] | [WN-2] | Nil |
| GST liability [(A) + (B)] | | 6,30,000 |

Working Notes :

- (1) Services provided by an entity registered under section 12AB of the Income-tax Act, 1961 by way of charitable activities are exempt from GST *vide* Exemption Notification No. 12/2017-CT (R) dated 28-06-2017. The definition of term charitable activities, *inter alia*, means activities relating to :
 - (a) advancement of yoga;
 - (b) advancement of educational programmes relating to abandoned, orphaned or homeless children
 - (c) preservation of environment including watershed, forests and wildlife.
- (2) Service recipient is liable to pay GST in case of a taxable service provided by any person located in a non-taxable territory and received by any person located in the taxable territory. However, services received from a provider of service located in a non-taxable territory by an entity registered under section 12AB of the Income-tax Act, 1961 for the purposes of providing charitable activities are exempt from GST *vide* Entry 10 of Notification No. 9/2017-IT (R) dated 28-06-2017.
- (3) Renting of commercial property owned by the trust is liable to GST.
- (4) Services by an old age home run by an entity registered under section 12AB of the Income-tax Act, 1961 to its residents (aged 60 years or more) against consideration upto ₹ 25,000 per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance are exempt from tax *vide* Entry 9D of Notification No. 12/2017-CT (R).
- (5) The **CBIC *vide* Circular No. 116/35/2019-GST dated 11-10-2019** has clarified that when the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (*quid pro quo*) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

RELIGIOUS SERVICES

(5) RELIGIOUS SERVICES [Entry 13 of Notification No. 12/2017-CT (Rate)] :

Services by a person by way of –

- (a) **conduct of any religious ceremony;**
- (b) **renting of precincts of a religious place** meant for general public, owned or managed by –
 - (i) an entity registered as a charitable or religious trust u/s 12AA/12AB of the Income-tax Act, 1961; or
 - (ii) a trust or an institution registered under Section 10(23C)(v) of the Income-tax Act; or
 - (iii) a body or an authority covered under Section 10(23BBA) of the said Income-tax Act,
 are exempt.

However, nothing contained in entry (b) of this exemption shall apply to, –

- (i) renting of rooms where charges are ₹ 1,000 or more per day;
- (ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ₹ 10,000 or more per day;
- (iii) renting of shops or other spaces for business or commerce where charges are ₹ 10,000 or more per month.

- ❖ “General public” means the body of people at large sufficiently defined by some common quality of public or impersonal nature. [Para 2(zc) of Notification No. 12/2017-CT (Rate)]
- ❖ “Religious place” means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality. [Para 2(zy) of Notification No. 12/2017-CT (Rate)]

Other Aspects:

- (i) **Religious ceremonies** are life-cycle rituals including special religious poojas conducted in terms of religious texts by a person so authorized by such religious texts. Occasions like birth, marriage, and death involve elaborate religious ceremonies.
- (ii) **Interpretation of term "precincts" as appearing in Exemption Entry** : The immovable property located in the immediate vicinity and surrounding of the religious place and owned by the religious place or under the same management as the religious place, may be considered as being located in the precincts of the religious place and extended the benefit of exemption.
- (iii) **Other Activities liable to GST** : Activities other than conduct of religious ceremony and renting of precincts of religious place will be taxable irrespective of the manner or the name in which the consideration is received.

For example, if donation is received with specific instructions/mutual understanding between the donor and the receiver that religious place will host an advertisement promoting business of the donor, such donation will be subject to GST. However, if donation is received without such instructions or without a quid pro quo in the form of supply of any goods or services by the receiver to the donor, it shall not be subject to GST.

(6) SERVICES BY A SPECIFIED ORGANISATION IN RESPECT OF A RELIGIOUS PILGRIMAGE [Entry 60 of Notification No. 12/2017-CT (Rate)] :

Services by a specified organisation in respect of a **religious pilgrimage** facilitated by the Government of India, under bilateral arrangement are exempt.

- ❖ “Specified organisation” shall mean, –
 - (i) Kumaon Mandal Vikas Nigam Limited, a Government of Uttarakhand Undertaking; or
 - (ii) ‘Committee’ or ‘State Committee’ as defined in Section 2 of the Haj Committee Act, 2002. [Para 2(zzg) of Notification No. 12/2017-CT (Rate)]

Illustration 2 – Renting of precincts of a religious place : VHP, an entity registered as religious trust u/s 12AB of the Income-tax Act, 1961, has furnished you the following details with respect to the activities undertaken by it. You are required to compute its value of taxable supply from the information given below:

| Particulars | ₹ |
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| (1) Renting of room where charges are ₹ 500 per day | 6,00,000 |
| (2) Renting of room where charges are ₹ 1,500 per day | 9,00,000 |
| (3) Renting of community halls where charges are ₹ 25,000 per day | 10,00,000 |
| (4) Renting of kalyanmandapam where charges are ₹ 5,000 per day | 7,50,000 |
| (5) Renting of shops for business where charges are ₹ 15,000 per month | 7,50,000 |
| (6) Renting of shops for business where charges are ₹ 5,000 per month | 5,50,000 |

Solution: Computation of GST liability of VHP (amount in ₹) –

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| (1) Renting of room where charges are ₹ 500 per day | Nil |
| (2) Renting of room where charges are ₹ 1,500 per day | 9,00,000 |
| (3) Renting of community halls where charges are ₹ 25,000 per day | 10,00,000 |
| (4) Renting of kalyanmandapam where charges are ₹ 5,000 per day | Nil |

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| (5) Renting of shops for business where charges are ₹ 15,000 per month | 7,50,000 |
| (6) Renting of shops for business where charges are ₹ 5,000 per month | Nil |
| Value of Taxable supply | 26,50,000 |

Working Note : Services by a person by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under Section 12AB of the Income-tax Act, 1961 are exempt. However, this exemption shall not apply to, –

- (i) renting of rooms where charges are ₹ 1,000 or more per day;
- (ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ₹ 10,000 or more per day;
- (iii) renting of shops or other spaces for business/commerce where charges are ₹ 10,000 or more per month.

SERVICE RELATING TO AGRICULTURE OR AGRICULTURAL PRODUCE

(7) SERVICES RELATING TO AGRICULTURE OR AGRICULTURAL PRODUCE [Entry 54 of Notification No. 12/2017-CT (Rate)] :

Services relating to cultivation of plants and rearing of all life forms of animals, **except the rearing of horses**, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of –

- (a) agricultural operations directly related to production of any **agricultural produce** including cultivation, harvesting, threshing, plant protection or testing;
- (b) supply of **farm labour**;
- (c) **processes carried out at an agricultural farm** including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;
- (d) **renting or leasing of agro machinery or vacant land** with or without a structure incidental to its use;
- (e) **loading, unloading, packing, storage or warehousing** of agricultural produce;
- (f) **agricultural extension services**;
- (g) services by any **Agricultural Produce Marketing Committee** or Board or services provided by a commission agent for sale or purchase of agricultural produce,
- (h) ~~services by way of fumigation in a warehouse of agricultural produce~~ **[Omitted by Notification No. 04/2022 -CT(Rate) dated 13-07-2022 w.e.f. 18-07-2022]**

are exempt.

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| <p>⊛ “Agricultural extension” means application of scientific research and knowledge to agricultural practices through farmer education or training. <i>[Para 2(c) of Notification No. 12/2017-CT (Rate)]</i></p> <p>⊛ “Agricultural Produce Marketing Committee or Board” means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce. <i>[Para 2(e) of Notification No. 2/2017-CT (Rate)]</i></p> <p>⊛ “Agricultural produce” means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market. <i>[Para 2(d) of Notification No. 2/2017-CT (Rate)]</i></p> |
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Other Aspects :

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| Plantation crops are agricultural produce | Plantation crops like rubber, green tea or coffee be also covered under agricultural produce. |
| Pisciculture, Sericulture, floriculture etc. covered | Entry 54 include activities like breeding of fish (pisciculture), rearing of silk worms (sericulture), cultivation of ornamental flowers (floriculture) and horticulture, forestry, etc. |

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| Potato chips or tomato ketchup etc. do not qualify as agricultural produce | In terms of the definition of agricultural produce, only such processing should be carried out as is usually done by cultivator or producers which does not alter its essential characteristics but makes it marketable for primary market. Potato chips or tomato ketchup are manufactured through processes which alter the essential characteristic of farm produce. Hence, the same are not agricultural produce. |
| Process which makes agricultural produce marketable in the retail market | The processes of grinding, sterilizing, extraction packaging in retail packs of agricultural products, which make the agricultural products marketable in retail market, would NOT be covered in this entry. Only such processes are covered in this entry which makes agricultural produce marketable in the primary market. |
| Cleaning of wheat carried outside the farm - Not liable for GST | It is a process which does not alter essential characteristics of agricultural produce but makes it only marketable for the primary market and therefore would be covered in the exemption entry even if the same is done outside the farm. |
| Leasing of vacant land with a green house or a storage shed meant for agricultural produce is covered under exemption | If vacant land has a structure like storage shed or a green house built on it which is incidental to its use for agriculture then its lease would be covered under the exemption entry. |
| Agricultural Extension Services(AES) | The main objective of AES is to transmit latest technical know-how to farmers. It also focuses on enhancing farmers' knowledge about crop techniques and help them to increase productivity. This is done through training courses, kisan call centres, farm visits, on farm trials, kisan melas, kisan clubs, advisory bulletins and the like. |
| Services covered by Agricultural Produce Marketing Committees (APMC) or Boards | APMC or Boards provide a variety of support services for facilitating the marketing of agricultural produce by provision of facilities and amenities like, sheds, water, light, electricity, grading facilities etc. They also take measures for prevention of sale or purchase of agricultural produce below the minimum support price. APMCs collect market fees, license fees, rents etc. However, any service provided by such bodies which is not directly related to agriculture or agricultural produce will be liable to tax e.g. renting of shops or other property. |
| Testing activities - Covered in exemption | Under testing of agricultural produce, not only seed testing but also other testing activities directly related to production of any agricultural produce like soil testing, animal feed testing, testing of samples from plants or animals, for pests and disease causing microbes are covered in the exemption and hence not liable to GST. |
| Processed tea, coffee, jaggery and pulses - Not Agricultural produce - Not eligible for exemption [Circular No. 16/16/2017-GST dated 15-11-2017] | ⇒ Black tea, green tea, white tea - Not agricultural produce : Tea used for making the beverage, such as black tea, green tea, white tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same. Thus, green tea leaves and not tea is the "agricultural produce" eligible for exemption available for loading, unloading, packing, storage or warehousing of agricultural produce. Same is the case with coffee obtained after processing of coffee beans. ⇒ Jaggery - Not agricultural produce : Similarly, processing of sugarcane into jaggery changes its essential characteristics. Thus, jaggery is also not an agricultural produce. |

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| | <p>⇒ Pulses dehusked or split - Not agricultural produce : Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of de-husking or splitting is usually not carried out by farmers or at farm level but by the pulse millers. Therefore pulses (dehusked or split) are also not agricultural produce.</p> <p>⇒ Whole grain pulse - Agricultural produce : However, whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce.</p> |
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(8) CARRYING OUT AN INTERMEDIATE PRODUCTION PROCESS IN RELATION TO CULTIVATION OF PLANTS AND REARING OF ALL LIFE FORMS OF ANIMALS [Entry 55 of Notification No. 12/2017-CT (Rate)] :

Carrying out an **intermediate production process as job work** in relation to cultivation of plants and rearing of all life forms of animals, **except the rearing of horses**, for food, fibre, fuel, raw material or other similar products or agricultural produce is exempt.

Other Aspect :

Milling of paddy into rice - Not eligible for exemption - Liable to GST [CBEC Circular No. 19/19/2017-GST dated 20-11-2017] : Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested.

Further, processing of paddy into rice is not usually carried out by cultivators but by rice millers. Milling of paddy into rice also changes its essential characteristics. Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce.

Milling of paddy into rice on job work basis, is liable to GST on the processing charges (and not on the entire value of rice).

(9) FUMIGATION SERVICES [Entry 53A of Notification No. 12/2017-CT (Rate)] [Omitted by Notification No. 04/2022 -CT(Rate) dated 13-07-2022 w.e.f. 18-07-2022] :

Services by way of ~~fumigation in a warehouse of agricultural produce~~ are exempt.

(10) ARTIFICIAL INSEMINATION OF LIVESTOCK (OTHER THAN HORSES) [Entry 55A of Notification No. 12/2017-CT (Rate)] :

Services by way of **artificial insemination of livestock (other than horses)** are exempt.

(11) LOADING, UNLOADING, PACKING, STORAGE OR WAREHOUSING OF RICE [Entry 24 of Notification No. 12/2017-CT (Rate)] :

Services by way of **loading, unloading, packing, storage or warehousing of rice** are exempt.

(12) WAREHOUSING OF MINOR FOREST PRODUCE [Entry 24A of Notification No. 12/2017-CT (Rate)] :

Services by way of **warehousing of minor forest produce** are exempt.

(13) STORAGE OR WAREHOUSING OF CEREALS, PULSES ETC [Entry 24B of Notification No. 12/2017-CT (Rate)] [Amended by Notification No. 04/2022 CT (Rate) dated 13-07-2022 w.e.f. 18-07-2022] :

Services by way of storage or warehousing of cereals, pulses, fruits and vegetables are exempt from tax.

Prior to 18-07-2022 it was : Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea were exempt.

(14) SERVICES IN RELATION TO FRUITS AND VEGETABLES [Entry 57 of Notification No. 12/2017-CT (Rate)] :

Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables are exempt.

5.10

(15) SERVICES PROVIDED BY NCCD BY WAY OF COLD CHAIN KNOWLEDGE DISSEMINATION [Entry 58 of Notification No. 12/2017-CT (Rate)] :

Services provided by the National Centre for Cold Chain Development under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination are exempt.

Illustration 3 - Agricultural related service: "Agro Care Limited" registered under GST furnishes the following details with respect to the activities undertaken by them in the month of March, 2023 :

| Particulars | ₹ |
|---|----------|
| 1. Receipts from Supply of farm labour | 85,000 |
| 2. Charges for seed testing | 65,000 |
| 3. Charges for soil testing of farm land | 35,000 |
| 4. Charges for warehousing of potato chips | 85,000 |
| 5. Commission received on sale of wheat | 75,000 |
| 6. Charges for training of farmers on use of new pesticides and fertilizers developed through scientific research | 10,000 |
| 7. Renting of vacant land to a stud farm | 1,85,000 |
| 8. Leasing of vacant land to a cattle farm | 83,500 |
| 9. Charges for warehousing of rice | 1,50,000 |
| 10. Charges for warehousing of unmanufactured tobacco | 2,00,000 |
| 11. Retail packing and labelling of fruits and vegetables | 5,00,000 |
| 12. Charges for warehousing of minor forest produce | 8,00,000 |
| 13. Charges for warehousing of spices | 2,20,000 |
| 14. Charges for fumigation in a warehouse of agricultural produce | 2,50,000 |

Compute the value of taxable supply of 'Agro Care Limited' for the month of March, 2023 if all the above amounts are exclusive of GST.

Solution: Computation of Value of taxable supply (amount in ₹) –

| | | |
|--------------------------------|---|-----------------|
| 1. | Receipts from Supply of farm labour [Exempt vide Entry No. 54 of Exemption Notification No. 12/2017-CT (Rate)] | Nil |
| 2. | Charges for seed testing [Exempt vide Entry No. 54 of Exemption Notf. No. 12/2017-CT (Rate)] | Nil |
| 3. | Charges for soil testing of farm land [Exempt vide Entry No. 54 of Exemption Notification No. 12/2017-CT (Rate)] | Nil |
| 4. | Charges for warehousing of potato chips [Potato chips is not an agricultural produce, hence warehousing of the same shall be taxable] | 85,000 |
| 5. | Commission received on sale of wheat [Exempt vide Entry No. 54 of Exemption Notification No. 12/2017-CT (Rate)] | Nil |
| 6. | Charges for training of farmers on use of new pesticides and fertilizers developed through scientific research [Exempt vide Entry No. 54 of Exemption Notification No. 12/2017-CT (Rate)] | Nil |
| 7. | Renting of vacant land to a stud farm [The same will be liable for GST as rearing of horses has been specifically excluded from Exemption] | 1,85,000 |
| 8. | Leasing of vacant land to a cattle farm [Exempt vide Entry No. 54 of Exemption Notification No. 12/2017-CT (Rate)] | Nil |
| 9. | Charges for warehousing of rice [Exempt vide Entry No. 24 of Exemption Notification No. 12/2017-CT (Rate)] | Nil |
| 10. | Charges for warehousing of unmanufactured tobacco [Liable to GST] | 2,00,000 |
| 11. | Retail packing and labelling of fruits and vegetables [Exempt vide Entry No. 57 of Exemption Notification No. 12/2017-CT (Rate)] | Nil |
| 12. | Charges for warehousing of minor forest produce [Exempt vide Entry No. 24A of Exemption Notification No. 12/2017-CT (Rate)] | Nil |
| 13. | Charges for warehousing of spices [Liable to GST] | 2,20,000 |
| 14. | Charges for fumigation in a warehouse of agricultural produce [Liable to GST] | 2,50,000 |
| Value of Taxable Supply | | 9,40,000 |

EDUCATION SERVICES

(16) SERVICES TO OR BY EDUCATIONAL INSTITUTION [Entry 66 of Notification No. 12/2017-CT (Rate)] :

Services provided –

- (a) by an educational institution to its students, faculty and staff;
- (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;
- (b) to an educational institution, by way of, –
 - (i) transportation of students, faculty and staff;
 - (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
 - (iii) security or cleaning or house-keeping services performed in such educational institution;
 - (iv) services relating to admission to, or conduct of examination by, such institution;
 - (v) supply of online educational journals or periodicals,

are exempt.

However, nothing contained in sub-items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

Besides this nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of, –

- (i) pre-school education and education up to higher secondary school or equivalent; or
- (ii) education as a part of an approved vocational education course.

| |
|--|
| <p>⊛ “Educational institution” means an institution providing services by way of, –</p> <ul style="list-style-type: none">(i) pre-school education and education up to higher secondary school or equivalent;(ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;(iii) education as a part of an approved vocational education course. [Para 2(y) of Notification No. 12/2017-CT (Rate)] <p>⊛ “Approved vocational education course” means, –</p> <ul style="list-style-type: none">(i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961; or(ii) a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship. [Para 2(h) of Notification No. 12/2017-CT (Rate)] <p>Note : The Modular Employable Skills is the minimum skill set which is sufficient for gainful employment or self-employment in the world of work. This Scheme provides certification on vocational training from NCVT that is nationally and internationally recognized in world of work in the Government (Centre & State) as well as private sector. It provides employable skills to early school drop-outs, existing workers seeking skill upgradation, workers seeking certification of their skills acquired informally, ITI graduates, etc. to improve their employability and provides certification after completion of the course.</p> |
|--|

CBSE and SEB's to be treated as Educational Institutions for conduct of examination : For removal of doubts, it is clarified that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students.

NTA to be treated as Educational Institution for conduct of examination : Any authority, board or body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions. [Inserted by Notification No. 1/2023 – CT (Rate) w.e.f. 01-03-2023]

Other aspects :

| | | |
|-----|--|--|
| (a) | Meaning of Education | <p>“Education” is not defined in the CGST Act, 2017, but as per Apex Court decision in <i>“Loka Shikshana Trust v. CIT”</i>, education is process of training and developing knowledge, skill and character of students by normal schooling.</p> <p>Taxing the Education Sector has always been a sensitive issue, as education is seen more as a social activity than a business one. The Government has a constitutional obligation to provide free and compulsory elementary education to every child. Thus, to promote education, it would be beneficial if educational services are exempted from tax. However, commercialization of education is also a reality. The distinction between core and ancillary education is blurring and education is now an organised industry with huge revenues.</p> <p>The GST law tries to maintain a fine balance whereby core educational services provided and received by educational institutions are exempt and other services are sought to be taxed.</p> |
| (b) | Education as 'a part' of curriculum for obtaining a qualification recognized by law | It means that only such educational services are exempt as are related to imparting of education as 'a part' of the curriculum that has been prescribed for obtaining a qualification prescribed by law. Conduct of degree courses by colleges, universities or institutions which lead grant of qualifications recognized by law would be covered. However, training given by private coaching institutes would not be covered as such training does not lead to grant of a recognized qualification. |
| (c) | Services provided by boarding schools - Exempt | Boarding schools provide service of education coupled with dwelling units for residence and food. It will be case of composite supply if charges for education and lodging and boarding are inseparable. Since such services in case of boarding schools are bundled in the ordinary course of business, hence, as per Section 8, bundle of services will be treated as consisting entirely of principal supply being education. <p>In this case since the predominant nature is determined by the service of education, the other service of providing residential dwelling will not be considered for the purpose of determining the tax liability and in this case the entire consideration for the supply will be exempt.</p> |
| (d) | Services provided by International schools - Exempt | Services provided by international schools giving certifications like IB are equivalent to education upto higher secondary school, hence they are exempt. |
| (e) | Educational Institutions providing non-recognized qualification with recognized qualification courses - Separate services to be assessed separately | <p>Provision of dual qualifications are two separate services as the curriculum and fees for each of such qualifications are prescribed separately. Service in respect of each qualification would, therefore, be assessed separately.</p> <ul style="list-style-type: none"> ➤ In case of Artificial Bundling : If an artificial bundle of service is created by clubbing two courses together, then by application of Section 8 it will be a case of mixed supply and it is liable to be treated as a course which attracts the highest liability of GST. ➤ In case of Natural Bundling : However, incidental auxiliary courses provided by way of hobby classes or extra-curricular activities in furtherance of overall well being will be an example of naturally bundled course and since Principal supply is exempt, the entire bundle will be exempt. ➤ One relevant consideration in such cases will be the amount of extra billing being done for the unrecognized component viz-a-viz the recognized course. If extra billing is being done, it may be a case of artificial bundling of two different supplies, not supplied together in |

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| | | the ordinary course of business, and therefore will be treated as a mixed supply, attracting the rate of the higher taxed component for the entire consideration. |
| (f) | Private tuition's | Private tuition is not covered in the entry relating to education and hence the same shall be liable for GST. However, private tutors can avail the benefit of threshold exemption. |
| (g) | Placement services provided to educational institutions - Taxable | These services do not fall in the category of exempt services provided to educational institutions as these services are for securing job placements for the students. Hence, they are leviable to GST. |
| (h) | Campus Recruitment fees - Taxable | Fees charged by educational institutions in relation to campus recruitment from prospective employers are liable for GST as such services are not covered in exemption. |
| (i) | Institutes preparing students for Competitive Exams - Taxable | Institutes that prepare applicants for Board examinations and competitive exams like entrance examinations for Indian Institute of Technology - Joint Entrance Examinations/ Pre Medical Tests, Civil Services exams, etc. are chargeable to GST. |
| (j) | Postal coaching covered - Taxable | The coaching provided by postal means would also be covered under the GST and the charges, including the postal charges collected for rendering this service, would be subjected to GST. |
| (k) | Foreign Courses conducted by private institutes - Taxable | Sometimes, private institutes conduct courses and issue diplomas or certificates in collaboration with certain foreign institutes or universities. In many cases, private enterprises conduct campus interviews of the students of such institutes and offer them jobs. Such certificates/diplomas may be accepted for higher education abroad. However, such a certificate/diploma cannot be called as the one 'recognized by the law for the time being in force' unless such a diploma/certificate has been specifically recognized by the statutory authorities such as UGC, AICTE. Hence, they would be subjected to tax. |
| (l) | Personality Development Institutes - Liable to GST | Institutes that offer general course on improving communication skills, personality development, how to be effective in group discussions or personal interviews, general grooming and finishing, etc. are not covered by any of the exemption pertaining to 'vocational training institutes'. Hence, they are liable to GST. |
| (m) | College Hostel Mess - Taxability | Catering services provided by educational institutions - Exempt : If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered by the definition given under para 2(y) of Notification No. 12/2017-CT (Rate), then the same is exempt. Catering services provided by third person in hostel mess - Liable to GST : If the catering services, <i>i.e.</i> , supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, then it is a supply of service to the concerned educational institution. Note : It may be noted that said services when provided to an educational institution providing pre-school education or education up to higher secondary school or equivalent are exempt from tax. |
| (n) | Supply of food in Anganwadis and Schools - exempt from tax [Circular No. 149/05/2021-GST dated 17-06-2021] | Services provided to an educational institution by way of serving of food (catering including mid-day meals) is exempt from levy of GST irrespective of its funding from government grants or corporate donations [under said entry 66 (b)(ii)]. Educational institutions as defined in the notification include aganwadi. Hence, serving of food to anganwadi shall also be covered by said |

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| | | exemption, whether sponsored by government or through donation from corporates. |
| (o) | Taxability of services provided by Industrial Training Institutes (ITI) [Circular No. 55/29/2018 GST dated 09-08-2018] | <ul style="list-style-type: none"> ➤ Private ITI's qualifies to be educational institutions : Private ITIs qualify as an educational institution if the education provided by these ITIs is approved as vocational educational course as defined above. ➤ Services in respect of designated trades - Exempt, Other Services - taxable : It implies that services provided by a private ITI only in respect of designated trades notified under Apprenticeship Act, 1961 are exempt from GST under Entry 66. Services in other than designated trades are liable to GST. ➤ Conduct of entrance exams of designated trades - Exempt : In case of designated trades, services provided by a private ITI by way of conduct of entrance examination against consideration in the form of entrance fee is exempt from GST under Entry 66(aa). Further, in respect of such designated trades, services provided to an educational institution, by way of, services relating to admission to or conduct of examination by a private ITI will also be exempt under Entry 66(b)(iv). However, in case of other than designated trades in private ITIs, GST shall be payable on provision of said services. ➤ Services provided by Government ITI's - Exempt : As far as Government ITIs are concerned, services provided by a Government ITI to individual trainees/students, is exempt under Entry 6 as these are in the nature of services provided by the Central or State Government to individuals. Such exemption in relation to services provided by Government ITI would cover both - vocational training and examinations conducted by these Government ITIs. |
| (p) | Input Services - Credit not admissible | <ul style="list-style-type: none"> ➤ Regarding, input services, it may be noted that where output services are exempted, the educational institutions may not be able to avail credit of tax paid on the input side. The categories of services known as auxiliary education services, which educational institutions ordinarily carry out themselves but may obtain as outsourced services from any other person, have been exempted [Entry 66(b)(i) to (v)] ➤ Auxiliary education services other than specified in item (b) would not be entitled to any exemption. The exemption also comes with a rider. Auxiliary services of – (i) transportation of students, faculty, and staff, (ii) catering including any mid-day meals scheme sponsored by Government and (iii) security or cleaning or housekeeping services are exempt only if such auxiliary education services are provided to educational institutions providing services by way of education up to higher secondary or equivalent, (from pre-school to HSC). Thus, if such auxiliary education services are provided to educational institutions providing degree or higher education, the same would not be exempt. ➤ Similarly, services of supply of online educational journals/periodicals are exempt only if they are provided to an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force. ➤ Educational institutes such as IITs, IIMs charge a fee from prospective employers like corporate houses/MNCs, who come to the institutes for recruiting candidates through campus interviews in relation to campus recruitments. Such services shall also be liable to tax. |

| | | |
|-----|--|---|
| (q) | Clarification on GST rate applicable on supply of food and beverage services by educational institution | <p>It is clarified that supply of food and beverages by an educational institution to its students, faculty and staff, where such supply is made by the educational institution itself, is exempt under Entry No. 66 of Notification No. 12/2017-CT (Rate).</p> <p>However, such supply of food and beverages by any person other than the educational institutions based on a contractual arrangement with such institution is leviable to GST @ 5% if the same is provided to an educational institution other than institution providing pre-school education or education up to higher secondary school or equivalent.</p> |
| (r) | DG Shipping approved maritime courses conducted by Maritime Training Institutes of India - Exempt from GST - Circular No. 117/36/2019-GST dated 11-10-2019 | <p>The Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014.</p> <p>Therefore, the Maritime Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST. The exemption is subject to meeting the conditions specified at Sl. No. 66 of the notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017.</p> |
| (s) | Supply of various services by National Board of Examination- Services related to conduct of examination - Exempt, Other services - Taxable [Circular No. 151/07/2021-GST] | <p>Issue : Taxability of various services supplied by Centre and State Boards such as National Board of Examination (NBE).</p> <ul style="list-style-type: none"> ➤ Services provided by NBE : These services include entrance examination (on charging a fee) for admission to educational institution, input services for conducting such entrance examination for students, accreditation of educational institutions or professional so as to authorise them to provide their respective services. <p>Illustratively, NBE provides services of conducting entrance examinations for admission to courses including Diplomat National Board (DNB) and Fellow of National Board (FNB), prescribes courses and curricula for PG medical studies, holds examinations and grant degrees, diplomas and other academic distinctions. It carries out all functions as are normally carried out by central or state educational boards and is thus a central educational board.</p> <ul style="list-style-type: none"> ➤ NBE is Educational Institution for conduct of examination : According to explanation 3(iv) of the notification No. 12/ 2017 CTR, “Central and State Educational Boards” are treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students. Therefore, NBE is an ‘Educational Institution’ in so far as it provides services by way of conduct of examination, including any entrance examination, to the students. <p>Clarification :</p> <ul style="list-style-type: none"> (i) GST is exempt on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution [under S. No. 66 (aa) of notif No. 12/2017-CT(R)]. <p>Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.</p> <ul style="list-style-type: none"> (ii) GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc, when provided to such Boards [under S. No. 66 (b) (iv) of Notification No. 12/2017- CT(R)]. |

| | | (iii) GST at the rate of 18% applies to other services provided by such Boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorise them to provide their respective services. | | | | | | |
|---|---|--|---|-------------------------|---|-----------------|---|---------------------|
| (t) | Applicability of GST on application fee charged for entrance or the fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions- <i>Circular No. 177/09/2022-TRU dated 03-08-2022</i> | All services supplied by an 'educational institution' to its students are exempt from GST. Consideration charged by the educational institutes by way of entrance fee for conduct of entrance examination is also exempt. The exemption is wide enough to cover the amount or fee charged for admission or entrance, or amount charged for application fee for entrance, or the fee charged from prospective students for issuance of eligibility certificate to them in the process of their entrance/admission to the educational institution. Services supplied by an educational institution by way of issuance of migration certificate to the leaving or ex-students are also covered by the exemption. Accordingly, such activities of educational institution are also exempt. | | | | | | |
| (u) | Services provided by Indian Institute of Management | With effect from 31-01-2018, Indian Institutes of Management Act, 2018 came into force. This Act has empowered IIMs to (i) grant degrees, diplomas, and other academic distinctions or titles, (ii) specify the criteria and process for admission to courses or programmes of study, and (iii) specify the academic content of programmes. Resultantly, all the IIMs are now "educational institutions" as they provide education as a part of a curriculum for obtaining a qualification recognized by law for the time being in force. The taxability of services provided by IIMs is as under: | | | | | | |
| | | <table border="1"> <thead> <tr> <th>Programmes offered by Indian Institutes of Management</th> <th>Whether exempt from GST</th> </tr> </thead> <tbody> <tr> <td>All long duration programs (one year or more) conferring degree/ diploma as recommended by Board of Governors as per the power vested in them under the IIM Act, 2017 including one-year Post Graduate Programs for Executives.</td> <td>Exempt from GST</td> </tr> <tr> <td>All short duration executive development programs or need based specially designed programs (less than one year) which are not a qualification recognized by law.</td> <td>Not exempt from GST</td> </tr> </tbody> </table> | Programmes offered by Indian Institutes of Management | Whether exempt from GST | All long duration programs (one year or more) conferring degree/ diploma as recommended by Board of Governors as per the power vested in them under the IIM Act, 2017 including one-year Post Graduate Programs for Executives. | Exempt from GST | All short duration executive development programs or need based specially designed programs (less than one year) which are not a qualification recognized by law. | Not exempt from GST |
| Programmes offered by Indian Institutes of Management | Whether exempt from GST | | | | | | | |
| All long duration programs (one year or more) conferring degree/ diploma as recommended by Board of Governors as per the power vested in them under the IIM Act, 2017 including one-year Post Graduate Programs for Executives. | Exempt from GST | | | | | | | |
| All short duration executive development programs or need based specially designed programs (less than one year) which are not a qualification recognized by law. | Not exempt from GST | | | | | | | |

Illustration 4 - Educational Services: Fortune Ltd. (a registered taxable person) provides the following information relating to their services for the month of November :

| Particulars | ₹ |
|--|-----------|
| Gross receipts from - | |
| (1) Running a Boarding School (including receipts for providing residential dwelling services ₹ 12,00,000) | 28,00,000 |
| (2) Conducting private tuition's | 16,00,000 |
| (3) Education services for obtaining a qualification recognised by law of a foreign country | 8,00,000 |
| (4) Conducting modular employable skill course, approved by National Council of vocational training | 10,00,000 |
| (5) Fees from prospective employers for campus interview | 6,00,000 |
| (6) Renting of furnished flats for temporary stay to different persons | 6,80,000 |

Compute the value of taxable supply and the amount of GST payable. The above receipts are exclusive of GST. GST rate - 18%.

Solution: Computation of Value of taxable supply and GST liability (amount in ₹)–

| | | |
|---|--------|------------------|
| Running a boarding school [including residential dwelling services] | [WN-1] | Nil |
| Conducting private tuition | [WN-2] | 16,00,000 |
| Education services for obtaining a qualification recognized by law of a foreign country | [WN-3] | 8,00,000 |
| Conducting Modular Employable Skill Course, approved by NCVT | [WN-4] | Nil |
| Fees from prospective employers for campus interview [Not covered in exemption] | | 6,00,000 |
| Value of renting of furnished flats for temporary stay to different persons | [WN-5] | 6,80,000 |
| Value of taxable supply | | 36,80,000 |
| GST payable @ 18% | | 6,62,400 |

Working Notes :

- (1) Running a boarding school is not taxable since education up to higher secondary school is exempt *vide* Entry 66 of Notification No. 12/2017-CT (Rate) and renting of residential dwelling is exempt *vide* Entry 12 of Notification No. 12/2017-CT (Rate)].
- (2) Private tuition is not exempt as they do not lead to grant of a qualification recognised by law.
- (3) Education as a part of a curriculum for obtaining a qualification recognized by only an Indian law and not a foreign law is exempt.
- (4) Modular Employable Skill Course is an approved vocational education course and is exempt *vide* Entry 66 of Notification No. 12/2017-CT (Rate).
- (5) Short stay by different persons in furnished flats is not renting of residential dwelling and thus, not exempt.

Illustration 5 – Educational services provided by IIM: Indian Institute of management furnishes you the following information of its receipts for the month ending April.

| Particulars | ₹ |
|--|-------------|
| Gross receipts from - | |
| (1) Students pursuing 2 year full time Post Graduate Programmes in Management | 2,50,00,000 |
| (2) Students pursuing fellow programme in management | 50,00,000 |
| (3) Participants pursuing short duration (3 months) executive development programme. Participation certificates are awarded to participants after completion of programme. | 25,00,000 |

You are required to compute value of taxable supply and GST liability if applicable rate of GST is 18%.

Solution: Computation of Value of taxable supply and GST liability (amount in ₹)–

| | |
|--|------------------|
| Receipts from students pursuing 2 year full time Post Graduate Programmes in Management [Exempt <i>vide</i> Entry 66 of Notification No. 12/2017-CT (Rate).] | Nil |
| Receipts from students pursuing fellow programme in management. [Exempt <i>vide</i> Entry 66 of Notification No. 12/2017-CT (Rate).] | Nil |
| Receipts from participants pursuing short duration (3 months) executive development programme. | 25,00,000 |
| Value of taxable supply | |
| GST payable @ 18% | |
| | 25,00,000 |
| | 4,50,000 |

Illustration 6 – Educational services : ‘Sarvshiksha Trust’ is a charitable trust registered under section 12AB of the Income-tax Act, 1961. The trust is registered under GST in the State of Uttar Pradesh. The trust runs the following educational institutions:

- (1) ‘Kaypee Institute of Technology’ (KIT), a private engineering college in Ghaziabad. KIT also runs distance learning post graduate engineering programmes. Exams for such programmes are conducted in select cities at centres appointed by the KIT. All the engineering courses including the distance learning post graduate engineering programme run by KIT are approved by The All India Council for Technical Education (AICTE).
- (2) ‘Nanhi Mutthi’, a pre-school in Lucknow.
- (3) ‘Bright Minds’, a coaching institute in Kanpur. The Institute provides coaching for Institute of Banking Personnel Selection (IBPS) Probationary Officers Exam.
- (4) ‘Gyan Vaibhav’ a higher secondary school affiliated to CBSE Board.

The trust provides the following details relating to the goods and services received by the various institutions run by it during the period April 2022 to September 2022 :

Table 1

| S.No. | Particulars | KIT | Nanhi Mutthi | Bright Minds | Gyan Vaibhav |
|--------|---|----------|--------------|--------------|--------------|
| | | (₹) | (₹) | (₹) | (₹) |
| (i) | Printing services for printing the question papers (paper and content are provided by the Institutions) | 2,50,000 | | 1,50,000 | 2,00,000 |
| (ii) | Paper procured for printing the question papers | 4,30,000 | | 2,58,000 | 3,44,000 |
| (iii) | Courier services for sending the admit cards for the examination, to the students | 50,000 | | | |
| (iv) | Honorarium to paper setters and examiners (not on the rolls of the Institution) | 5,00,000 | | | |
| (v) | Rent for exam centers taken on rent like schools etc, for conducting examination | 8,00,000 | | 1,00,000 | |
| (vi) | Subscription for online educational journals [Nanhi Mutthi has taken the subscription for online periodicals on child development and experiential learning] | 4,00,000 | 80,000 | 2,20,000 | 2,40,000 |
| (vii) | Hire charges for buses used to transport students and faculty from their residence to college and back | 4,80,000 | 5,50,000 | 1,30,000 | 75,000 |
| (viii) | Catering services for running a canteen in the campus for students (Catering services for KIT include a sum of ₹ 60,000 for catering at a student event organised in a banquet hall outside the campus) | 3,20,000 | 2,60,000 | 1,80,000 | 5,00,000 |
| (ix) | Security and housekeeping services for the institution(s) provided by Securities Ltd. (Security and housekeeping services for Gyan Vaibhav include a sum of ₹ 80,000 payable for security and housekeeping at the student event organised in a banquet hall outside the campus) | 6,00,000 | 4,00,000 | 3,75,000 | 4,65,000 |

The trust further provides the following details relating to the output services provided to the students by the various institutions run by it during the period April 2022 to September 2022 :

Table 2

| S.No. | Particulars | KIT | Nanhi Mutthi | Bright Minds | Gyan Vaibhav |
|-------|--|-----------|--------------|--------------|--------------|
| | | (₹) | (₹) | (₹) | (₹) |
| (i) | Tuition fee | 35,00,000 | 15,00,000 | 20,00,000 | 25,00,000 |
| (ii) | Transport fee charged from students | 5,00,000 | 6,00,000 | 1,30,000 | 8,50,000 |
| (iii) | Charges for food supplied in canteen (located in the premises of the Institutions) The canteen facility being provided by Bright Minds is not compulsory and is open to general public as well. However, canteen facility being provided by KIT and Gyan Vaibhav is only for students and staff of such educational institutions. | 4,60,000 | | 2,40,000 | 6,10,000 |

With the help of the above details –

- determine the amount of GST payable, if any, on goods and services received during April 2022-September 2022 by the various educational institutions run by the 'Sarvshiksha Trust';
- compute net GST liability of the 'Sarvshiksha Trust' payable from the Electronic Cash Ledger, for the period April 2022 to September 2022.

All the amounts given above are exclusive of taxes, wherever applicable.

Notes:

- (1) Rate of GST on catering service is 5%. No ITC has been availed on inputs and input services used in the supply of catering service. Assume that while providing the catering service in the canteen, the educational institutions have not used any inputs and input services except the catering service (mentioned at Entry No. VIII of Table 1) availed from third parties.
- (2) Rate of GST on goods is 12%. Rate of GST on printing services is 12% and on other services is 18%.
- (3) Except catering service, wherever relevant, all the conditions necessary for availing the ITC have been complied with. (MTP May 2019)

Solution:

- (1) The following services provided to educational institutions are exempt *vide* Entry No. 66 of Notification No. 12/2017 CT (R) dated 28-06-2017 :
 - (i) transportation of students, faculty and staff;
 - (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
 - (iii) security or cleaning or house-keeping services performed in such educational institution;
 - (iv) services relating to admission to, or conduct of examination by, such institution;
 - (v) supply of online educational journals or periodicals

However, the services mentioned in point (i), (ii) and (iii) are exempt only when the same are provided to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

Also, the supply of online educational journals or periodicals are not exempt from GST when provided to –

- (i) pre-school education and education up to higher secondary school or equivalent; or
- (ii) education as a part of an approved vocational education course.

Here, the “educational institution” means an institution providing services by way of, –

- (i) pre-school education and education up to higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- (iii) education as a part of an approved vocational education course;

KIT, Nanhi Mutthi and Gyan Vaibhav - Covered under the ambit to Educational Institution : In the given case, all the engineering courses including the distance learning post graduate engineering programme run by KIT are approved by The All India Council for Technical Education (AICTE). Therefore, since KIT imparts education as a part of a curriculum for obtaining a qualification recognised by the Indian law, the same is an educational institution in terms of the exemption notification.

Similarly, Nanhi Mutthi and Gyan Vaibhav, being a pre-school and a higher secondary school respectively are also educational institutions in terms of the exemption notification.

Bright Minds - Not educational institution : However, Bright Minds, being a coaching centre, training candidates to secure a banking job, is not an educational institution in terms of the exemption notification. Hence, none of the select services (mentioned above) will be exempt when provided to Bright Minds.

In the light of the foregoing provisions, the amount of GST payable on goods and services received by these educational institutions during April 2022- September 2022 is computed as under:

| Particulars | KIT | Nanhi Mutthi | Bright Minds | Gyan Vaibhav |
|---|--------|--------------|--------------------------|--------------|
| | (₹) | (₹) | (₹) | (₹) |
| Printing services for printing the question papers (paper and content are provided by the Institutions) | Exempt | | 18,000 [150000 × 12%] | Exempt |

| | | | | |
|---|------------------------------|--------------------------|----------------------------|----------------------------|
| Paper procured for printing the question papers [<i>It comes under the ambit of supply of goods – Not eligible for exemption as same is eligible for services</i>] | 51,600 [4,30,000 × 12%] | | 30,960 [2,58,000 × 12%] | 41,280 [3,44,000 × 12%] |
| Courier services for sending the admit-cards for the examination, to the students | Exempt | | | |
| Honorarium to paper setters and examiners (not on the rolls of the educational institution) | Exempt | | | |
| Rent for exam centers taken on rent like schools etc, for conducting examination | Exempt | | 18,000 [1,00,000 × 18%] | |
| Subscription for online educational journals | Exempt | 14,400 [80,000 × 18%] | 39,600 [2,20,000 × 18%] | 43,200 [2,40,000 × 18%] |
| Hire charges for buses used to transport students and faculty from their residence to college and back | 86,400 [4,80,000 × 18%] | Exempt | 23,400 [1,30,000 × 18%] | Exempt |
| Catering services for running a canteen in the campus for students [<i>Catering service provided to pre-school and the higher secondary school is exempt irrespective of whether the same is provided within or outside the premises of the pre-school and the higher secondary school</i>] | 16,000 [3,20,000 × 5%] | Exempt | 9,000 [1,80,000 × 5%] | Exempt |
| Security and housekeeping services for the institution(s) [<i>Security and housekeeping service provided to pre-school and the higher secondary school for the student event organised in a banquet hall will be taxable as only the security and housekeeping service provided within the premises of the pre-school and the higher secondary school are exempt.</i>] [<i>Since the same is provided by body corporate reverse charge mechanism will not be applicable.</i>] | 1,08,000 [6,00,000 × 18%] | Exempt | 67,500 [3,75,000 × 18%] | 14,400 [80,000 × 18%] |
| Total GST payable on goods and services received by the educational institutions | 2,62,000 | 14,400 | 2,06,460 | 98,880 |

(2) Exemption in respect of services provided by Educational Institutions :

- (i) **Sarvshiksha Trust - Not eligible for exemption in respect of services by way of charitable activities** : Entry No. 1 of Notification No. 12/2017-CT (R) dated 28-06-2017 exempts services provided by an entity registered under section 12AB of the Income-tax Act, 1961 by way of charitable activities. Here, "charitable activities" means activities relating to *inter alia* advancement of educational programmes or skill development relating to, –

- (a) abandoned, orphaned or homeless children;
- (b) physically or mentally abused and traumatized persons;
- (c) prisoners; or
- (d) persons over the age of 65 years residing in a rural area;

In the given case, though Sarvshiksha Trust is registered under section 12AB of the Income-tax Act, 1961, none of the educational institutions run by it are providing services by way of charitable activities. As is seen from the relevant extract of the definition of the charitable activities given above, only when the education is provided relating to the persons mentioned therein, it becomes charitable activity under GST laws. However, in the given case, education is not provided to any specific group or category of persons as specified above, but to all the categories of children/candidates approaching the college/pre-school/coaching institute/higher secondary school. Therefore, the education services provided by the Sarvshiksha Trust is not exempt under Entry No. 1 of the exemption notification.

- (ii) **Services provided by KIT, Nanhi-Mutthi and GyanVaibhav - Eligible for exemption** : Entry No. 66 of Notification No. 12/2017-CT(R) dated 28-06-2017 also exempts services provided by an educational institution to its students, faculty and staff. All the educational institutions run by the Sarvshiksha Trust except Bright Minds are educational institutions. Therefore, the education services, transport services and catering services provided by KIT, Nanhi Mutthi, and Gyan Vaibhav to its students will all be exempt from GST under Entry No. 66 of the exemption notification. Thus, only the educational services provided by Bright Minds will be liable to GST @ 18%. The catering services provided by Bright Minds will be liable to GST @ 5%.
- (iii) **Input tax credit** : No input tax credit (ITC) will be availed on inputs and input services used in providing exempt education services, *i.e.* education services by KIT, Nanhi Mutthi, and Gyan Vaibhav. Only Bright Minds will be entitled to avail ITC on inputs and input services used in providing taxable education services. However, as per the information given in the question, while providing the catering service, Bright Minds has not availed any ITC of catering service received by it from third parties.
- (iv) Since there are no common inputs and input services being used for providing taxable and exempt services, the need for reversal of ITC attributable to exempt supplies will not arise.

In the light of the foregoing provisions, the net GST liability of Sarvshiksha Trust, which will comprise of only the tax liability of Bright Minds, is computed as under :

| Particulars | ₹ |
|---|---------------------|
| Tuition fee | 20,00,000 |
| Transport fee charged from students | 1,30,000 |
| Value of output supply taxable @ 18% | 21,30,000 |
| GST liability @ 18% | [A] 3,83,400 |
| Value of output supply taxable @ 5% [Charges for food] | 2,40,000 |
| GST liability @ 5% | [B] 12,000 |
| Total GST liability [A] + [B] | 3,95,400 |
| <i>Less:</i> ITC [Total tax payable by Bright Minds on the service received by it as computed in point (i) above less the tax payable on catering charges (₹ 2,06,460 - ₹ 9,000)] | 1,97,460 |
| Net GST payable from Electronic Cash Ledger | 1,97,940 |

Illustration 7 - Services provided to an educational institution : XYZ Ltd. is engaged in providing various services to educational institutions and furnishes you with the following information for the month of April 2022. You are required to determine the value of taxable supply and GST payable thereon if all charges are exclusive of GST. The rate of GST is 18%.

- (1) Renting of immovable property to higher secondary school : ₹ 12,00,000
- (2) Renting of immovable property to Commercial coaching centre : ₹ 2,00,000
- (3) Transportation services provided to students of higher secondary school : ₹ 5,00,000
- (4) Outdoor catering services provided to educational institutions running approved vocational courses : ₹ 5,00,000

- (5) Security Services provided to pre-nursery school : ₹ 1,25,000
- (6) House keeping and cleaning services in college providing recognised graduation degree : ₹ 5,12,500
- (7) Conduct of examination of ICAI : ₹ 10,00,000
- (8) Placement services provided to ICSI : ₹ 12,00,000
- (9) Development of course content of ICMA institute : ₹ 2,00,000
- (10) Training of Staff of Higher Secondary School : ₹ 1,50,000
- (11) Receipts by way subscription of online educational journals/periodicals : ₹ 7,50,000 (₹ 5,00,000 is from educational institutions who provide degree recognized by any law and balance ₹ 2,50,000 from Higher Secondary school).

Solution: Computation of the Value of taxable supply and GST payable (amount in ₹)–

| | | |
|------|---|------------------|
| (1) | Renting of immovable property to higher secondary school [Liable for GST] | 12,00,000 |
| (2) | Renting of immovable property to Commercial coaching centre [Liable for GST] | 2,00,000 |
| (3) | Transportation services provided to students of higher secondary school [Exempt vide Entry 66 of Notification No. 12/2017-CT (Rate)] | Exempt |
| (4) | Outdoor catering services provided to educational institutions running approved vocational courses [Not covered under Entry 66 of Notification No. 12/2017-CT (Rate), hence liable to GST] | 5,00,000 |
| (5) | Security Services provided to pre-nursery school [Exempt vide Entry 66 of Notification No. 12/2017-CT (Rate)] | Exempt |
| (6) | House keeping and cleaning services in college providing recognised graduation degree [Not covered under Entry 66 of Notification No. 12/2017-CT (Rate), hence liable to GST] | 5,12,500 |
| (7) | Conduct of examination of ICAI [Covered under Entry 66 of Notification No. 12/2017-CT (Rate), hence exempt from GST] | Exempt |
| (8) | Placement services provided to ICSI [Liable for GST] | 12,00,000 |
| (9) | Development of course content of ICMA institute [Liable for GST] | 2,00,000 |
| (10) | Training of Staff of Higher Secondary School [Not covered under Entry 66 of Notification No. 12/2017-CT (Rate), hence liable to GST] | 1,50,000 |
| (11) | Receipts by way subscription of online educational journals/periodicals from educational institutions who provide degree recognized by any law is exempt under Entry 66 of Notification No. 12/2017-CT (Rate). However amount received from higher Secondary school is liable to GST. | 2,50,000 |
| | Value of taxable supply | 42,12,500 |
| | GST payable @ 18% | 7,58,250 |

HEALTH CARE SERVICES

(17) HEALTH CARE SERVICES [Entry 74 of Notification No. 12/2017-CT (Rate)] :

Services by way of –

- (a) **health care services** by a clinical establishment, an authorised medical practitioner or para-medics;

However, the above exemption shall not apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/ Critical Care Unit (CCU)/ Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding ₹ 5,000 per day to a person receiving health care services. [Inserted by Notification No. 04/2022-CT (Rate) dated 13-07-2022 w.e.f. 18-07-2022]

- (b) services provided by way of **transportation of a patient in an ambulance**, other than those specified in (a) above

are exempt.

☛ **“Clinical establishment”** means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases. [Para 2(s) of Notification No. 12/2017-CT (Rate)]

- ❖ **“Authorised medical practitioner”** means a medical practitioner registered with any of the councils of the recognised system of medicines established or recognised by law in India and includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force. [Para 2(k) of Notification No. 12/2017-CT (Rate)]
- ❖ **“Health care services”** –
 - means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India **and**
 - **includes** services by way of transportation of the patient to and from a clinical establishment, but
 - **does not include** hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma. [Para 2(zg) of Notification No. 12/2017-CT (Rate)]

Other aspects :

- (i) **Recognized Systems of Medicines :** In terms of Section 2(h) of the Clinical Establishments Act, 2010, the following systems of medicines are recognized systems of medicines:
 - Allopathy ➤ Yoga ➤ Naturopathy ➤ Ayurveda
 - Homeopathy ➤ Siddha ➤ Unani
 - Any other system of medicine that may be recognized by Central Government.
- (ii) **Paramedics :** Paramedics are trained health care professionals, for example nursing staff, physiotherapists, technicians, lab assistants etc. Services by them in a clinical establishment would be in the capacity of employee and not provided in independent capacity and will thus be considered as services by such clinical establishment. Similar services in independent capacity are also exempted.
- (iii) **Services other than health care services in clinical establishment’s premises :** Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements etc. will be subject to GST.

GST is not leviable on consultancy charges payable to doctors, consultants etc., retention money and food supplies to patients as advised by doctors. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are liable to GST. [Circular No. 32/06/2018-GST dated 12-2-2018]

| | Issue | Clarification |
|----|--|--|
| 1. | Payment by hospitals to doctors etc. : Hospitals hire senior doctors/ consultants/technicians independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer-employee relationship. Will such consultancy charges be exempt from GST? Will revenue take a stand that they are providing services to hospitals and not to patients and hence must pay GST? | Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt. |
| 2. | Retention Money : Hospitals charge the patients, say, ₹ 10,000/- and pay to the consultants/ technicians only ₹ 7,500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc. Will GST be applicable on such money retained by the hospitals? | The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt. |

| | | |
|----|---|--|
| 3. | Food Supplied to the Patients : Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. | <ul style="list-style-type: none"> ➤ When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC. ➤ If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST. ➤ Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable. |
|----|---|--|

Services in form of Assisted Reproductive Technology (ART)/ In vitro fertilization (IVF) are exempt from GST. – Circular No. 177/09/2022-TRU dated 03-08-2022

| Issue | Clarification |
|--|---|
| Applicability of GST on services in form of Assisted Reproductive Technology (ART)/ In vitro fertilization (IVF) | The abnormality/disease/ailment of infertility is treated using ART procedure such as IVF. It is clarified that services by way of IVF are also covered under the definition of health care services for the purpose of above exemption notification. |

Ambulance services provided National Health Mission (NHM) [Circular No. 51/25/2018-GST dated 31-07-2018] :

- National Health Mission (NHM) is a flagship programme of the Government of India wherein the Central Government provides technical and financial support to States to strengthen healthcare systems including for free ambulance services (Dial 102/108 services).
- Dial 108 is the emergency response system primarily designed to attend to patients of critical care, trauma and accident victims etc. while Dial 102 services essentially are for basic patient transport aimed to cater the needs of pregnant women and children, though other categories are also taking benefit and are not excluded.
- Some State Governments themselves provide the free ambulance services to the patients while many States are operating the ambulance service on an outsourced model, *i.e.*, services are provided by a private service provider (PSP) on behalf of State Government and it charges a fee from the State Governments for said ambulance services. However, in both the cases, ambulance services are provided free of cost to the patients.
- Services provided by State Governments and Private Service Providers (PSPs) by way of transportation of patients in ambulance are exempt under Entry 74 above.
- As regards ambulance services provided by PSPs [under NHM] on behalf of State Governments against consideration in the form of fee or otherwise charged from State Government, since ambulance services are an activity in relation to functions entrusted to Panchayats and Municipalities under Article 243G and 243W of the Constitution of India, same would be exempt as under:
 - (i) Entry 3 if it is a pure service and not a composite supply involving supply of any goods, and
 - (ii) Entry 3A if it is a composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply.

(18) SERVICES BY RECOGNISED REHABILITATION PROFESSIONALS [Entry 74A of Notification No. 12/2017-CT (Rate)] :

Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 are exempt.

(19) CORD BLOOD BANK SERVICES [Entry 73 of Notification No. 12/2017-CT (Rate)] [Omitted by Notification No. 04/2022 -CT(Rate) dated 13-07-2022 w.e.f. 18-07-2022] :

~~Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt.~~

(20) VETERINARY SERVICES [Entry 46 of Notification No. 12/2017-CT (Rate)] :

Services by a veterinary clinic in relation to **health care of animals or birds** are exempt.

(21) COMMON BIO-MEDICAL WASTE TREATMENT FACILITY [Entry 75 of Notification No. 12/2017-CT (Rate)] [Omitted by Notification No. 04/2022 -CT(Rate) dated 13-07-2022 w.e.f. 18-07-2022] :

~~Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of **treatment or disposal of bio-medical waste** or the processes incidental thereto are exempt.~~

Illustration 8 - Health care services: Well-Being Nursing Home has received the following amounts in the month of November in lieu of various services rendered by it in the same month. You are required to determine its GST liability for November from the details furnished below :

| | Particulars | ₹ in lakhs |
|------|--|------------|
| (1) | Palliative care for terminally ill patients at patient's home (<i>Palliative care is given to improve the quality of life of patients who have a serious or life-threatening disease but the goal of such care is not to cure the disease</i>) | 30 |
| (2) | Renting of rooms of nursing home for providing health care services (Room rent is ₹ 7,500 per day) | 75 |
| (3) | Renting of rooms of nursing home for providing health care services (Room rent is ₹ 5,000 per day) | 50 |
| (4) | Receipts from patients admitted in Intensive care unit (Rental charges is ₹ 10,000 per day) | 85 |
| (5) | Services provided by cord blood bank unit of the nursing home by way of preservation of stem cells | 24 |
| (6) | Hair transplant services | 100 |
| (7) | Ambulance services to transport critically ill patients from various locations to nursing home | 12 |
| (8) | Naturopathy treatments. Such treatment is a recognized system of medicine in terms of Section 2(h) of the Clinical Establishments Act, 2010 | 80 |
| (9) | Plastic surgery to restore anatomy of a child affected due to an accident | 30 |
| (10) | Pranic healing treatments. Such treatment is not a recognized system of medicine in terms of Section 2(h) of the Clinical Establishments Act, 2010 | 120 |
| (11) | Mortuary services | 10 |

Note: All the amounts given above are exclusive of GST. Rate of GST - 18%.

Solution: Computation of Value of taxable supply and GST liability (₹ in lakhs) –

| | | | |
|-----|--|-----------|----|
| (1) | Palliative care for terminally ill patients at patient's home | [WN-1(a)] | - |
| (2) | Renting of rooms of nursing home for providing health care services (Room rent is ₹ 7,500 per day) [WN-1(g)] | | 75 |
| (3) | Renting of rooms of nursing home for providing health care services (Room rent is ₹ 5,000 per day) [WN-1(g)] | | - |

| | | |
|------|--|---------------|
| (4) | Receipts from patients admitted in Intensive care unit (Rental charges is ₹ 10,000 per day) [WN-1(g)] | - |
| (5) | Services provided by cord blood bank by way of preservation of stem cells [WN-2] | 24 |
| (6) | Hair transplant services [WN-1(b)] | 100.00 |
| (7) | Ambulance services to transport critically ill patients from various locations to nursing home [WN-1(c)] | - |
| (8) | Naturopathy treatments [WN-1(d)] | - |
| (9) | Plastic surgery to restore anatomy of a child affected due to an accident [WN-1(e)] | - |
| (10) | Pranic healing treatments [WN-1(f)] | 120.00 |
| (11) | Mortuary services [WN-3] | - |
| | Value of Taxable Supply | 319.00 |
| | GST payable @ 18% | 57.42 |

Working Notes :

- (1) Health care services provided by, *inter alia*, a clinical establishment in any recognized system of medicines in India is exempt from GST *vide* Entry 74 of Notification No. 12/2017-CT (Rate).
 - (a) It is immaterial whether health care service is provided at the clinical establishment or at the home of the patient or at any other place. Thus, palliative care for terminally ill patients at patient's home is eligible for exemption.
 - (b) Hair transplant services are specifically excluded from the health care services, and thus are not eligible for exemption.
 - (c) Ambulance services to transport critically ill patients from various locations to nursing home are eligible for exemption.
 - (d) Since naturopathy is a recognized system of medicine in terms of Section 2(h) of the Clinical Establishments Act, 2010, it would be eligible for exemption.
 - (e) Plastic surgery to restore anatomy of a child affected due to an accident will be eligible for exemption.
 - (f) Since pranic healing treatment is not a recognized system of medicine in terms of Section 2(h) of the Clinical Establishments Act, 2010, it would not be eligible for exemption.
 - (g) Exemption in respect of health care services shall not apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding ₹ 5,000 per day to a person receiving health care services.
- (2) Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are liable to GST.
- (3) Mortuary services are covered under negative list under Schedule III of CGST Act, 2017. Hence, the same are not liable to GST.

SERVICES PROVIDED BY GOVERNMENT**(22) SERVICES BY GOVERNMENTAL AUTHORITY IN RELATION TO MUNICIPALITY FUNCTIONS [Entry 4 of Notification No. 12/2017-CT (Rate)] :**

Services by Governmental Authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution are exempt.

❖ **"Governmental Authority"** means an authority or a board or any other body, –

- (i) set up by an Act of Parliament or a State Legislature; or
- (ii) established by any Government,

with 90% or more participation by way of equity or control, to carry out any function entrusted to a **Municipality** under **article 243W** of the Constitution or to a **Panchayat** under **article 243G** of the Constitution. [Para 2(zf) of Notification No. 12/2017-CT (Rate)]

(23) SERVICES BY GOVERNMENTAL AUTHORITY IN RELATION TO PANCHAYAT FUNCTIONS [Entry 5 of Notification No. 12/2017-CT (Rate)] :

Services by a Governmental Authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution are exempt.

(24) SOVEREIGN SERVICES BY THE CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY OR LOCAL AUTHORITY [Entry 6 of Notification No. 12/2017-CT (Rate)] :

Services by the Central Government, State Government, Union territory or local authority **excluding the following services –**

- (a) services by the **Department of Posts** by way of ~~speed post, express parcel post, life insurance, and agency services~~ provided to a person other than the Central Government, State Government, Union territory; [Omitted by Notification No. 04/2022-CT (Rate) dated 13-07-2022 w.e.f. 18-07-2022]
- (b) services in relation to an **aircraft or a vessel**, inside or outside the precincts of a port or an airport;
- (c) **transport of goods or passengers**; or
- (d) **any service, other than** services covered under entries (a) to (c) above, **provided to business entities**, are exempt.

| |
|--|
| <p>❖ “Aircraft” has the same meaning as assigned to it in Section 2(1) of the Aircraft Act, 1934. [Para 2(f) of Notification No. 12/2017-CT (Rate)] “Aircraft” means any machine which can derive support in the atmosphere from reactions of the air, other than reactions of the air against the earth's surface and includes balloons, whether fixed or free, airships, kites, gliders and flying machines [Section 2(1) of the Aircraft Act, 1934].</p> <p>❖ “Airport” has the same meaning as assigned to it in Section 2(b) of the Airports Authority of India Act, 1994. [Para 2(g) of Notification No. 12/2017-CT (Rate)] Airport means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in Section 2(2) of the Aircraft Act, 1934 [Section 2(b) of the Airports Authority of India Act, 1994].</p> <p>❖ “Port” has the same meaning as assigned to it in Section 2(q) of the Major Port Trusts Act, 1963 or in Section 3(4) of the Indian Ports Act, 1908. [Para 2(zu) of Notification No. 12/2017-CT (Rate)]</p> <p>❖ “Vessel” has the same meaning as assigned to it in Section 2(z) of the Major Port Trusts Act, 1963. [Para 2(zzo) of Notification No. 12/2017-CT (Rate)]</p> <p>❖ “Business entity” means any person carrying out business. [Para 2(n) of Notf. No. 12/2017-CT (Rate)]</p> |
|--|

Other Aspects :

- (a) **Scope of term Government :** As per section 2(53) of the CGST Act, 2017, ‘Government’ means the Central Government.

Various State/ Union Territories (with Legislatures) GST Acts define ‘Government’ as Government of respective State Government/ Union Territory. For Union Territories (without State Legislatures), ‘Government’ means the Administrator or any Authority or officer authorized to act as Administrator by the Central Government.

Regulatory bodies/agencies, for instance, Competition Commission of India, Press Council of India, Directorate General of Civil Aviation, Forward Market Commission, Inland Water Supply Authority of India, Central Pollution Control Board, Securities and Exchange Board of India, do not fall under the definition of Government.

- (b) **Services provided by Department of Post :**

- (i) **Exempt Services :** Basic mail services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams) to meet the universal postal obligations vide Entry 24C of Notification No. 12/2017-CT (Rate).

- (ii) **Speed post etc. - Taxable :** The services by way of ordinary post (envelopes weighing 10 grams or more), registered post, speed post, express parcel post, life insurance, and agency services provided to a person other than the Government or Union territory are not exempt. In respect of these services the Department of Posts is liable to pay tax without application of reverse charge.

(iii) **Agency services – Taxable** : The Department of Posts also provides services like distribution of mutual funds, bonds, passport applications, collection of telephone and electricity bills **on commission basis**. *These services are in the nature of intermediary and generally called agency services. In these cases, the Department of Posts is liable to pay tax without application of reverse charge.*

(c) **Services provided by Police or security agencies of Government** : Services provided by Police or security agencies of Government to PSU/private business entities are not exempt from GST. Such services are taxable supplies and the recipients are required to pay the tax under reverse charge mechanism on the amount of consideration paid to Government for such supply of services.

Illustration: The Karnataka Cricket Association, Bangalore requests the Commissioner of Police, Bangalore to provide security in and around the Cricket Stadium for the purpose of conducting the cricket match. The Commissioner of Police arranges the required security for a consideration. In this case, services of providing security by the police personnel are not exempt. As the services are provided by Government, Karnataka Cricket Association is liable to pay the tax on the amount of consideration paid under reverse charge mechanism.

| Non applicability of GST on General insurance policies provided by Government – Circular No. 16/16/2017-GST dated 15-11-2017 & Circular No. 190/02/2023- GST dated 13-1-2023 | |
|---|--|
| Issue | Clarification |
| <p>Is GST leviable on General Insurance policies provided by a State Government to employees of the State government/ Police personnel, employees of Electricity Department or students of colleges/ private schools etc.</p> <p>(a) where premium is paid by State Government; and</p> <p>(b) where premium is paid by employees, students etc.?</p> | <p>It is hereby clarified that services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory are exempt from GST under Entry 40 of Notification No. 12/2017-CT (R).</p> <p>Further, services provided by State Government by way of general insurance (managed by government) to employees of the State government/Police personnel, employees of Electricity Department or students are exempt <i>vide</i> Entry 6 of Notification No. 12/2017-CT (R) which exempts Services by Central Government, State Government, Union territory or local authority to individuals.</p> |
| <p>Is GST leviable on accommodation services supplied by Air Force Mess to its personnel</p> | <p>It is hereby clarified that accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are covered by Sl. No. 6 of Notification No. 12/2017-CT(Rate), dated 28-6-2017 provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority.</p> |

(25) **SERVICES PROVIDED BY GOVERNMENT/UT OR A LOCAL AUTHORITY TO A BUSINESS ENTITY HAVING AGGREGATE TURNOVER BELOW THRESHOLD LIMIT IN PRECEDING FY - EXEMPT [Entry 7 of Notification No. 12/2017-CT (Rate)] :**

Services provided by the Central Government, State Government, Union territory or local authority **to a business entity with an aggregate turnover of up to such amount** in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017 are exempt.

Explanation: The provisions of this entry shall not be applicable to –

- (a) services, –
- (i) by the Department of Posts ~~by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; [Omitted by Notification No. 04/2022-CT (Rate) dated 13-07-2022 w.e.f. 18-07-2022];~~
 - (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
 - (iii) of transport of goods or passengers; and
- (b) services by way of renting of immovable property.

- ❖ “Special category States” shall mean the States as specified in Article 279A(4)(g) of the Constitution. [Para 2(zzf) of Notification No. 12/2017-CT (Rate)]
- ❖ “Renting in relation to immovable property” means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property **and includes** letting, leasing, licensing or other similar arrangements in respect of immovable property. [Para 2(zz) of Notification No. 12/2017-CT (Rate)]

(26) SERVICES PROVIDED BY GOVERNMENT OR A LOCAL AUTHORITY TO ANOTHER GOVERNMENT OR A LOCAL AUTHORITY [Entry 8 of Notification No. 12/2017-CT (Rate)] :

Services provided by the Central Government, State Government, Union territory or local authority to **another Central Government, State Government, Union territory or local authority** are exempt.

However, nothing contained in this entry shall apply to services –

- (i) by the Department of Posts ~~by way of speed post, express parcel post, life insurance, and agency services~~ provided to a person other than the Central Government, State Government, Union territory; [Omitted by Notification No. 04/2022-CT (Rate) dated 13-07-2022 w.e.f. 18-07-2022]
- (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
- (iii) of transport of goods or passengers.

(27) SERVICES PROVIDED BY GOVERNMENT OR UT OR A LOCAL AUTHORITY WHERE THE CONSIDERATION FOR SUCH SERVICES DOES NOT EXCEED ₹ 5,000 [Entry 9 of Notification No. 12/2017-CT (Rate)] :

Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services **does not exceed ₹ 5,000** are exempt.

However, nothing contained in this entry shall apply to –

- (i) services by the Department of Posts ~~by way of speed post, express parcel post, life insurance, and agency services~~ provided to a person other than the Central Government, State Government, Union territory; [Omitted by Notification No. 04/2022-CT (Rate) dated 13-07-2022 w.e.f. 18-07-2022]
- (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
- (iii) transport of goods or passengers.

Continuous supply of service : In case where continuous supply of service, as defined in Section 2(33) of the CGST Act, 2017, is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only **where the consideration charged for such service does not exceed ₹ 5,000 in a financial year.**

(28) SERVICES BY AN OLD AGE HOME [Entry 9D of Notification No. 12/2017-CT (Rate)] :

Services by an **old age home** run by :

- Central Government, State Government; or
- an entity registered under section 12AA or 12AB of the Income-tax Act, 1961

to its residents (aged **60 years** or more) against consideration **upto ₹ 25,000** per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance are exempt.

(29) SERVICES OF POST CARD, INLAND LETTER ETC. BY POSTAL DEPARTMENT [Entry 24C of Notification No. 12/2017-CT (Rate)] [Inserted by Notification No. 04/2022-CT (Rate) dated 13-07-2022 w.e.f. 18-07-2022] :

Services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams) are exempt from tax.

(30) SERVICES BY WAY OF GUARANTEEING OF LOANS TAKEN BY GOVERNMENT UNDERTAKINGS OR PSU'S FROM THE BANKING COMPANIES AND FI'S [Entry 34A of Notification No. 12/2017-CT (Rate)] :

Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions are exempt.

☛ **“Financial institution”** has the same meaning as assigned to it in section 45-I(c) of the Reserve Bank of India Act, 1934. [Para 2(zaa) of Notification No. 12/2017-CT (Rate)]

(31) SERVICE PROVIDED BY GOVERNMENT OR UT OR LOCAL AUTHORITY BY WAY OF REGISTRATION ETC. [Entry 47 of Notification No. 12/2017-CT (Rate)] :

Services provided by the Central Government, State Government, Union territory or local authority by way of—

- (a) **registration required under any law** for the time being in force;
 - (b) **testing, calibration, safety check or certification** relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force
- are exempt.

(32) SERVICES PROVIDED TO INDIVIDUALS - ISSUANCE OF PASSPORT ETC. [Entry 61 of Notification No. 12/2017-CT (Rate)] :

Services provided by the Central Government, State Government, Union territory or local authority by way of **issuance of passport, visa, driving licence, birth certificate or death certificate** are exempt.

(33) SERVICES BY WAY OF GRANTING NATIONAL PERMIT TO A GOODS CARRIAGE [Entry 61A of Notification No. 12/2017-CT (Rate)] :

Services by way of granting National Permit to a goods carriage to operate through-out India / contiguous States are exempt.

(34) SERVICE BY WAY OF TOLERATING NON-PERFORMANCE OF A CONTRACT [Entry 62 of Notification No. 12/2017-CT (Rate)] :

Services provided by the Central Government, State Government, Union territory or local authority **by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages** is payable to the Central Government, State Government, Union territory or local authority under such contract are exempt.

(35) SERVICE BY WAY OF ASSIGNMENT OF RIGHT TO USE NATURAL RESOURCES TO AN INDIVIDUAL FARMER FOR THE PURPOSES OF AGRICULTURE [Entry 63 of Notification No. 12/2017-CT (Rate)] :

Services provided by the Central Government, State Government, Union territory or local authority by way of **assignment of right to use natural resources to an individual farmer** for cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products are exempt.

Other Aspects :

Royalty payable to the Government for assignment of rights to use natural resources is covered under GST : The Government provides license to various companies including Public Sector Undertakings for exploration of natural resources like oil, hydrocarbons, iron ore, manganese, etc. For having assigned the rights to use the natural resources, the licensee companies are required to pay consideration in the form of annual license fee, lease charges, royalty, etc to the Government.

The activity of assignment of rights to use natural resources is treated as supply of services and the licensee is required to pay tax on the amount of consideration paid in the form of royalty or any other form under reverse charge mechanism.

Hence, the above exemption is provided when rights are assigned to use natural resources for agricultural purposes to individual farmers.

(36) MERCHANT OVERTIME CHARGES [Entry 65 of Notification No. 12/2017-CT (Rate)] :

Services provided by the Central Government, State Government, Union territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of **Merchant Overtime charges** are exempt.

(37) STATE GOVERNMENT'S SERVICES TO EXCESS ROYALTY COLLECTION CONTRACTOR [Entry 65B of Notification No. 12/2017-CT (Rate)] :

Services supplied by a **State Government to Excess Royalty Collection Contractor (ERCC)** by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders are exempt.

Conditions : At the end of the contract period, ERCC shall submit an account to the State Government and certify that the amount of GST deposited by mining lease holders on royalty is more than the GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of GST paid by mining lease holders is less than the amount of GST exempted, the exemption shall be restricted to such amount as is equal to the amount of GST paid by the mining lease holders and the ERCC shall pay the difference between GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and GST paid by the mining lease holders on royalty.

Mining lease holder means a person who has been granted mining lease, quarry lease or license or other mineral concession under the Mines and Minerals (Development and Regulation) Act, 1957, the rules made thereunder or the rules made by a State Government under Section 15(1) of the Mines and Minerals (Development and Regulation) Act, 1957. *[Explanation]*

Illustration 9 - Government Services: Lakhanpur Post Office provided the following services to persons other than Government during the month of March 2023, all charges are exclusive of GST:

| | Services rendered | ₹ |
|-----|--|----------|
| (1) | Services by way of post card | 1,00,000 |
| (2) | Services by way of ordinary post (envelopes weighing less than 10 grams) | 2,50,000 |
| (3) | Services by way of ordinary post (envelopes weighing exceeding 10 grams) | 4,00,000 |
| (4) | Services by way of registered post (envelopes weighing less than 10 grams) | 5,50,000 |
| (5) | Distribution of mutual funds, bonds and passport applications | 5,00,000 |
| (6) | Collection of telephone and electricity bills | 1,00,000 |
| (7) | Speed post services | 5,00,000 |
| (8) | Express parcel post services | 2,00,000 |

Compute the value of taxable supply.

Solution: Computation of Value of taxable supply (amount in ₹) :

| | | |
|-----|---|------------------|
| (1) | Post Card services <i>[Exempt since covered in Entry 24C of Exemption Notif. No. 12/2017-CT (Rate)]</i> | Nil |
| (2) | Services by way of ordinary post (envelopes weighing less than 10 grams) <i>[Exempt since covered in Entry 24C of Exemption Notif. No. 12/2017-CT (Rate)]</i> | Nil |
| (3) | Services by way of ordinary post (envelopes weighing exceeding 10 grams) (Liable to GST) | 4,00,000 |
| (4) | Services by way of registered post (envelopes weighing less than 10 grams) | 5,50,000 |
| (5) | Distribution of mutual funds, bonds and passport applications (Liable to GST) | 5,00,000 |
| (6) | Collection of telephone and electricity bills (Liable to GST) | 1,00,000 |
| (7) | Speed post services (Liable to GST) | 5,00,000 |
| (8) | Express parcel post services (Liable to GST) | 2,00,000 |
| | Value of taxable supply | 22,50,000 |

SERVICES PROVIDED TO GOVERNMENT

(38) PURE SERVICES TO GOVERNMENT/ UT/ LOCAL AUTHORITY IN RELATION TO PANCHAYAT FUNCTIONS/ MUNICIPAL FUNCTIONS [Entry 3 of Notification No. 12/2017-CT (Rate)] :

Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority by way of any activity –

- (a) in relation to **any function entrusted to a Panchayat** under article 243G of the Constitution; or
- (b) in relation to **any function entrusted to a Municipality** under article 243W of the Constitution, are exempt.

Other Aspects :

- (i) **Pure Services** : In the context of the language used in the notification, supply of services without involving any supply of goods would be treated as supply of 'pure services'.

For example, supply of man power for cleanliness of roads, public places, architect services, consulting engineer services, advisory services, and like services provided by business entities not involving any supply of goods would be treated as supply of pure services.

On the other hand, let us take the example of a governmental authority awarding the work of maintenance of street lights in a Municipal area to an agency which involves apart from maintenance, replacement of defunct lights and other spares. In this case, the scope of the service involves maintenance work and supply of goods, which falls under the works contract services. The exemption is provided to services which involves only supply of services and not for works contract services.

- (ii) **Statutory body, corporation etc. - Not Government or Local Authority** : A statutory body, corporation or an authority created by the Parliament or a State Legislature is neither 'Government' nor a 'local authority'.

Such statutory bodies, corporations or authorities are normally created by the Parliament or a State Legislature in exercise of the powers conferred under article 53(3)(b) and article 154(2)(b) of the Constitution respectively. It is a settled position of law [**Agarwal v. Hindustan Steel AIR [1970] SC (1150)**] that the manpower of such statutory authorities or bodies do not become officers subordinate to the President under article 53(1) of the Constitution and similarly to the Governor under article 154(1). Such a statutory body, corporation or an authority as a juridical entity is separate from the State and cannot be regarded as the Central or a State Government and also do not fall in the definition of 'local authority'. Thus, regulatory bodies and other autonomous entities would not be regarded as the government or local authorities for the purposes of the GST Acts.

- (iii) **Functions entrusted to municipality** : The functions entrusted to municipality under the Twelfth Schedule to **Article 243W** of the constitution include urban planning including town planning, roads and bridges, public health, sanitation conservancy and solid waste management, fire services, slum improvement and upgradation, promotion of cultural, educational and aesthetic aspects, provision of urban amenities and facilities such as parks, gardens, playgrounds, public amenities including street lighting, parking lots, bus stops and public conveniences, etc.

- (iv) **Functions entrusted to Panchayat** : The functions entrusted to Panchayat under the Eleventh Schedule to **Article 243G** of the constitution include Agriculture, including agricultural extension, Animal husbandry, dairying and poultry, Fisheries, Small scale industries, including food processing industries, Drinking water, Fuel and fodder, Rural electrification, including distribution of electricity, Health and sanitation, including hospitals, primary health centres and dispensaries, Women and child development, Public distribution system, etc.

(39) COMPOSITE SUPPLY TO GOVERNMENT/ UT/ LOCAL AUTHORITY IN RELATION TO PANCHAYAT FUNCTIONS/ MUNICIPAL FUNCTIONS - EXEMPT IF VALUE OF GOODS IS NOT MORE THAN 25% OF TOTAL VALUE [Entry 3A of Notification No. 12/2017-CT (Rate)] :

Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority by way of any activity –

- (a) in relation to any function entrusted to a Panchayat under article 243G of the Constitution; or
- (b) in relation to any function entrusted to a Municipality under article 243W of the Constitution, is exempt.

| GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS [Circular No. 153/09/2021-GST dated 17-6-2021] | |
|---|--|
| Issue | Clarification |
| Whether composite supply of service by way of milling of wheat into wheat flour, along-with fortification, by any person to a State Government for distribution of such wheat flour under Public Distribution System is eligible for exemption under entry No. 3A of Notification No. 12/2017-CT (Rate) dated 28-06-2017. | Public Distribution specifically figures at entry 28 of the 11 th Schedule to the constitution, which lists the activities that may be entrusted to a Panchayat under Article 243G of the Constitution. Hence, said entry No. 3A would apply to composite supply of milling of wheat and fortification thereof by miller, or of paddy into rice provided that value of goods supplied in such composite supply (goods used for fortification, packing material etc) does not exceed 25% of the value of composite supply. It is a matter of fact as to whether the value of goods in such composite supply is up to 25% and requires ascertainment on case-to-case basis. |

| Sanitation and conservancy services supplied to Army and other Central and State Government departments - Liable to GST. – Circular No. 177/09/2022-TRU dtd 03-08-2022 | |
|--|---|
| Issue | Clarification |
| The exemption under entry 3 & 3A of notification 12/2017-CT (Rate) dated 28-06-2017 has been given on pure services & composite supplies procured by Central Government, State Government, Union Territories or local authorities for performing functions listed in the 11 th and 12 th schedule of the constitution. | It is clarified that if such services are procured by Indian Army or any other Government Ministry/ Department which does not perform any functions listed in the 11 th and 12 th Schedule, in the manner as a local authority does for the general public, the same are not eligible for exemption under Sl. No. 3 and 3A of Notification 12/2017-CT (Rate). |

(40) SUPPLY OF SERVICE BY A GOVERNMENT ENTITY TO GOVERNMENT, UT, LOCAL AUTHORITY IN FORM OF GRANTS [Entry 9C of Notification No. 12/2017-CT (Rate)] :

Supply of service by a **Government Entity** to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority **against consideration** received from Central Government, State Government, Union territory or local authority, **in the form of grants** is exempt.

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| <p>⊛ “Government Entity” means an authority or a board or any other body including a society, trust, corporation, -</p> <p>(i) set up by an Act of Parliament or State Legislature; or</p> <p>(ii) established by any Government,</p> <p>with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority. [Para 2(zfa) of Notification No. 12/2017-CT (R)]</p> |
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(41) SERVICE PROVIDED BY FAIR PRICE SHOPS TO GOVERNMENT/UT'S [Entry 11A of Notification No. 12/2017-CT (Rate)] :

Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin is exempt.

(42) SERVICES PROVIDED TO GOVERNMENT/UT'S UNDER ANY INSURANCE SCHEME FOR WHICH TOTAL PREMIUM IS PAID BY THE GOVERNMENT OR UT'S [Entry 40 of Notification No. 12/2017-CT (Rate)] :

Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory are exempt.

(43) SERVICES PROVIDED BY THE GOODS AND SERVICES TAX NETWORK [Entry 51 of Notification No. 12/2017-CT (Rate)] [Omitted by Notification No. 04/2022 -CT(Rate) dated 13-07-2022 w.e.f. 18-07-2022]:

~~Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax are exempt.~~

(44) SERVICES PROVIDED TO GOVERNMENT/UT'S UNDER ANY TRAINING PROGRAMME FOR WHICH 75% OR MORE OF THE TOTAL EXPENDITURE IS BORNE BY THE GOVERNMENT/UT'S [Entry 72 of Notification No. 12/2017-CT (Rate)] :

Services provided to the Central Government, State Government, Union territory administration under any training programme for which **75% or more of the total** expenditure is borne by the Central Government, State Government, Union territory administration are exempt.

Coaching services supplied by coaching institutions and NGOs under the central sector scheme of "Scholarships for students with Disabilities" are exempt from GST - Circular No. 164/20/2021-GST dated 06-10-2021

| Issue | Clarification |
|---|--|
| Applicability of GST on free coaching services provided by coaching institutions and NGOs under the central scheme of "Scholarships for students with Disabilities" where entire expenditure is provided by Government to coaching institutions by way of grant in aid. | The scope of Entry 72 is wide enough to cover coaching services provided by coaching institutions and NGOs under the central scheme of "Scholarships for students with Disabilities" where total expenditure is borne by the Government by way of funding to institute providing such coaching. Accordingly, it is clarified that services provided by any institutions/ NGOs under the central scheme of "Scholarships for students with Disabilities" where total expenditure is borne by the Government is covered under entry 72 of notification No. 12/2017-CT (Rate) dated 28-06-2017 and hence exempt from GST. |

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|------------------------------|
| CONSTRUCTION SERVICES |
|------------------------------|

(45) PURE LABOUR CONTRACTS PERTAINING TO THE BENEFICIARY-LED INDIVIDUAL HOUSE CONSTRUCTION OR ENHANCEMENT UNDER THE HOUSING FOR ALL (URBAN) MISSION OR PRADHAN MANTRI AWAS YOJANA [Entry 10 of Notification No. 12/2017-CT (Rate)]:

Services provided by way of **pure labour contracts** of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the **Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana** are exempt.

- | |
|--|
| <p>☛ "Original works" means –</p> <ul style="list-style-type: none"> (i) all new constructions; (ii) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable; (iii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise. [Para 2(zs) of Notification No. 12/2017-CT (Rate)] |
|--|

(46) SERVICES SUPPLIED BY ELECTRICITY DISTRIBUTION UTILITIES FOR EXTENDING ELECTRICITY DISTRIBUTION NETWORK UPTO THE TUBE WELL OF THE FARMER OR AGRICULTURALIST FOR AGRICULTURAL USE [Entry 10A of Notification No. 12/2017-CT (Rate)] :

Services supplied by **electricity distribution utilities** by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the **farmer or agriculturalist for agricultural use** are exempt.

(47) PURE LABOUR CONTRACT PERTAINING TO A SINGLE RESIDENTIAL UNIT [Entry 11 of Notification No. 12/2017-CT (Rate)] :

Services by way of **pure labour contracts** of construction, erection, commissioning, or installation of original works pertaining to a **single residential unit otherwise than as a part of a residential complex** are exempt.

❖ **“Residential complex”** means any complex comprising of a building or buildings, having more than one single residential unit. [Para 2(zzb) of Notification No. 12/2017-CT (Rate)]

❖ **“Single residential unit”** means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family. [Para 2(zze) of Notification No. 12/2017-CT (Rate)]

(48) TRANSFER OF DEVELOPMENT RIGHTS AND FSI FOR CONSTRUCTION OF RESIDENTIAL APARTMENTS [Entry 41A of Notification No. 12/2017-CT (Rate)]

Service by way of transfer of development rights (herein refer TDR) or Floor Space Index (FSI) (including additional FSI) on or after 01-04-2019 for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier are exempt.

Computation of amount of exemption : The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under :

$$\left(\text{GST payable on TDR or FSI (including additional FSI) or both for construction of the project} \times \frac{\text{Carpet area of the residential apartments in the project}}{\text{Total carpet area of the residential and commercial apartments in the project}} \right)$$

Conditions :

Promoter liable to pay tax on RCM basis on unsold flats : The promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of value of development rights, or FSI (including additional FSI), or both, as is attributable to the residential apartments, which remain un-booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner –

$$\left(\text{GST payable on TDR or FSI (including additional FSI) or both for construction of the residential apartments in the project but for the exemption contained herein} \times \frac{\text{Carpet area of the residential apartments in the project which remain un-booked on the date of issuance of completion certificate or first occupation}}{\text{Total carpet area of the residential apartments in the project}} \right)$$

Maximum amount of tax payable : The tax payable as above shall not exceed 1% (0.5% CGST and 0.5% SGST) of the value in case of affordable residential apartments and 5% (2.5% CGST and 2.5% SGST) of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation.

When tax payable : The liability to pay central tax on the said portion of the development rights or FSI, or both, calculated as above, shall arise on the date of completion or first occupation of the project, as the case may be, whichever is earlier.

(49) LONG TERM LEASE FOR CONSTRUCTION OF RESIDENTIAL APARTMENTS [Entry 41B of Notification No. 12/2017-CT (Rate)]:

Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of 30 years, or more, on or after 01-04-2019, for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier are exempt.

Computation of amount of exemption : The amount of GST exemption available for construction of residential apartments in the project shall be calculated as under –

$$\left(\text{GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the project} \times \frac{\text{Carpet area of the residential apartments in the project}}{\text{Total carpet area of the residential and commercial apartments in the project}} \right)$$

Conditions :

Promoter liable to pay tax on RCM basis on unsold flats : The promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, as is attributable to the residential apartments, which remain un-booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner –

$$\left(\text{GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the residential apartments in the project but for the exemption contained herein} \times \frac{\text{Carpet area of the residential apartments in the project which remain un-booked on the date of issuance of completion certificate or first occupation}}{\text{Total carpet area of the residential apartments in the project}} \right)$$

Maximum amount of tax payable : The tax payable shall not exceed 1% (0.5% CGST and 0.5% SGST) of the value in case of affordable residential apartments and 5% (2.5% CGST and 2.5% SGST) of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation.

When tax payable : The liability to pay central tax on the said proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, calculated as above, shall arise on the date of issue of completion certificate or first occupation of the project, as the case may be.

PASSENGER TRANSPORTATION SERVICES**(50) TRANSPORT OF PASSENGERS BY DIFFERENT MODES [Entry 15 of Notification No. 12/2017-CT (Rate)] [Amended by Notification No. 04/2022 -CT (Rate) dated 13-07-2022 w.e.f. 18-07-2022]**

Transport of passengers, with or without accompanied belongings, by –

- (a) **air in economy class, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; or**
 - (b) **non-airconditioned contract carriage** other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or
 - (c) **stage carriage** other than air-conditioned stage carriage
- are exempt.

However, nothing contained in (b) and (c) above shall apply to services supplied through an electronic commerce operator, and notified u/s 9(5) of the CGST Act, 2017.

- ⊛ **“Contract carriage”** has the same meaning as assigned to it in Section 2(7) of the Motor Vehicles Act, 1988. [Para 2(t) of Notification No. 12/2017-CT (Rate)]
“Contract carriage” means a motor vehicle which carries a passenger or passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum –
 - (a) on a time basis, whether or not with reference to any route or distance; or
 - (b) from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes –
 - (i) a maxicab; and
 - (ii) a motor cab notwithstanding that separate fares are charged for its passengers.

[Section 2(7) of Motor Vehicles Act, 1988].
- ⊛ **“Radio taxi”** means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using the Global Positioning System or General Packet Radio Service. [Para 2(zv) of Notification No. 12/2017-CT (Rate)]
- ⊛ **“Stage carriage”** shall have the same meaning as assigned to it in Section 2(40) of the Motor Vehicles Act, 1988. [Para 2(zzh) of Notification No. 12/2017-CT (Rate)]
“Stage carriage” means a motor vehicle constructed or adapted to carry more than 6 passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey [Section 2(40) of the Motor Vehicles Act, 1988].

Where transportation takes place over pre-determined route on a pre-determined schedule in non air-conditioned contract carriage same will be exempt from GST. - Circular No. 177/09/2022-TRU dtd 03-08-2022

| Issue | Clarification |
|---|--|
| Whether the engagement of non-air conditioned contract carriages by firms for transportation of their employees to and from work is exempt under entry at Sr. No. 15(b) of notification No. 12/2017-CT (Rate) dated 28-06-2017. | It is clarified that ‘charter or hire’ excluded from the above exemption entry is charter or hire of a motor vehicle for a period of time, where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations. In other words, the said exemption would apply to passenger transportation services by non-air conditioned contract carriages falling under Heading 9964 where according to explanatory notes, transportation takes place over pre-determined route on a pre-determined schedule. The exemption shall not be applicable where contract carriage is hired for a period of time, during which the contract carriage is at the disposal of the service recipient and the recipient is thus free to decide the manner of usage (route and schedule) subject to conditions of agreement entered into with the service provider. |

(51) VG FUNDING AMOUNT RECEIVED BY AIRLINE OPERATORS UNDER RCS [Entry 16 of Notification No. 12/2017-CT (Rate)] :

Services **provided to the Central Government**, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a **regional connectivity scheme (RCS) airport**, against consideration in the form of viability gap funding are exempt.

However, nothing contained in this entry shall apply on or after the expiry of a period of **3 years** from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.

(52) TRANSPORT OF PASSENGERS BY DIFFERENT MODES [Entry 17 of Notification No. 12/2017-CT (Rate)] :

Service of **transportation of passengers**, with or without accompanied belongings, by –

- (a) railways in a class other than –
 - (i) first class; or
 - (ii) an air-conditioned coach;
 - (b) metro, monorail or tramway;
 - (c) inland waterways;
 - (d) public transport, **other than predominantly for tourism purpose**, in a vessel between places located in India; and
 - (e) metered cabs or auto rickshaws (including e-rickshaws)
- are exempt.

However, nothing contained in item (e) above shall apply to services supplied through an electronic commerce operator, and notified u/s 9(5) of the CGST Act, 2017.

- ❖ **“E-rickshaw”** means a special purpose battery powered vehicle of power not exceeding 4000 watts, having three wheels for carrying goods or passengers, as the case may be, for hire or reward, manufactured, constructed or adapted, equipped and maintained in accordance with such specifications, as may be prescribed in this behalf. [Para 2(za) of Notification No. 12/2017-CT (Rate)]
- ❖ **“Inland waterway”** means **national waterways** as defined in Section 2(h) of the Inland Waterways Authority of India Act, 1985 or other waterway on any inland water, as defined in Section 2(b) of the Inland Vessels Act, 1917. [Para 2(zi) of Notification No. 12/2017-CT (Rate)]
- ❖ **“Metered cab”** means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment and that is charged accordingly under the conditions of its permit issued under the Motor Vehicles Act, 1988 and the rules made thereunder (but does not include radio taxi). [Para 2(zp) of Notification No. 12/2017-CT (Rate)]

Other Aspects:

- (a) **Basics** : Services of transportation of passengers are chargeable to GST. Entry 6 [Services provided by Government - discussed earlier] specifically excludes the transport of passengers’ services provided by the Government or local authority from its purview, *i.e.* said services are liable to GST. However, services of transportation of passengers specified in Entries 15, 16 and 17 mentioned above are exempt from GST (whether provided by Government or otherwise) with or without accompanied belongings.
- (b) **Public transport by vessels other than predominantly for tourism purpose - Not Taxable** : The public transport by a vessel should not be predominantly for tourism purposes. Normal public ships or other vessels that sail between places located in India would be covered in exemption entry **even if some of the passengers on board are using the service for tourism** as predominantly such service is not for tourism purpose.

For example: Services by way of transportation of passengers on a vessel, from Chennai to Port Blair (mainland - island) or Port Blair to Havelock (inter island), are covered in exemption in case the transportation is not predominantly for tourism purpose. Such transportation by a vessel (of any size) is covered in exemption entry since such transportation is between two places located in India.

- (c) **Services provided by leisure or charter vessels or a cruise ship - Taxable** : Services provided by leisure or charter vessels or a cruise ship, predominant purpose of which is tourism, would not be covered in exemption even if some of the passengers in such vessels are not tourists.
- (d) **Taxes levied be included** : The value of any taxable service will **include the taxes levied by any Government on any passenger travelling by air**, as only taxes levied under GST law are excluded. Hence, passenger taxes shall form part of taxable value of supply. [Section 15(2) of CGST Act, 2017]
- (e) **Transport of passengers by ropeway, etc. - Taxable** : Transport of passengers, with or without accompanied belongings, by : (i) ropeway; (ii) cable car; or (iii) aerial tramway is liable to GST.

| | |
|---|--|
| <p><i>Circular No. 115/34/2019- GST dated 11-10-2019</i></p> | <p>PSF and UDF charged by airport operators are consideration for providing services to passengers and therefore liable to GST. PSF and UDF charges collected by the airlines as an agent - airlines not responsible for payment of GST. The airport operators shall pay GST on the PSF and UDF collected by them from the passengers through the airlines.</p> |
| <p>➤ Passenger Service Fee (PSF) and User development fees : Passenger Service Fee (PSF) is charged from embarking passengers at such rates as specified by the Central Government. User Development Fee (UDF) are charged by airport operators for providing the services to passengers. The User Development Fees (UDF) shall be collected from the passengers by the airlines at the time of issue of air ticket and the same shall be remitted to Airports Authority of India in the line system/procedure in vogue. For this, collection charges are received by the airlines from AAI, which is not passed on to the passengers in any manner.</p> <p>➤ PSF and UDF - liable to GST- Section 2(31) of the CGST Act states that “consideration” in relation to the supply of goods or services or both includes any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person. Thus, PSF and UDF charged by airport operators are consideration for providing services to passengers and therefore, are liable to GST.</p> <p>➤ PSF and UDF charges collected by the airlines as an agent- airlines not responsible for payment of GST - Airport operator liable to pay GST : PSF and UDF being charges levied by airport operator for services provided to passengers, are collected by the airlines as an agent and is not a consideration for any service provided by the airlines. Thus, airline is not responsible for payment of GST on UDF or PSF provided the airline satisfies the conditions prescribed for a pure agent under Rule 33 of the CGST Rules. It is the licensee, that is the airport operator (AAI, DIAL, MIAL etc) which is liable to pay GST on UDF and PSF.</p> <p>➤ When air lines can be regarded as agent : Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST rules. Rule 33 of the CGST rules provides that the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely, -</p> <p>(i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;</p> <p>(ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and</p> <p>(iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.</p> <p>Accordingly, the airline acting as pure agent of the passenger should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers. The airline shall not take ITC of GST payable or paid on PSF and UDF. The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator. The amount so recovered will be excluded from the value of supplies made by the airline to its passengers.</p> <p>In other words, the airline shall not be liable to pay GST on the PSF and UDF (for airport services provided by airport licensee), provided the airline satisfies the conditions prescribed for a pure agent under Rule 33 of the CGST Rules.</p> <p>The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent’s invoice issued by the airline to them.</p> <p>➤ The airport operators shall pay GST on the PSF and UDF collected by them from the passengers through the airlines. Since, the airport operators are collecting PSF and UDF inclusive of GST, there is no question of their not paying GST collected by them to the Government.</p> | |

- **Collection charges received by airlines liable to GST under forward charge :** The collection charges paid by airport operator to airlines are a consideration for the services provided by the airlines to the airport operator (AAI, DAIL, MAIL etc) and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

GST is exempt on tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/ Government. – Circular No. 177/09/2022-TRU dated 03-08-2022

| Issue | Clarification |
|---|---|
| Applicability of GST on tickets of private ferry used for passenger transportation. | It is clarified that exemption as per Sl. No 17(d) of notification No. 12/2017-CT (Rate) dated 28-06-2017 would apply to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/ government. It is further clarified that, the expression 'public transport' used in the exemption notification only means that the transport should be open to public. It can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc. |

Illustration 10 – Transportation of passengers : Compute value of taxable supply of transport of passengers by air from the following data relating to sums received exclusive of GST for the month ending 31-03-2023 :

- (1) Passengers embarking at Arunachal Pradesh : ₹ 55 lakh (out of the said sum ₹ 15 lakh relates to other than economy class);
- (2) Passengers where journey terminated at Assam : ₹ 45 lakh (out of the said sum ₹ 5 lakh relates to other than economy class);
- (3) Amount charged from passengers for flights starting from Sydney to Delhi : ₹ 25 lakh (out of the said sum ₹ 15 lakh relates to other than economy class);
- (4) Amount charged from passengers for flights starting from Delhi to Sydney (economy class) : ₹ 34 lakh (including passenger taxes levied by government and shown separately on ticket : ₹ 10 lakh).
- (5) Amount charged from passengers for flights starting from Delhi to Sydney (business class) : ₹ 10 lakh (including passenger taxes levied by government and shown separately on ticket : ₹ 3 lakh).

Compute value of taxable supply and GST thereon if rate of GST is 12% in case of business class and 5% in other class.

Solution: Computation of taxable value of supply and GST payable (amount in ₹) :

| Particulars | Taxable Value | Rate | GST |
|---|---------------|------|-------------|
| (1) Passengers embarking at Arunachal Pradesh. [Economy class is exempt from tax vide Entry 15 of Notification No. 12/2017-CT (Rate)] Business class is liable to GST. | 15,00,000 | 12% | 1,80,000 |
| (2) Passengers where journey terminated at Assam. [Economy class is exempt vide Entry 15 of Notification No. 12/2017-CT (Rate)] Business class is liable to GST. | 5,00,000 | 12% | 60,000 |
| (3) Amount charged from passengers for flights starting from Sydney to Delhi (Place of embarkation is Sydney viz. outside India; hence, place of supply of service is Sydney viz. outside India, therefore, it is not chargeable to tax in India) | - | - | Not taxable |
| (4) Amount charged from passengers for flights starting from Delhi to Sydney (Passenger taxes levied by government even if shown separately on ticket shall form part of taxable value of supply as per provisions of Sec 15 of the CGST Act, 2017) | 34,00,000 | 5% | 1,70,000 |

| | | | |
|--|------------------|-----|-----------------|
| (5) Amount charged from passengers for flights starting from Delhi to Sydney (business class) (Passenger taxes levied by government even if shown separately on ticket shall form part of taxable value of supply as per provisions of Section 15 of the CGST Act, 2017) | 10,00,000 | 12% | 1,20,000 |
| Total Value of taxable supply and total GST payable | 64,00,000 | | 5,30,000 |

Illustration 11 - Transportation of passengers : M/s. PQR Ltd. is engaged in providing service of transportation of passengers by following modes in the month of November, 2022 :

- (1) Service of transportation of passengers by vessels in National Waterways : ₹ 30,00,000 ;
- (2) Service of transportation of passenger by Air conditioned Stage carriage : ₹ 25,00,000 ;
- (3) Service of transportation of passenger by non air conditioned Stage carriage : ₹ 25,00,000 ;
- (4) Service of transportation of passengers by contract carriage for tourism : ₹ 20,00,000 ;
- (5) Service of transportation of passenger for Mumbai to Chennai port in a vessel and such service is not for tourism purpose : ₹ 10,00,000 ;
- (6) Service of transportation of passenger in Metered Cab : ₹ 35,00,000 ;
- (7) Service of transportation of passengers in Radio Taxis : ₹ 10,00,000 ;
- (8) Service of transportation of passengers in Non air-conditioned contract carriages : ₹ 10,00,000 ;
- (9) Service of transportation of passengers in air-conditioned contract carriages : ₹ 15,00,000.

Compute the value of taxable supply if all charges are exclusive of GST.

Solution: Computation of Value of taxable supply (amount in ₹) –

| | |
|---|------------------|
| (1) Transportation of passengers by National Waterways [Since National Waterways are covered in definition of inland Waterways - Exempt from GST vide Entry 17 of Notification No. 12/2017-CT (Rate)] | Nil |
| (2) Transportation of passenger by Air conditioned Stage Carriage (Liable to GST) | 25,00,000 |
| (3) Transportation of passenger by non air conditioned Stage carriage [Exempt from GST vide Entry 15 of Notification No. 12/2017-CT (Rate)] | Nil |
| (4) Transportation of passengers by contract carriage for tourism (Liable to GST) | 20,00,000 |
| (5) Transportation of passenger from Mumbai to Chennai port in a vessel [Being a public transport in a vessel sailing in India and not for tourism - Exempt from GST vide Entry 17 of Notification No. 12/2017-CT (Rate)] | Nil |
| (6) Transportation of passenger in Metered Cab [Exempt from GST vide Entry 17 of Notification No. 12/2017-CT (Rate)] | Nil |
| (7) Service of transportation of passengers in Radio Taxis (Liable to GST) | 10,00,000 |
| (8) Service of transportation of passengers in non air-conditioned contract carriages [Exempt from GST vide Entry 15 of Notification No. 12/2017-CT (Rate)] | Nil |
| (9) Service of transportation of passengers in air-conditioned contract carriages (Liable to GST) | 15,00,000 |
| Value of Taxable Supply | 70,00,000 |

GOODS TRANSPORTATION SERVICES

(53) TRANSPORTATION OF GOODS BY DIFFERENT MODES [Entry 18 of Notification No. 12/2017-CT (Rate)] :

Services by way of transportation of goods –

- (a) **by road** except the services of –
 - (i) a goods transportation agency;
 - (ii) a courier agency;
- (b) **by inland waterways** are exempt.

- ❖ **“Goods transport agency”** means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called. [Para 2(ze) of Notif. No. 12/2017-CT (Rate)]
- ❖ **“Courier agency”** means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles. [Para 2(u) of Notification No. 12/2017-CT (Rate)]

Other Aspects:

- (a) **‘Express Cargo Service’ - ‘Courier Agency’ - Taxable :** If some transporters undertake door-to-door transportation of goods or articles and make special arrangements for speedy transportation and timely delivery of such goods or articles, then, such services, which are known as ‘Express Cargo Service’ with assurance of timely delivery, will fall within the definition of ‘courier agency’.
- (b) **“Angadia” liable under Courier service :** “Angadia” who undertakes delivery of documents, goods or articles received from a customer to another person for a consideration, are covered within the definition of courier and therefore, are liable to GST.

(54) SERVICES BY WAY OF TRANSPORTATION OF GOODS BY AN AIRCRAFT [Entry 19 of Notification No. 12/2017-CT (Rate)] :

Services by way of **transportation of goods by an aircraft** from a place outside India upto the customs station of clearance in India are exempt.

- ❖ **“Customs station”** shall have the same meaning as assigned to it in Section 2(13) of the Customs Act, 1962. [Para 2(v) of Notification No. 12/2017-CT (Rate)]
- ❖ **“Customs station”** means any customs port, customs airport, international courier terminal, foreign post office or land customs station [Section 2(13) of the Customs Act, 1962]

(55) AIR FREIGHT FOR EXPORT GOODS [Entry 19A of Notification No. 12/2017-CT (Rate)] :

Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India are exempt.

However, nothing contained in this entry shall apply after **30-09-2022**.

(56) SEA FREIGHT FOR EXPORT GOODS [Entry 19B of Notification No. 12/2017-CT (Rate)] :

Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India are exempt.

However, nothing contained in this entry shall apply after **30-09-2022**.

- Analysis :** As per Section 12(8) of IGST Act, 2017, the place of supply of services by way of transportation of goods, including by mail or courier to,-
- (a) a registered person, shall be the location of such person;
 - (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.
- However, where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.

(57) SATELLITE LAUNCH SERVICES [Entry 19C of Notification No. 12/2017-CT (Rate)] :

Satellite launch services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited are exempt.

(58) TRANSPORTATION OF CERTAIN GOODS BY RAIL OR VESSEL [Entry 20 of Notification No. 12/2017-CT (Rate)] [Omitted by Notification No. 04/2022-CT (Rate) dated 13-07-2022 w.e.f. 18-07-2022] :

Services by way of **transportation by rail or a vessel** from one place in India to another of the following goods -

- (a) **relief materials** meant for victims of natural or man-made disasters, calamities, accidents or mishap;
- (b) **defence or military equipments;**
- (c) **newspaper or magazines** registered with the Registrar of Newspapers;

- (d) ~~railway equipments or materials;~~
 (e) **agricultural produce;**
 (f) **milk, salt and food grain** including flours, pulses and rice; and
 (g) **organic manure**
 are exempt.

Illustration 12 - Transport of goods by rail : Compute Value of taxable supply and GST Liability for transport of goods by rail by Indian railway within India (all sums exclusive of all taxes) (the information relates to the month of November, 2022)-

- (1) Transport of postal mails and postal bags : ₹ 55 lakhs
- (2) Transport of household effects : ₹ 50 lakhs
- (3) Transport of petroleum products : ₹ 25 lakhs
- (4) Transport of relief materials to flood affected areas : ₹ 25 lakhs
- (5) Transport of railway equipments : ₹ 25 lakhs
- (6) Transport of newspapers and magazines registered with registrar of newspapers : ₹ 15 lakhs
- (7) Transport of milk : ₹ 15 lakhs
- (8) Transport of tea : ₹ 10 lakhs
- (9) Transport of sugar : ₹ 25 lakhs
- (10) Transport of alcoholic beverages : ₹ 7 lakhs
- (11) Transport of defence and military equipments : ₹ 40 lakhs
- (12) Transport of organic manure : ₹ 90 lakhs
- (13) Transport of baled cotton : ₹ 25 lakhs
- (14) Transport of other goods : ₹ 5000 lakhs

Applicable GST rate - 5%.

Solution: Computation of Value of taxable supply (₹ in lakhs) –

| | | |
|--------------------------------------|--|---------------|
| (1) | Transport of postal mails and postal bags [Liable to GST] | 55 |
| (2) | Transport of household effects [Liable to GST] | 50 |
| (3) | Transport of petroleum products [Liable to GST] | 25 |
| (4) | Transport of relief materials to flood affected areas [Exempt vide Entry 20 of Notification No. 12/2017-CT (Rate)] | Nil |
| (5) | Transport of railway equipments [Liable to GST] | 25 |
| (6) | Transport of newspapers and magazines registered with registrar of newspapers [Exempt vide Entry 20 of Notification No. 12/2017-CT (Rate)] | Nil |
| (7) | Transport of milk [Exempt vide Entry 20 of Notification No. 12/2017-CT (Rate)] | Nil |
| (8) | Transport of tea [Liable to GST] | 10 |
| (9) | Transport of sugar [Liable to GST] | 25 |
| (10) | Transport of alcoholic beverages [Liable to GST] | 7 |
| (11) | Transport of defence and military equipments [Exempt vide Entry 20 of Notification No. 12/2017-CT (Rate)] | Nil |
| (12) | Transport of organic manure [Exempt vide Entry 20 of Notification No. 12/2017-CT (Rate)] | Nil |
| (13) | Transport of baled cotton [Liable to GST] | 25 |
| (14) | Transport of other goods - ₹ 5000 lakh [Liable to GST] | 5,000 |
| Total Value of taxable supply | | 5,222 |
| GST payable @ 5% | | 261.10 |

(59) SERVICES PROVIDED BY A GOODS TRANSPORT AGENCY [Entry 21 of Notif. No.12/2017-CT (Rate)] [Omitted by Notification No. 04/2022 -CT(Rate) dated 13-07-2022 w.e.f. 18-07-2022] :

Services provided by a goods transport agency, by way of transport in a goods carriage of –

- (a) **agricultural produce;**
- (b) ~~goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed ₹ 1,500;~~

- (c) ~~goods, where consideration charged for transportation of all such goods for a single consignee does not exceed ₹ 750/-~~
- (d) milk, salt and food grain including flour, pulses and rice;
- (e) organic manure;
- (f) newspaper or magazines registered with the Registrar of Newspapers;
- (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
- (h) defence or military equipments
- are exempt.

- ❖ **“Goods carriage”** has the same meaning as assigned to it in Section 2(14) of the Motor Vehicles Act, 1988. [Para 2(zd) of Notification No. 12/2017-CT (Rate)]
- ❖ **“Goods carriage”** means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods. [Section 2(14) of the Motor Vehicles Act, 1988]

Other aspects :

- (i) Goods transport agency has been defined in the Notification to mean any person who:
- provides service in relation to transport of goods by road and
 - issues consignment note, by whatever name called.

Thus, it can be seen that issuance of a consignment note is the sine-qua-non for a supplier of service to be considered as a GTA. If such a consignment note is not issued by the transporter, the service provider will not come within the ambit of GTA.

If a consignment note is issued, it indicates that the lien on the goods has been transferred (to the transporter) and the transporter becomes responsible for the goods till its safe delivery to the consignee. It is only the services of such GTA, who assumes agency functions, that is being brought into the GST net.

- (ii) **Individual truck/ tempo operators** who do not issue any **consignment note** are not covered within the meaning of the term GTA. As a result, the services provided by such individual transporters who do not issue a consignment note will be covered by the entry at Entry 18 of Notification, which is exempt from GST.

“Consignment note” means a document, issued by a GTA against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains:

- the name of the consignor and consignee,
- registration number of the goods carriage in which the goods are transported,
- details of the goods transported,
- details of the place of origin and destination,
- person liable for paying tax whether consignor, consignee or GTA.

- (iii) **Significance of the term ‘in relation to’ in the definition of GTA :** The use of the phrase ‘in relation to’ has extended the scope of the definition of GTA. It includes not only the actual transportation of goods, but also various intermediary and ancillary services, such as, loading/ unloading, packing/ unpacking, transshipment and temporary warehousing, which are provided in the course of transport of goods by road.

These services are not provided as independent services but as ancillary to the principal service, namely, transportation of goods by road. The invoice issued by the GTA for providing the said service includes the value of intermediary and ancillary services.

In view of this, if any intermediary and ancillary service is provided in relation to transportation of goods by road, and charges, if any, for such services are included in the invoice issued by the GTA, such service would form part of the GTA service, being a composite supply, and would not be treated as a separate supply. However, if such incidental services are provided as separate services and charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies.

(iv) **GTA - Additional requirements** : Where the supplier of taxable service is a GTA supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing –

- the gross weight of the consignment,
- name of the consigner and the consignee,
- registration number of goods carriage in which the goods are transported,
- details of goods transported,
- details of place of origin and destination,
- GSTIN of the person liable for paying tax whether as consigner, consignee or goods transport agency, and
- also containing other information as mentioned under Rule 46. *[Rule 54(3)]*

(v) **Reverse charge** :

| Category of Supply of Services | Supplier of Service | Recipient of Service |
|--|---|---|
| <p>Supply of Services by a Goods Transport Agency (GTA) in respect of transportation of goods by road to –</p> <p>(a) any factory registered under or governed by the Factories Act, 1948; or</p> <p>(b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person.</p> <p>RCM not applicable if recipient registered only for TDS : However, nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, –</p> <p>(a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies,</p> <p>which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax u/s 51 and not for making a taxable supply of goods or services.</p> | <p>Goods Transport Agency (GTA) who has not paid CGST @6% <i>[Omitted by Notification No. 05/2022-CT (Rate) dated 13-07-2022 w.e.f. 18-07-2022]</i></p> | <p>(a) Any factory registered under or governed by the Factories Act, 1948; or</p> <p>(b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person; located in the taxable territory.</p> <p>However nothing contained in this entry shall apply where, -</p> <p>(i) the supplier has taken registration under the CGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge; and</p> <p>(ii) the supplier has issued a tax invoice to the recipient charging Central Tax at the applicable rates and has made a prescribed declaration on such invoice issued by him.</p> |

Note: Forward charge in case of GTA : GTA can exercise the option to pay tax under forward charge mechanism. In such a case, GTA has to take registration under the CGST Act, 2017 and has to issue a tax invoice to the recipient charging GST @ 5 % and has to make a prescribed declaration on such invoice issued by him.

GTA has been given an option to pay GST @ 12% and avail full ITC admissible under law. If GTA charges GST @ 12% in his tax invoice, the recipient is not liable to pay GST under reverse charge. The option once exercised cannot be withdrawn during the remaining part of financial year.

- (vi) **Time-sensitive Transportation - GTA v. Courier Agency :** Time sensitive transportation of goods by road in a goods carriage by a GTA shall be classified as GTA service and not under courier service so long as-
- the entire transportation of goods is by road; and
 - the person transporting the goods issues a consignment note.

Transport of minerals from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time - liable to GST under Rental services of transport vehicles with operator. - Circular No. 177/09/2022-TRU dated 03-08-2022

Issue: Whether transport of minerals within a mining area, say from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time would be covered under Sr. No. 18 of notification No. 12/2017-CT (Rate) dated 28.06.2017 which exempts transport of goods by road except by a GTA.

Usually in such cases the vehicles such as tippers, dumpers, loader, trucks etc., are given on hire to the mining lease operator. Expenses for fuel are generally borne by the recipient of service. The vehicles with driver are at the disposal of the mining lease operator for transport of minerals within the mine area (mining pit to railway siding, beneficiation plant etc.) as per his requirement during the period of contract.

Such services are nothing but "rental services of transport vehicles with operator". The person who takes the vehicle on rent defines how and when the vehicles will be operated, determines schedules, routes and other operational considerations. The person who gives the vehicles on rent with operator can not be said to be supplying the service by way of transport of goods.

Accordingly, it is clarified that such renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles with operator falling under Heading 9966 and not service of transportation of goods by road. This being so, it is not eligible for exemption under Sl. No. 18 of notification No. 12/2017-CT (Rate) dated 28.06.2017.

Illustration 13 - GTA Services: Calculate the value of taxable supply of XYZ Transport Company engaged in the business of transport of goods by road for the month of April 2023. Give reasons for taxability or exemption of each item. Suitable assumptions may be made wherever required. XYZ transport company avails ITC. GST is leviable @ 12% :

| | (₹) |
|--|-----------|
| (1) Total freight charges received by 'XYZ' transport company | 13,50,000 |
| (2) Freight charges received for transporting fruits | 1,25,000 |
| (3) Freight collected for transporting small consignment for persons who paid less than ₹ 750 for each consignment | 75,000 |
| (4) Freight collected for transporting goods in small vehicles for persons who paid less than ₹ 1,500/- per trip | 1,50,000 |

Solution: Computation of Value of taxable supply and GST leviable thereon (amount in ₹)–

| | |
|--|------------------|
| Total freight received | 13,50,000 |
| Less: Freight charges received for transporting fruits being agricultural produce [<i>Exempt vide Entry 21 of Notification No. 12/2017-CT (Rate)</i>] | 1,25,000 |
| Less: Freight collected less than ₹ 750 for each consignment [<i>Liable to GST</i>] | - |
| Less: Freight collected for transporting goods in small vehicles for persons who paid less than ₹ 1,500 per trip [<i>Liable to GST</i>] | - |
| Total value of taxable supply | 12,25,000 |
| GST payable @ 12% | 1,47,000 |

Illustration 14 - Computation of GST liability : XYZ Ltd., New Delhi, manufactures biscuits under the brand name 'Tastypicks'. Biscuits are supplied to wholesalers and distributors located across India on FOR basis from the warehouse of the company located at New Delhi. The company uses multiple modes of transport for supplying the biscuits to its customers spread across the country. The transportation cost is shown as a line item in the invoice and is billed to the customers with a mark-up of 2% on total amount of freight paid (inclusive of taxes).

Flour used for the production process is procured from vendors located in Madhya Pradesh on ex-factory basis. The company engages goods transport agencies (GTA) to transport the flour from the factories of the vendors to its factory located in New Delhi.

The company has provided the following data relating to transportation of biscuits and flour in the month of April 2023 :

- For sales within the NCR region (₹ 20,00,000), the company arranged a local mini-van belonging to an individual and paid him ₹ 54,000.
- For sales to locations in distant States (₹ 1,78,00,000), the company booked the goods by Indian Railways and paid rail freight of ₹ 3,17,000.
- For sales to locations in neighbouring States (₹ 55,00,000), the company booked the goods by road carriers (GTAs) and paid road freight of ₹ 3,73,000. Out of the total sales to neighbouring States, goods worth ₹ 10,00,000 were booked through a GTA which paid tax @ 12%. Freight of ₹ 73,000 was paid to such GTA.
- For purchase of flour from Madhya Pradesh (₹ 25,00,000), the company booked the goods by a GTA and paid road freight of ₹ 55,000.
- For purchase of butter from Punjab (₹ 15,00,000), the company booked the goods by a GTA and paid road freight of ₹ 35,000.
- For local purchase of baking powder, the company booked the goods by a GTA(unregistered) in a single carriage and paid road freight of ₹ 1,500.
- For transferring the biscuits (open market value - ₹ 4,00,000) to one of its sister concern in Rajasthan, the company booked the goods by a GTA and paid road freight of ₹ 40,000.

(i) Based on the particulars given above, compute the GST payable on the amount paid for transportation by XYZ Ltd. when it avails the services of different transporters.

(ii) Compute the GST charged on transportation cost billed by the company to its customers.

Note: Assume the rate of GST on transportation of goods and biscuits to be 5% and 12% respectively [except where any other rate is specified in the question].

Solution:

- (i) Computation of GST payable on amount paid for transportation by XYZ Ltd. when it avails the services of different transporters (amount in ₹) :

| Particulars | Freight | GST Payable | | Total GST payable |
|---|----------|----------------------------|----------------------------|-------------------|
| | | Forward Charge by Supplier | Reverse charge by XYZ Ltd. | |
| Transportation of biscuits in a local mini van belonging to an individual [WN-1] | 54,000 | Nil | Nil | Nil |
| Transportation of biscuits by Indian Railways [WN-2] | 3,17,000 | 15,850 | - | 15,850 |
| Transportation of biscuits by GTA [WN-3] | 3,00,000 | - | 15,000 | 15,000 |
| Transportation of biscuits by GTA @ 12% [WN-4] | 73,000 | 8,760 | - | 8,760 |
| Transportation of flour by GTA [WN-5] | 55,000 | Nil | Nil | Nil |
| Transportation of butter by GTA [WN-6] | 35,000 | - | 1,750 | 1,750 |
| Transportation of baking powder by GTA [WN-7] | 1,500 | Nil | 75 | 75 |
| Transportation of biscuits by GTA to sister concern [WN-8] | 40,000 | - | 2,000 | 2,000 |
| Total tax payable by XYZ Ltd. on availing services of different transporters | | | | 43,435 |

Working Note :

- (1) Transportation of goods by road by a GTA is liable to GST. Therefore, transportation of goods by road otherwise than by a GTA is exempt from GST - Notification No. 12/2017-CT (R) & 9/2017-IT (R) both dated 28-06-2017.
- (2) Transportation of goods by Indian Railways is liable to GST and is taxed on forward charge basis.
- (3) GST is payable by XYZ Ltd. under reverse charge in terms of Section 5(3) of the IGST Act, 2017 read with Notification No. 10/2017-IT (R) dated 28-06-2017.
- (4) When the GTA pays tax @ 12%, tax is payable by the GTA under forward charge and not by the recipient under reverse charge - Notification No. 10/2017-IT (R) dated 28-06-2017.
- (5) Services provided by GTA by way of transport (in a goods carriage) of, *inter alia*, flour are exempt from GST *vide* Notification No. 9/2017-IT (R) dated 28-06-2017.
- (6) Services provided by GTA by way of transport (in a goods carriage) of milk is exempt from GST *vide* Notification No. 9/2017-IT (R) dated 28-06-2017. However, the said exemption is not available in respect of butter as butter is milk product and not milk.
GST is payable by XYZ Ltd. under reverse charge in terms of Section 5(3) of the IGST Act, 2017 read with Notification No. 10/2017-IT (R) dated 28-06-2017.
- (7) Services provided by a GTA by way of transport in a goods carriage of goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed ₹ 1,500, is also liable to GST. Since GTA is unregistered, XYZ Ltd. is liable to pay GST under reverse charge mechanism.
- (8) GST is payable by XYZ Ltd. under reverse charge in terms of Section 5(3) of the IGST Act, 2017 read with Notification No. 10/2017-IT (R) dated 28-06-2017.

- (ii) Computation of GST charged on transportation cost billed by XYZ Ltd. to its customers :

Supply of biscuits and transportation service - Principal Supply is transportation of Biscuits, hence GST rate of biscuits is applicable : Since XYZ Ltd. is supplying biscuits on FOR basis, the service of transportation of biscuits gets bundled with the supply of biscuits. Thus, the supply of biscuits and transportation service is a composite supply, chargeable to tax at the rate applicable to the principal supply (biscuits) *i.e.*, 12% [Section 8(a) of the CGST Act, 2017 read with the definition of 'composite supply' under section 2(30) of the CGST Act, 2017 and 'principal supply' under section 2(90) of the CGST Act, 2017].

| Particulars | Freight paid (₹) [A] | GST paid on freight (₹) [B] | Freight billed (with mark-up @ 2% on [A]) | GST charged @ 12% (₹) |
|--|----------------------|-----------------------------|---|-----------------------|
| Transportation of biscuits in a local mini van belonging to an individual | 54,000 | - | 55,080 | 6,610 |
| Transportation of biscuits by Indian Railways | 3,17,000 | 15,850 | 3,39,507 | 40,741 |
| Transportation of biscuits by GTA | 3,00,000 | 15,000 | 3,21,300 | 38,556 |
| Transportation of biscuits by GTA @ 12% | 73,000 | 8,760 | 83,395 | 10,007 |
| Total tax charged by XYZ Ltd. on transportation cost billed to the customers* | | | | 95,914 |

*Note: It has been assumed that there is no mark-up on transportation cost billed to sister concern (non-customer).

(60) SERVICES PROVIDED BY A GOODS TRANSPORT AGENCY TO AN UNREGISTERED PERSON [Entry 21A of Notification No. 12/2017-CT (Rate)] :

Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely: -

- any factory registered under or governed by the Factories Act, 1948; or
- any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or
- any Co-operative Society established by or under any law for the time being in force; or
- any body corporate established, by or under any law for the time being in force; or
- any partnership firm whether registered or not under any law including association of persons;
- any casual taxable person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act

are exempt.

(61) SERVICES PROVIDED BY A GTA TO PERSONS REGISTERED FOR TDS [Entry 21B of Notification No. 12/2017-CT (Rate)] :

Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, -

- a Department or Establishment of the Central Government or State Government or Union territory; or
- local authority; or
- Governmental agencies,

which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services are exempt.

Illustration 15 - GTA Services: Calculate the value of taxable supply of XYZ Transport Company engaged in the business of transport of goods by road for the month of April 2023. Give reasons for taxability or exemption of each item. Suitable assumptions may be made wherever required. XYZ transport company avails ITC. GST is leviable @ 12% :

| | (₹) |
|--|-----------|
| (1) Total freight charges received by 'XYZ' transport company | 25,00,000 |
| (2) Freight charges received from Government department registered only for the purpose of tax deduction at source | 2,00,000 |
| (3) Freight charges received from unregistered persons for transportation of their household goods | 50,000 |
| (4) Freight collected for transporting goods in small vehicles for persons who paid less than ₹ 1,500/- per trip | 1,50,000 |

Solution: Computation of Value of taxable supply and GST leviable thereon (amount in ₹) -

| | |
|---|-----------|
| Total freight received | 25,00,000 |
| Less: Freight charges received from Government department registered only for the purpose of tax deduction at source [Exempt vide Entry 21B of Notification No. 12/2017-CT (Rate)] | 2,00,000 |

| | |
|--|------------------|
| Less: Freight charges received from unregistered persons for transportation of their household goods [Exempt vide Entry 21A of Notification No. 12/2017-CT (Rate)] | 50,000 |
| Less: Freight collected for transporting goods in small vehicles for persons who paid less than ₹ 1,500 per trip (liable to GST) | - |
| Total value of taxable supply | 22,50,000 |
| GST payable @ 12% | 2,70,000 |

BANKING AND FINANCIAL SERVICES

(62) SERVICES BY THE RESERVE BANK OF INDIA [Entry 26 of Notification No. 12/2017-CT (Rate)] [Omitted by Notification No. 04/2022 -CT(Rate) dated 13-07-2022 w.e.f. 18-07-2022] :

Services by the Reserve Bank of India are exempt-

❖ **“Reserve Bank of India”** means the bank established under Section 3 of the Reserve Bank of India Act, 1934. [Para 2(zza) of Notification No. 12/2017-CT (Rate)]

(63) SERVICES BY WAY OF EXTENDING DEPOSITS, LOANS OR ADVANCES/ INTER SE SALE OR PURCHASE OF FOREIGN CURRENCY AMONGST BANKS OR AUTHORIZED DEALERS [Entry 27 of Notification No. 12/2017-CT (Rate)] :

Services by way of –

- (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (**other than interest involved in credit card services**);
- (b) *inter se* sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers

are exempt.

❖ **“Authorised dealer of foreign exchange”** shall have the same meaning assigned to “Authorised person” in Section 2(c) of the Foreign Exchange Management Act, 1999. [Para 2(j) of Notification No. 12/2017-CT (Rate)]

“Authorised person” means an authorised dealer, money changer, off-shore banking unit or any other person for the time being authorised under Section 10(1) of FEMA, 1999 to deal in foreign exchange or foreign securities. [Section 2(c) of the Foreign Exchange Management Act, 1999]

❖ **“Interest”** means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) **but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised.** [Para 2(zk) of Notification No. 12/2017-CT (Rate)]

Services provided by International Finance Corporation (IFC) and Asian Development Bank (ADB) are exempt from GST in terms of provisions of IFC Act, 1958 and ADB Act, 1966. The exemption will be available only to the services provided by ADB and IFC and not to any entity appointed by or working on behalf of ADB or IFC. – *Circular No. 83/02/2019-GST dated 01-01-2019*

GST is not applicable on incentive paid by MeitY to acquiring banks under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions :

- Under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions, the Government pays the acquiring banks an incentive as a percentage of value of RuPay Debit card transactions and low value BHIM-UPI transactions up to ₹ 2000.
- The Payments and Settlements Systems Act, 2007 prohibits banks and system providers from charging any amount from a person making or receiving a payment through RuPay Debit cards or BHIM-UPI.
- The service supplied by the acquiring banks in the digital payment system in case of transactions through RuPay/BHIM UPI is the same as the service that they provide in case of transactions through any other card or mode of digital payment. The only difference is that the consideration for such services, instead of being paid by the merchant or the user of the card, is paid by the central government in the form of incentive. However, it is not a consideration paid by the central

government for any service supplied by the acquiring bank to the Central Government. The incentive is in the nature of a subsidy directly linked to the price of the service and the same does not form part of the taxable value of the transaction in view of the provisions of section 2(31) and section 15 of the CGST Act, 2017.

- It is hereby clarified that incentives paid by MeitY to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.

- Circular No. 190/02/2023-GST dated 16-01-2023

Other Aspects :

- (i) **Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount:** This entry covers any such service wherein moneys due are allowed to be used or retained on payment of interest or on a discount. The words used are 'deposits, loans or advances' and have to be taken in the generic sense.

They would cover any facility by which an amount of money is lent or allowed to be used or retained on payment of what is commonly called the time value of money which could be in the form of an interest or a discount. This entry would not cover investments by way of equity or any other manner where the investor is entitled to a share of profit.

Illustrations of such services are -

- Fixed deposits or saving deposits or any other such deposits in a bank or a financial institution for which return is received by way of interest.
- Providing a loan or overdraft facility or a credit limit facility in consideration for payment of interest.
- Mortgages or loans with a collateral security to the extent that the consideration for advancing such loans or advances are represented by way of interest.
- Corporate deposits to the extent that the consideration for advancing such loans or advances are represented by way of interest or discount.

- (ii) **Service charges or administrative charges or entry charges** collected over and above interest on loan, advance or a deposit are not exempt and thus, represent taxable consideration.

Similarly, if some service charges or service fees or documentation fees or broking charges or such like fees or charges are charged on a derivative/ future contract/ forward contract/ invoice or cheque discounting, the same would be a consideration for supply of service and liable to GST.

- (iii) **Invoice discounting/cheque discounting or any other similar form of discounting** is covered only to the extent consideration is represented by way of discount as such discounting is a manner of extending a credit facility or a loan.

- (iv) **Any interest/ delayed payment charges charged to clients for delay in payment of brokerage amount/ settlement obligations/ margin trading facility** is exempt from GST since settlement obligations/ margin trading facilities are transactions which are in the nature of extending loans or advances and are covered by Entry 27.

- (v) **Charges for late payment of outstanding dues on credit card** : Interest charged on outstanding credit card balances has been specifically excluded from Entry 27. Hence, the same is liable to GST.

- (vi) **Collateralized Borrowing and Lending Obligations (CBLO) transactions** : In CBLO transaction, the borrowing bank pays an amount as consideration to the lending bank for funds provided by it for a short term. Such amount would qualify as 'consideration represented by way of interest or discount' and hence, would exempt from GST under Entry 27.

However, if any charges or fees are levied for such transactions, the same would be a consideration and would be liable to GST.

- (vii) **Instruments like repos and reverse repos** : Repos and reverse repos are financial instruments of short term call money market that are normally used by banks to borrow from or lend money to RBI. The margins, called the repo rate or reverse repo rate, in such transactions are nothing but interest charged for lending or borrowing of money. Thus, they have the characteristics of loans and deposits for interest and are accordingly exempt from GST under Entry 27.

(viii) Income from Commercial Paper (CP) or Certificates of Deposit (CD) : The transactions in Commercial Paper ('CP') and Certificate of Deposit ('CD') are in the nature of promissory notes. Consequently, they are included in the term 'money' and hence, are not chargeable to GST.

With regard to income from CPs or CDs, since these are the instruments for lending or borrowing money wherein consideration is represented by way of a discount or subscription to CPs or CDs, the same would be covered by entry 27 and is not liable to GST.

However, if some service charges or service fees or documentation fees or broking charges or such like fees or charges are charged, the same would be a consideration for supply of services and liable to GST.

(ix) Assignment or sale of secured or unsecured debts : As seen in Chapter 2 - Supply under GST, only actionable claims in respect of lottery, betting and gambling would be taxable under GST. Where sale, transfer or assignment of debts falls within the purview of actionable claims, the same would not be subject to GST.

Further, any charges collected in the course of transfer or assignment of a debt would be chargeable to GST, being in the nature of consideration for supply of services.

(x) Interest on debt instruments : As debt instruments such as debentures, bonds etc. are in the nature of loans, interest thereon will be exempt from GST.

(xi) Interest on a finance lease transaction : A finance lease is a method of borrowing against the asset. The interest represents the time value of the money expended by the bank in financing the asset.

However, in a financial lease the ownership of the asset is with the bank. In essence, it is a 'purchase the asset and lend it further' transaction for bank.

Therefore, neither the services are purely in the nature of extending loans nor the consideration for a financial lease is purely in the nature of interest. Thus, interest on finance lease transactions will be taxable under GST.

(xii) Transactions where loan of one bank is taken over by another bank : GST will be liable on any transaction processing fees levied for such takeover of loans, but not on the interest component (as interest is exempted).

(xiii) Interchange fees on card settlement fees paid/ shared by banks : Fees charged for card settlement is a consideration which is part of a separate transaction between the banks which are parties to this transaction and shall be liable to GST.

(xiv) Securitization transactions undertaken by banks : Securitized assets are in the nature of securities and hence not subject to GST.

However, if some service charges or service fees or documentation fees or broking charges or such like fees or charges are charged, the same would be a consideration for provision of services related to securitization and chargeable to GST.

Illustration 16 - Taxability under GST : With reference to the CGST Act, 2017, discuss the taxability of following activities relating to a bank: (a) Bank extended housing loan of ₹ 50 lakhs to Mr. A. (b) Bank received ₹ 50,000 as loan processing fee from Mr. A. (c) Bank received ₹ 6 lakhs as interest on loan from Mr. A.

Solution: In accordance with the provisions of CGST Act, 2017 the taxability of activities is -

- (a) The same is transaction in money, therefore not regarded as service as per Sec. 2(102) of CGST Act, 2017.
 (b) The loan processing fees received by bank will be liable for GST @ 18%. Hence, GST liability = ₹ 50,000 × 18% = ₹ 9,000.
 (c) ₹ 6 lakhs received as interest on loan will not be liable for GST as the same is exempt vide Entry 27 of Notification No. 12/2017-CT (Rate).

Illustration 17 - Computation of Value of taxable supply : M/s. Apna Bank Limited a Scheduled Commercial Bank has furnished the following details for the month of August, 2022 :

| Particulars | ₹ in crores (Excluding GST) |
|--|--------------------------------|
| Extended Housing Loan to its customers | 100 |
| Processing fees collected from its customers on sanction of loan | 20 |
| Commission collected from its customers on bank guarantee | 30 |

| | |
|--|----|
| Interest income on credit card issued by the bank | 40 |
| Interest received on housing loan extended by the bank | 25 |
| Minimum balance charges collected from current account and saving account holder | 1 |

Compute the Value of Taxable supply. Give reasons with suitable assumptions.

Solution: Computation of value of taxable supply (₹ in crores):

| | |
|--|-----------|
| Extended Housing Loan to its customers [It is transaction in money and does not come under the ambit of service] | Nil |
| Processing fees collected from its customers on sanction of loan [Since it represents taxable consideration, the same will be liable to GST] | 20 |
| Commission collected from its customers on bank guarantee [Since it represents taxable consideration, the same will be liable to GST] | 30 |
| Interest income on credit card issued by the bank [Liable to GST since credit card interest is specifically excluded from exemption provided in respect of interest vide Entry 27 of Notification No. 12/2017-CT (Rate)] | 40 |
| Interest received on housing loan extended by the bank [Interest on loan will not be liable for GST as the same is exempt vide Entry 27 of Notification No. 12/2017-CT (Rate)] | Nil |
| Minimum balance charges collected from current account and saving account holder [Since it represents taxable consideration, the same will be liable to GST] | 1 |
| Total value of taxable supply | 91 |

(64) SERVICES PROVIDED TO BSBD A/C HOLDERS UNDER PMJDY [Entry 27A of Notification No. 12/2017-CT (Rate)] :

Services provided by a banking company to **Basic Saving Bank Deposit (BSBD)** account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY) are exempt.

(65) CREDIT CARD, DEBIT CARD, CHARGE CARD OR OTHER PAYMENT CARD SERVICE - EXEMPT UPTO ₹ 2,000 PER TRANSACTION [Entry 34 of Notification No. 12/2017-CT (Rate)] :

Services by an acquiring bank, to any person in relation to settlement of an **amount upto ₹ 2,000** in a single transaction transacted through credit card, debit card, charge card or other payment card service are exempt.

⊗ **“Acquiring bank”** means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.

(66) SERVICES PROVIDED BY FINANCIAL INTERMEDIARIES LOCATED IN IFSC SEZ [Entry 39A of Notification No. 12/2017-CT (Rate)] :

Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR) are exempt.

Explanation: The intermediary of financial services in IFSC is a person, –

- (a) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or
- (b) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or
- (c) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or
- (d) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.

LIFE INSURANCE SERVICES

(67) LIFE INSURANCE SERVICES UNDER NPS [Entry 28 of Notification No. 12/2017-CT (Rate)] :

Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013 are exempt.

❖ **“Life insurance business”** has the same meaning as assigned to it in Section 2(11) of the Insurance Act, 1938. [Para 2(zn) of Notification No. 12/2017-CT (Rate)]

(68) LIFE INSURANCE SERVICES TO MEMBERS OF THE ARMY, NAVY AND AIR FORCE [Entry 29 of Notification No. 12/2017-CT (Rate)] :

Services of life insurance business provided or agreed to be provided by the **Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force**, respectively, under the Group Insurance Schemes of the Central Government are exempt.

(69) LIFE INSURANCE SERVICES TO COAST GUARD [Entry 29A of Notification No. 12/2017-CT (Rate)] :

Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government are exempt.

(70) LIFE INSURANCE SERVICES TO CENTRAL ARMED POLICE FORCE [Entry 29B of Notification No. 12/2017-CT (Rate)] :

Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force are exempt.

(71) LIFE INSURANCE SERVICES [Entry 36 of Notification No. 12/2017-CT (Rate)] :

Services of life insurance business provided under following schemes –

- (a) Janashree Bima Yojana;
 - (b) Aam Aadmi Bima Yojana;
 - (c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of ₹ 2,00,000;
 - (d) Varishtha Pension Bima Yojana;
 - (e) Pradhan Mantri Jeevan Jyoti Bima Yojana;
 - (f) Pradhan Mantri Jan Dhan Yojana;
 - (g) Pradhan Mantri Vaya Vandan Yojana
- are exempt.

❖ **“Life micro-insurance product”** shall have the same meaning as assigned to it in regulation 2(e) of the Insurance Regulatory and Development Authority (Micro-insurance) Regulations, 2005. [Para 2(zo) of Notification No. 12/2017-CT (Rate)]

SERVICES PROVIDED BY SPECIFIED BODIES

(72) ESI SERVICES [Entry 30 of Notification No. 12/2017-CT (Rate)] :

Services by the Employees’ State Insurance Corporation to persons governed under the Employees’ State Insurance Act, 1948 are exempt.

(73) EPF SERVICES [Entry 31 of Notification No. 12/2017-CT (Rate)] :

Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952 are exempt.

(74) SERVICES BY CMPFO [Entry 31A of Notf. No. 12/2017-CT (Rate)] :

Services by Coal Mines Provident Fund Organisation (CMPFO) to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 are exempt.

(75) SERVICES BY NATIONAL PENSION SYSTEM (NPS) TRUST [Entry 31B of Notf. No. 12/2017-CT (R)] :

Services by NPS Trust to its members against consideration in the form of administrative fee are exempt.

(76) IRDA SERVICES [Entry 32 of Notification No. 12/2017-CT (Rate)] [Omitted by Notification No. 04/2022-CT(Rate) dated 13-07-2022 w.e.f. 18-07-2022] :

Services provided by the Insurance Regulatory and Development Authority of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999 are exempt.

(77) INVESTOR PROTECTION SERVICES BY SEBI [Entry 33 of Notification No. 12/2017-CT (Rate)] [Omitted by Notification No. 04/2022 -CT(Rate) dated 13-07-2022 w.e.f. 18-07-2022] :

~~Services provided by the Securities and Exchange Board of India set up under the Securities and Exchange Board of India Act, 1992 by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market are exempt.~~

GENERAL INSURANCE SERVICES

(78) GENERAL INSURANCE SERVICES [Entry 35 of Notification No. 12/2017-CT (Rate)] :

Services of general insurance business provided under following schemes -

- (a) Hut Insurance Scheme;
 - (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);
 - (c) Scheme for Insurance of Tribals;
 - (d) Janata Personal Accident Policy and Gramin Accident Policy;
 - (e) Group Personal Accident Policy for Self-Employed Women;
 - (f) Agricultural Pumpset and Failed Well Insurance;
 - (g) Premia collected on export credit insurance;
 - (h) Restructured Weather Based Crop Insurance Scheme (RWCIS), approved by the Government of India and implemented by the Ministry of Agriculture;
 - (i) Jan Arogya Bima Policy;
 - (j) Pradhan Mantri Fasal Bima Yojana (PMFBY);
 - (k) Pilot Scheme on Seed Crop Insurance;
 - (l) Central Sector Scheme on Cattle Insurance;
 - (m) Universal Health Insurance Scheme;
 - (n) Rashtriya Swasthya Bima Yojana;
 - (o) Coconut Palm Insurance Scheme;
 - (p) Pradhan Mantri Suraksha Bima Yojna;
 - (q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;
 - (r) Bangla Shasya Bima
- are exempt.

❖ "General insurance business" has the same meaning as assigned to it in Section 3(g) of the General Insurance Business (Nationalisation) Act, 1972. [Para 2(zb) of Notification No. 12/2017-CT (Rate)]

(79) RE-INSURANCE SERVICES [Entry 36A of Notification No. 12/2017-CT (Rate)] :

Services by way of reinsurance of the insurance schemes specified in Entry No. 35 or 36 or 40 are exempt.

PENSION SCHEMES

(80) COLLECTION OF CONTRIBUTION UNDER ATAL PENSION YOJANA (APY) [Entry 37 of Notification No. 12/2017-CT (Rate)] :

Services by way of collection of contribution under the **Atal Pension Yojana** are exempt.

(81) COLLECTION OF CONTRIBUTION UNDER PENSION SCHEMES OF STATE GOVERNMENT [Entry 38 of Notification No. 12/2017-CT (Rate)] :

Services by way of collection of contribution under any pension scheme of the State Governments are exempt.

BUSINESS FACILITATOR / CORRESPONDENT

(82) BUSINESS FACILITATOR / CORRESPONDENT [Entry 39 of Notification No. 12/2017-CT (Rate)] :

Services by the following persons in respective capacities –

- (a) **business facilitator or a business correspondent** to a banking company with respect to accounts in its rural area branch;
 - (b) any person as an **intermediary** to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or
 - (c) **business facilitator or a business correspondent** to an insurance company in a rural area
- are exempt.

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| <p>❖ “Banking company” has the same meaning as assigned to it in Section 45A(a) of the Reserve Bank of India Act, 1934. [Para 2(l) of Notification No. 12/2017-CT (Rate)] “Banking company” means a banking company as defined in Section 5 of the Banking Regulation Act, 1949, and includes the State Bank of India, any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, any corresponding new bank constituted by Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, and any other financial institution notified by the Central Government in this behalf [Section 45A(a) of the Reserve Bank of India Act, 1934].</p> <p>❖ “Business facilitator or business correspondent” means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the guidelines issued by the Reserve Bank of India. [Para 2(o) of Notification No. 12/2017-CT (Rate)]</p> <p>❖ “Insurance company” means a company carrying on life insurance business or general insurance business. [Para 2(zj) of Notification No. 12/2017-CT (Rate)]</p> <p>❖ “Intermediary” has the same meaning as assigned to it in Section 2(13) of the Integrated Goods and Services Tax Act, 2017. [Para 2(zl) of Notification No. 12/2017-CT (Rate)]</p> <p>❖ “Rural area” means the area comprised in a village as defined in land revenue records, excluding – ⇒ the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or ⇒ any area that may be notified as an urban area by the Central Government or a State Government. [Para 2(zzc) of Notification No. 12/2017-CT (Rate)]</p> |
|---|

Other Aspects : It is still a big challenge for India to make the financial services accessible in rural areas. In many rural areas, either there are no banks or number of banks is insufficient. In order to counter this problem and ensure greater financial inclusion, the Reserve Bank of India (RBI) introduced the Business Correspondents and Business Facilitator Model through guidelines in 2006 allowing banks to employ two categories of intermediaries – known as Business facilitators (BFs) and Business correspondents (BCs).

BCs / BFs help villagers to open bank accounts and provide other banking services to them. They act as an intermediary between the bank and its customers. Banks, in turn, pay commission/ fee to the BCs/BFs. According to the RBI guidelines, while the BCs are permitted to carry out transactions on behalf of the bank as agents, the BFs can refer clients, pursue the clients' proposal and facilitate the bank to carry out its transactions, but cannot transact on behalf of the bank.

GST on Services of Business Facilitator (BF) or a Business Correspondent (BC) to Banking Company [Circular No. 86/05/2019-GST dated 01-01-2019]

| Issue 1 | Issue 2 |
|---|---|
| <p>Clarification on value of services by BF/BC to a banking company : The agreement of banks with the BC specifically prohibits them from directly charging any fee to the customers for services rendered by them on behalf of the bank. On the other hand, banks (and not BCs) are permitted to collect reasonable service</p> | <p>Clarification on the scope of services by BF/BC to a banking company with respect to accounts in rural areas : It is clarified that for the purpose of availing exemption from GST, the services provided by a BF/BC to a banking company in their respective individual capacities should fall</p> |

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|--|---|
| <p>charges from the customers for such service in a transparent manner. The arrangements of banks with the Business Correspondents specify the requirement that the transactions are accounted for and reflected in the bank's books by end of the day or the next working day, and all agreements/ contracts with the customer shall clearly specify that the bank is responsible to the customer for acts of omission and commission of the Business Facilitator/ Correspondent.</p> <p>Hence, banking company is the service provider in the business facilitator model or the business correspondent model operated by a banking company as per RBI guidelines. The banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via business facilitator or the business correspondent.</p> | <p>under the Heading 9971 and that such services should be with respect to accounts in a branch located in the rural area of the banking company. The procedure for classification of branch of a bank as located in rural area and the services which can be provided by BF/BC, is governed by the RBI guidelines. Therefore, classification adopted by the bank in terms of RBI guidelines in this regard should be accepted.</p> |
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LEASING SERVICES

(83) UPFRONT AMOUNT PAYABLE IN RESPECT OF SERVICE BY WAY OF GRANTING OF LONG TERM LEASE OF INDUSTRIAL PLOTS OR PLOTS FOR DEVELOPMENT OF INFRASTRUCTURE FOR FINANCIAL BUSINESS [Entry 41 of Notification No. 12/2017-CT (Rate)] :

Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of **long term lease of 30 years, or more** of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having **20%** or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area is exempt.

Conditions :

- (i) **Use for specified purpose :** The leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area.
- (ii) **Monitoring by State Government :** The State Government concerned shall monitor and enforce the above condition as per the order issued by the State Government in this regard.
- (iii) **Tax, interest and penalty payable on violation of conditions :** In case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or buyer or owner shall be jointly and severally liable to pay such amount of central tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty.
- (iv) **Agreement to incorporate the terms of condition :** The lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub-lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the central tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above condition and that the parties to the said agreements undertake to comply with the same.

Explanation : The Central Government, State Government or Union territory shall have **20%** or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory.

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| <p><i>Circular No. 101/20/2019-GST dated 30-04-2019</i></p> | <p>Upfront amount payable in installments for long term lease of plots - exempt from GST : CBIC <i>vide</i> this Circular has clarified that GST exemption on the upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease (of 30 years, or more) of industrial plots or plots for development of infrastructure for financial business under Entry No. 41 of Exemption</p> |
|---|---|

| | |
|--|--|
| | Notification 12/2017-CT (R) dated 28-06-2017 is admissible irrespective of whether such upfront amount is payable or paid in one or more instalments, provided the amount is determined upfront. |
| Circular No. 177/09/2022-TRU dated 03-08-2022 | <p>Issue : Whether location charges or preferential location charges (PLC) collected in addition to the lease premium for long term lease of land constitute part of the lease premium or of upfront amount charged for long term lease of land and are eligible for the same tax treatment.</p> <p>Clarification : Allowing choice of location of plot is integral part of supply of long-term lease of plot and therefore, location charge is nothing but part of consideration charged for long term lease of plot. Being charged upfront along with the upfront amount for the lease, the same is exempt.</p> <p>Accordingly, as per recommendation of the GST Council, it is clarified that location charges or preferential location charges (PLC) paid upfront in addition to the lease premium for long term lease of land constitute part of upfront amount charged for long term lease of land and are eligible for the same tax treatment, and thus eligible for exemption under Sl. No. 41 of notification no. 12/2017-CT (Rate) dated 28.06.2017.</p> |

LEGAL SERVICES

(84) LEGAL SERVICES [Entry 45 of Notification No. 12/2017-CT (Rate)] :

Services provided by –

| | | |
|-------------|--|---|
| (a) | an arbitral tribunal to – | <p>(i) any person other than a business entity; or</p> <p>(ii) a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017 ; or</p> <p>(iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;</p> |
| (b) | a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to – | <p>(i) an advocate or partnership firm of advocates providing legal services;</p> <p>(ii) any person other than a business entity; or</p> <p>(iii) a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017; or</p> <p>(iv) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;</p> |
| (c) | a senior advocate by way of legal services to- | <p>(i) any person other than a business entity; or</p> <p>(ii) a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017;</p> <p>(iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;</p> |
| are exempt. | | |

- ⊛ **“Arbitral tribunal”** has the same meaning as assigned to it in Section 2(d) of the Arbitration and Conciliation Act, 1996. [Para 2(i) of Notification No. 12/2017-CT (Rate)]
“Arbitral tribunal” means a sole arbitrator or a panel of arbitrators. [Section 2(d) of the Arbitration and Conciliation Act, 1996]
- ⊛ **“Advocate”** has the same meaning as assigned to it in Section 2(1)(a) of the Advocates Act, 1961. [Para 2(b) of Notification No. 12/2017-CT (Rate)]
“Advocate” means an advocate entered in any roll under the provisions of the Advocates Act, 1961. [Section 2(1)(a) of the Advocates Act, 1961]

- ❖ **“Senior advocate”** has the same meaning as assigned to it in Section 16 of the Advocates Act, 1961. [Para 2(zzd) of Notification No. 12/2017-CT (Rate)]
Section 16 of the Advocates Act, 1961 provides that an advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability standing at the Bar or special knowledge or experience in law he is deserving of such distinction. Senior advocates shall, in the matter of their practice, be subject to such restrictions as the Bar Council of India may, in the interest of the legal profession, prescribe.
- ❖ **“Legal service”** means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority. [Para 2(zm) of Notification No. 12/2017-CT (Rate)]

Other Aspects :

(a) Reverse charge :

| | Category of Supply of Services | Supplier of service | Recipient of Service (Liable to pay GST) |
|----|--|--|---|
| 1. | Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly. | An individual advocate including a senior advocate or firm of advocates. | Any business entity located in the taxable territory. Business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services. |
| 2. | Services supplied by an arbitral tribunal to a business entity. | An arbitral tribunal. | Any business entity located in the taxable territory. |

(b) Circular No. 27/01/2018-GST dated 04-01-2018 - Reverse charge :

| Questions/ Clarifications sought | Clarifications |
|---|---|
| Whether legal services other than representational services provided by an individual advocate or a senior advocate to a business entity are liable for GST under reverse charge mechanism? | Yes. In case of legal services including representational services provided by an advocate including a senior advocate to a business entity, GST is required to be paid by the recipient of the service under reverse charge mechanism, <i>i.e.</i> the business entity. |

Illustration 18 – Legal Services : Mr. Abhishek, an advocate, has rendered the following services in the month of October, 2022 :

- (i) Representing Mr. Archit in his divorce case before High Court.
- (ii) Representing Mr. Aniket, an architect by profession, in relation to his GST liability [Turnover of Mr. Aniket in the financial year 2021-22 was ₹ 25 lakh]
- (iii) Legal consultancy given to Sunil Associates, a partnership firm of advocates [Turnover of services of Sunil Associates in the financial year 2021-22 was ₹ 28 lakh]

Examine whether GST is payable on each of the above services assuming Mr. Abhishek to be –

- (a) an advocate other than a senior advocate.
- (b) a senior advocate in terms of Section 16 of the Advocates Act, 1961?

Solution: In background of Entry 45 of Notification No. 12/2017-CT (Rate) dated 28-06-2017, GST liability of each of the services rendered by Abhishek, are examined hereunder –

| S. No. | When Mr. Abhishek is an advocate other than senior advocate | When Mr. Abhishek is a senior advocate |
|--------|---|---|
| (i) | Service of representing Mr. Archit in his divorce case will be exempt as Mr. Archit is not a business entity. | Such service will be exempt even if the same are rendered by a senior advocate. |

| | | |
|-------|--|--|
| (ii) | Since the turnover of Mr. Aniket, a business entity, is more than such amount in the preceding financial year as makes it liable for registration under the CGST Act, 2017 [<i>i.e.</i> ₹ 20 lakh], the same will be liable to GST. | Such services, when provided by senior advocate, will also be liable to GST. |
| (iii) | Legal consultancy provided by an advocate to partnership firm of advocates is exempt from GST. | Such services, when provided by a senior advocate, will be liable to GST if the turnover of the partnership firm (business entity) in the preceding financial year is more than such amount as makes it liable for registration under the CGST Act, 2017. Thus, legal consultancy provided by Mr. Abhishek to Sunil Associates, a partnership firm of advocates, will be liable to GST. |

SPONSORSHIP OF SPORTS

(85) SPONSORSHIP OF SPORTING EVENTS [Entry 53 of Notification No. 12/2017-CT (Rate)] :

Services by way of **sponsorship of sporting events** organised –

- (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;
 - (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
 - (c) by the Central Civil Services Cultural and Sports Board;
 - (d) as part of national games, by the Indian Olympic Association; or
 - (e) under the Panchayat Yuva Kreedaa Aur Khel Abhiyaan Scheme
- are exempt.

SKILL DEVELOPMENT SERVICES

(86) SERVICES PROVIDED BY NATIONAL SKILL DEVELOPMENT CORPORATION/ SECTOR SKILL COUNCIL/ ASSESSMENT AGENCY/ TRAINING PARTNER [Entry 69 of Notif. No. 12/2017-CT (Rate)] :

Any services provided by, –

- (a) the National Skill Development Corporation set up by the Government of India;
 - (b) a Sector Skill Council approved by the National Skill Development Corporation;
 - (c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;
 - (d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council in relation to –
 - (i) the National Skill Development Programme implemented by the National Skill Development Corporation; or
 - (ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or
 - (iii) any other Scheme implemented by the National Skill Development Corporation
- are exempt.

(87) SERVICES OF ASSESSING BODIES BY WAY OF ASSESSMENTS UNDER THE SKILL DEVELOPMENT INITIATIVE SCHEME [Entry 70 of Notification No. 12/2017-CT (Rate)] :

Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme are exempt.

(88) SERVICES PROVIDED BY TRAINING PROVIDERS UNDER DEEN DAYAL UPADHYAYA GRAMEEN KAUSHALYA YOJANA [Entry 71 of Notification No. 12/2017-CT (Rate)] :

Services provided by training providers (Project implementation agencies) under **Deen Dayal Upadhyaya Grameen Kaushalya Yojana** implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training are exempt.

Illustration 19 - Educational services : Educators Ltd., providing educational services, furnishes you with the following information for the various services provided by it. It has collected an aggregate sum of ₹ 25 lakhs during the month ended 30-09-2022 as under -

- (1) Receipts of 'Gyan sagar' an industrial training institute (ITI) affiliated to the National Council for Vocational Training (NCVT) : ₹ 1.2 lakhs
- (2) Receipts of 'Edu care' a vocational education provider affiliated to Sector Skill Council formed under National Skill Development Corporation (NSDC) : ₹ 1.8 lakhs
- (3) Receipts of 'Abhigyan Skill Centre' an industrial training centre (ITC) affiliated to the State Council for Vocational Training, Rajasthan : ₹ 2 lakhs
- (4) Receipts of 'Mission', an institute, registered with Directorate General of Employment and Training (DGET), Union Ministry of Labour and Employment, running a Modular Employable Skill Course (MESC) approved by the National Council of Vocational Training : ₹ 1 lakhs
- (5) Receipts of 'Scinart' a Commercial coaching institute providing commercial coaching in the field of arts and science : ₹ 0.8 lakhs (no certificate was issued on completion of the training)
- (6) Receipts of 'Commerce concepts' a Commercial coaching institute providing coaching in the field of commerce : ₹ 1.2 lakhs (a certificate was awarded to each trainee after completion of the training)
- (7) Receipts of Gurukul school providing education upto higher secondary : ₹ 6 lakhs
- (8) Receipts of 'Play Kids' school providing education upto primary level : ₹ 11 lakhs (such receipts includes receipts from renting of premises to commercial coaching centre : ₹ 3 lakhs)

Compute the value of taxable supply and GST payable thereon. All the amounts are exclusive of GST. Rate of GST-18%.

Solution: Computation of Value of taxable supply and GST liability (amount in ₹)–

| | |
|--|-----------|
| Total Receipts | 25,00,000 |
| Less: Receipts of 'Gyan sagar' an industrial training institute (ITI) affiliated to the National Council for Vocational Training (NCVT), are not liable to GST, since the same are exempt <i>vide</i> Entry 66 of Notification No. 12/2017-CT (Rate). | -1,20,000 |
| Less: Receipts of 'Edu-care' a vocational education provider affiliated to Sector Skill Council formed under National Skill Development Corporation (NSDC) are exempt <i>vide</i> Entry 69 of Notification No. 12/2017-CT (Rate). | -1,80,000 |
| Less: Receipts of 'Abhigyan Skill Centre' an industrial training centre (ITC) affiliated to the State Council for Vocational Training, Rajasthan, not liable to GST, since the same are exempt <i>vide</i> Entry 66 of Notification No. 12/2017-CT (Rate). | -2,00,000 |
| Less: Receipts of 'Mission', an institute, registered with Directorate General of Employment and Training (DGET), Union Ministry of Labour and Employment, running a Modular Employable Skill Course (MESC) approved by the National Council of Vocational Training - Not liable to GST, since the same is exempt <i>vide</i> Entry 66 of Notification No. 12/2017-CT (Rate). | -1,00,000 |
| Less: Receipts of 'Scinart' a Commercial coaching institute providing commercial coaching in the field of arts and science shall be liable for GST. | Taxable |
| Less: Receipts of 'Commerce concepts' a Commercial coaching institute providing coaching in the field of commerce shall be liable for GST irrespective of the fact that a certificate was awarded to each trainee after completion of the training. | Taxable |
| Less: Receipts of Gurukul school providing education upto higher secondary shall are exempt <i>vide</i> Entry 66 of Notification No. 12/2017-CT (Rate)]. | -6,00,000 |

| | |
|--|-----------------|
| Less: Receipts of 'Play Kids' school providing education upto primary level i.e. ₹ 8 lakhs are exempt vide Entry 66 of Notification No. 12/2017-CT (Rate). However, receipts from renting of premises by the school to commercial coaching centre shall be liable for GST. | -8,00,000 |
| Value of taxable supply | 5,00,000 |
| GST payable @ 18% | 90,000 |

PERFORMANCE BY ARTIST

(89) ART RELATED SERVICES [Entry 78 of Notification No. 12/2017-CT (Rate)] :

Services by an artist by way of a performance in folk or classical art forms of –

- (a) music, or
- (b) dance, or
- (c) theatre,

if the consideration charged for such performance is **not more than ₹ 1,50,000** are exempt.

However, the **exemption shall not apply** to service provided by such artist as a **brand ambassador**.

❖ **“Brand ambassador”** means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person. [Para 2(m) of Notification No. 12/2017-CT (Rate)]

Other Aspects :

The activities by a performing artist in folk or classical art forms of music, dance, or theatre are exempt if consideration **does not exceed ₹ 1,50,000**. However, if consideration from such activities **exceeds ₹ 1,50,000**, entire consideration is subject to GST.

Further, all other activities by an artist in **other art forms** e.g. western music or dance, modern theatres, performance of actors in films or television serials would be taxable. Similarly activities of artists in **still art forms** e.g. painting, sculpture making etc. are **taxable**.

However, the exemption shall not apply to service provided by such artist as a brand ambassador.

‘Brand ambassador’ means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person.

Illustration 20 – Art related Services: Mr. Navab, a performing artist, provides the following information relating to December, 2022. Receipts from:

| Particulars | ₹ |
|--|-----------|
| (1) Performing classical dance | 98,000 |
| (2) Performing in television serial | 2,80,000 |
| (3) Services as brand ambassador | 12,00,000 |
| (4) Coaching in recreational activities relating to arts | 2,10,000 |
| (5) Activities in sculpture making | 3,10,000 |
| (6) Performing western dance | 90,000 |

Determine the value of taxable supply and GST payable by Mr. Navab for December, 2022. GST @ 18% has been charged separately, wherever applicable.

Solution: Computation of Value of taxable supply and GST liability (amount in ₹)–

| | | |
|---|--------|------------------|
| Classical dance performance | [WN-1] | Nil |
| Performance in television serial [Taxable since not covered in folk or classical art forms] | | 2,80,000 |
| Services as brand ambassador | [WN-1] | 12,00,000 |
| Coaching in recreational activities relating to arts | [WN-2] | Nil |
| Sculpture making activities [Taxable as it is an activity in still art form] | | 3,10,000 |
| Western dance performance [Taxable since not covered in folk or classical art forms] | | 90,000 |
| Value of taxable supply | | 18,80,000 |
| GST payable @ 18% | | 3,38,400 |

Working Notes:

- (1) Services by a performing artist in folk or classical art forms of,– (a) music, or (b) dance, or (c) theatre, if the consideration charged for such performance is not more than ₹ 1,50,000 are Exempt from GST *vide* Entry 78 of Notification No. 12/2017-CT (Rate). However, the exemption shall not apply to service provided by such artist as a brand ambassador.
- (2) Services by way of training or coaching in recreational activities relating to arts or culture by an individual are Exempt from GST *vide* Entry 80 of Notification No. 12/2017-CT (Rate).

RIGHT TO ADMISSION TO VARIOUS EVENTS

(90) SERVICES BY WAY OF ADMISSION TO MUSEUM, NATIONAL PARK ETC. [Entry 79 of Notification No. 12/2017-CT (Rate)] :

Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo are exempt.

- ❖ **“National park”** has the same meaning as assigned to it in Section 2(21) of the Wild Life (Protection) Act, 1972. [Para 2(zq) of Notification No. 12/2017-CT (Rate)]
- ❖ **“Tiger reserve”** has the same meaning as assigned to it in Section 38K(e) of the Wild Life (Protection) Act, 1972. [Para 2(zzl) of Notification No. 12/2017-CT (Rate)]
- ❖ **“Wildlife sanctuary”** means a sanctuary as defined in the Section 2(26) of The Wild Life (Protection) Act, 1972. [Para 2(zzp) of Notification No. 12/2017-CT (Rate)]
- ❖ **“Zoo”** has the same meaning as assigned to it in the Section 2(39) of the Wild Life (Protection) Act, 1972. [Para 2(zzq) of Notification No. 12/2017-CT (Rate)]

(91) SERVICES BY WAY OF ADMISSION TO PROTECTED MONUMENT [Entry 79A of Notification No. 12/2017-CT (Rate)] :

Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or any of the State Acts, for the time being in force are exempt.

(92) ADMISSION TO ENTERTAINMENT EVENTS OR ACCESS TO AMUSEMENT FACILITIES [Entry 81 of Notification No. 12/2017-CT (Rate)] :

Services by way of right to admission to –

- (a) circus, dance, or theatrical performance including drama or ballet;
- (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;
- (c) recognised sporting event;
- (d) planetarium,

where the consideration for right to admission to the events or places as referred to in items (a), (b), (c) or (d) above is not more than ₹ 500 per person are exempt.

- ❖ **“Recognised sporting event”** means any sporting event, –
 - (i) organised by a recognised sports body where the participating team or individual represent any district, state, zone or country;
 - (ii) organised –
 - (A) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone;
 - (B) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
 - (C) by Central Civil Services Cultural and Sports Board;
 - (D) as part of national games, by Indian Olympic Association; or
 - (E) under Panchayat Yuva Kreedha Aur Khel Abhiyaan (PYKKA) Scheme. [Para 2(zw) of Notification No. 12/2017-CT (Rate)]

Other Aspects:

- (i) **Valuation in case of Entry to casinos and Gambling Services :** GST would apply on entry to casinos as well as on betting/ gambling services being provided by casinos on the transaction value of betting, *i.e.* the total bet value, in addition to GST levy on any other services being provided by the casinos (*such as services by way of supply of food/drinks etc. at the casinos*). [Circular No. 27/01/2018-GST dated 04-01-2018]
- (ii) **Elephant/ camel joy rides - not covered under Passenger Transportation Services :** Elephant/ camel joy rides cannot be classified as transportation services. These services will be covered under recreational, cultural and sporting services treating them as joy rides. Threshold exemption being available to small service providers.

SERVICES BY UNINCORPORATED BODY OR NON PROFIT ENTITY**(93) SERVICE BY AN UNINCORPORATED BODY OR A NON- PROFIT ENTITY TO MEMBERS [Entry 77 of Notification No. 12/2017-CT (Rate)] :**

Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution -

- (a) as a trade union;
- (b) for the provision of carrying out any activity which is exempt from the levy of Goods and service tax; or
- (c) up to an amount of ₹ 7,500 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex,

are exempt.

☞ **"Trade union"** has the same meaning as assigned to it in Section 2(h) of the Trade Unions Act, 1926. [Para 2(zzn) of Notification No. 12/2017-CT (Rate)]

Other Aspects :

Co-operative Housing Societies : Co-operative Housing Societies are entities registered under the co-operative laws of the respective States. These are a collective body of persons, who stay in a residential society and as a collective body, they supply certain services to its members, be it collecting statutory dues from its members and remitting to statutory authorities, maintenance of the building, security etc.

A Co-operative Housing Society is akin to a club, which is composed of its members. Service provided by a Housing Society to its members is treated as service provided by one person to another. The activities of the housing society would attract the levy of GST and the housing society would be required to register and comply with the GST Law.

Clarification on issues related to GST on monthly subscription/contribution charged by a Residential Welfare Association from its members. [Circular No.109/28/2019-GST dated 22-07-2019]

| | Issue | Clarification |
|----|---|--|
| 1. | Are the maintenance charges paid by residents to the Resident Welfare Association (RWA) in a housing society exempt from GST and if yes, is there an upper limit on the amount of such charges for the exemption to be available? | Supply of service by RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of ₹ 7,500 per month per member for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST. |
| 2. | A RWA has aggregate turnover of ₹ 20 lakh or less in a financial year. Is it required to take registration and pay GST on maintenance charges if the amount of such charges is more than ₹ 7,500/- per month per member? | No. If aggregate turnover of an RWA does not exceed ₹ 20 lakh in a financial year, it shall not be required to take registration and pay GST even if the amount of maintenance charges exceeds ₹ 7,500/- per month per member. RWA shall be required to pay GST on monthly subscription/ contribution charged from its members, only if such subscription is more than ₹ 7,500/- per month per member and the annual aggregate turnover of RWA by way of supplying of services and goods is also ₹ 20 lakhs or more. |

| | | Annual turnover of RWA | Monthly maintenance charge | Whether exempt? |
|----|---|---|--|-----------------|
| | | More than ₹ 20 lakhs | More than ₹ 7,500/- ₹ 7,500/- or less | No Yes |
| | | ₹ 20 lakhs or less | More than ₹ 7,500/- ₹ 7,500/- or less | Yes Yes |
| 3. | Is the RWA entitled to take input tax credit of GST paid on input and services used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than ₹ 7,500/- per month per member? | RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services. | | |
| 4. | Where a person owns two or more flats in the housing society or residential complex, whether the ceiling of ₹ 7,500/- per month per member on the maintenance for the exemption to be available shall be applied per residential apartment or per person. | As per general business sense, a person who owns two or more residential apartments in a housing society or a residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. The ceiling of ₹ 7,500/- per month per member shall be applied separately for each residential apartment owned by him <i>For example</i> , if a person owns two residential apartments in a residential complex and pays ₹ 15,000/- per month as maintenance charges towards maintenance of each apartment to the RWA (₹ 7,500/- per month in respect of each residential apartment), the exemption from GST shall be available to each apartment. | | |
| 5. | How should the RWA calculate GST payable where the maintenance charges exceed ₹ 7,500/- per month per member? Is the GST payable only on the amount exceeding ₹ 7,500/- or on the entire amount of maintenance charges? | The exemption from GST on maintenance charges charged by a RWA from residents is available only if such charges do not exceed ₹ 7,500/- per month per member. In case the charges exceed ₹ 7,500/- per month per member, the entire amount is taxable. <i>For example</i> , if the maintenance charges are ₹ 9,000/- per month per member, GST @ 18% shall be payable on the entire amount of ₹ 9,000/- and not on [₹ 9,000 - ₹ 7,500] = ₹ 1,500/- | | |

Illustration 21 – Services provided by Resident Welfare Association: The Resident Welfare Association (RWA) of Blue Heaven Housing Society in Delhi provides the following information with respect to the various amounts received by it in the month of November, 2022.

| Particulars | ₹ |
|---|-----------|
| (1) Monthly subscription collected from member families (₹ 10,000 each from 100 families) | 10,00,000 |
| (2) Electricity charges levied by State Electricity Board on the members of RWA [The same was collected from members and remitted to the Board on behalf of members.] | 3,50,000 |
| (3) Electricity charges levied by State Electricity Board on the RWA in respect of electricity consumed for common use of lifts and lights in common area. [Bill was raised in the name of RWA. RWA collected the said charges by apportioning them equally among 100 families and then, remitted the same to the Board.] | 4,32,400 |
| (4) Proceeds from sale of entry tickets to a musical performance conducted by the RWA in the park of Blue Heaven Housing Society [Where the consideration for admission is not more than ₹ 500 per person.] | 40,000 |
| (5) Other Services to non-members | 2,92,000 |

Compute the value of taxable supply and GST liability of RWA of Blue Heaven Housing Society for the month of November, 2022. It does not avail threshold exemption.

Notes: (i) All the above amounts are exclusive of GST (ii) Wherever applicable, the time of supply falls in the month of November, 2022. (ii) Rate of GST – 18%.

Solution: Computation of Value of taxable supply and GST liability (amount in ₹)–

| | | |
|--|--------|------------------|
| Monthly subscription charges | [WN 1] | 10,00,000 |
| Amount collected towards electricity charges levied by State Electricity Board on the members of RWA | [WN 2] | - |
| Amount collected towards electricity charges levied by State Electricity Board on the RWA in respect of electricity consumed for common use of lifts and lights in common area | [WN 3] | 4,32,400 |
| Proceeds from sale of entry tickets to musical performance held in the park of the Housing Society | [WN 4] | - |
| Other Services to non members [Liabale for GST] | | 2,92,000 |
| Value of taxable supply exclusive of GST | | 17,24,400 |
| GST payable @ 18% | | 3,10,392 |

Working Notes:

- (1) If per month per member contribution of any or some members of a RWA exceeds ₹ 7,500, entire contribution of such members whose per month contribution exceeds ₹ 7,500 would be ineligible for the exemption under the said notification. GST would then be leviable on the aggregate amount of monthly contribution of such members. [Circular No.109/28/2019- GST dated 22-07-2019]
- (2) Services provided by a RWA in the name of its members, acting as a “pure agent” of its members, are excluded from value of taxable supply available for the purposes of exemption provided under mega exemption notification.
- (3) In the case of electricity bills issued in the name of RWA, in respect of electricity consumed for common use of lifts and lights in common area, etc., the exclusion from the value of taxable supply would not be available, since there is no agent involved in these transactions.
- (4) Entry to entertainment events where the consideration for admission is not more than ₹ 500 per person is exempt vide Entry 81 of Notification No. 12/2017-CT (Rate).

(94) SERVICE BY AN UNINCORPORATED BODY OR A NON- PROFIT ENTITY TO MEMBERS [Entry 77A of Notification No. 12/2017-CT (Rate)] :

Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,-

- (i) activities relating to the welfare of industrial or agricultural labour or farmers; or
- (ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,

to its own members against consideration in the form of membership fee upto an amount of ₹ 1,000 per member per year are exempt.

OTHER EXEMPT SERVICES

(95) TRANSFER OF GOING CONCERN [Entry 2 of Notification No. 12/2017-CT (Rate)] :

Services by way of **transfer of a going concern**, as a whole or an independent part thereof are exempt.

Other aspects:

- (i) Transfer of a going concern means transfer of a running business which is capable of being carried on by the purchaser as an independent business, but shall not cover mere or predominant transfer of an activity comprising a service.

Such sale of business as a whole will comprise comprehensive sale of immovable property, goods and transfer of unexpected orders, employees, goodwill etc.

Since the transfer in title is not merely a transfer in title of either the immovable property or goods or even both it may amount to service and has thus been exempted.

- (ii) As per Para 4(a) of Schedule II, Goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets is regarded as supply of goods. In case transfer is without consideration, it will be liable to GST, if input tax credit was availed on such goods as per clause I of Schedule I.
- (iii) As per Para 4 (c) of Schedule II, where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless the business is transferred as a going concern to another person. Thus, transfer as going concern would also not amount to supply of goods as per Schedule II.

(96) SUPPLY OF SERVICES ASSOCIATED WITH TRANSIT CARGO TO NEPAL AND BHUTAN (LANDLOCKED COUNTRIES) [Entry 9B of Notification No. 12/2017-CT (Rate)] :

Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries) are exempt.

Whether exemption under Sl. No. 9B of notification No. 12/2017-CT (R) dated 28-06-2017 covers services associated with transit cargo both to and from Nepal and Bhutan. – Circular No. 177/09/2022-TRU dated 03-08-2022

| Issue | Clarification |
|---|---|
| Applicability of GST on transportation of empty containers returning from Nepal and Bhutan after delivery of transit cargo, to India. | It is also clarified that movement of empty containers from Nepal and Bhutan, after delivery of goods there, is a service associated with the transit cargo to Nepal and Bhutan and is therefore covered by the exemption. |

(97) RENTING OF RESIDENTIAL DWELLING FOR USE AS RESIDENCE [Entry 12 of Notification No. 12/2017-CT (Rate)] [Inserted by Notification No. 15/2022- CT (Rate) w.e.f. 01-01-2023] :

Services by way of renting of residential dwelling for use as residence **except where the residential dwelling is rented to a registered person** are exempt.

Explanation : Services by way of renting of residential dwelling to a registered person where, –

- (i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and
- (ii) such renting is on his own account and not that of the proprietorship concern shall be exempt.

Note : Services by way of renting of residential dwelling for use as residence **where the residential dwelling is rented to a registered person is liable to GST under reverse charge mechanism.**

Illustration 22 – Renting of Immovable property : M/s. PQR Properties registered under GST as taxable person is engaged in the business of renting various immovable properties owned by it. During the month ending 31-03-2023, it collected a rent of ₹ 7,10,000. The said sum includes rent from :

- (1) Vacant land used for agriculture : ₹ 50,000 ;
- (2) Land used for Appu Circus : ₹ 80,000 ;
- (3) Houses let to unregistered individuals for residential purposes : ₹ 70,000 ;
- (4) Houses let to registered person being company assessee for residential purposes : ₹ 1,70,000 ;
- (5) Residential house let out to Mr. X a registered sole proprietor for his personal use and on his own account : ₹ 1,00,000
- (6) Vacant land, given on lease to M/s. ABC Ltd. for construction of building at a later stage to be used for furtherance of business or commerce : ₹ 40,000 ;
- (7) Premises let to a temple trust : ₹ 40,000 ;
- (8) Premises let to a coaching centre : ₹ 80,000 ;
- (9) Building let to a theater : ₹ 80,000.

Compute the amount of GST payable by the firm, assuming that the rent is exclusive of GST, if any, applicable in each case. Rate of GST - 18%. Make suitable assumptions.

Solution: Computation of GST payable (amount in ₹) –

| | |
|---|-----------------|
| Total Rent | 7,10,000 |
| Less: | |
| (1) Rent from vacant land used for agriculture [Exempt vide Entry No. 54 of Exemption Notification No. 12/2017-CT (R)] | 50,000 |
| (2) Rent from land used for Appu Circus [Liable to GST] | Taxable |
| (3) Houses let out to unregistered individual [Exempt vide Entry No. 12 of Exemption Notification No. 12/2017-CT (R)] | 70,000 |
| (4) Houses let to registered person being company assessee for residential purposes [Liable to tax under reverse charge mechanism] | 1,70,000 |
| (5) Residential house let out to Mr. X a registered sole proprietor for his personal use and on his own account [Exempt vide Entry No. 12 of Notification No. 12/2017-CT (R)] | 1,00,000 |
| (6) Vacant land, given on lease to M/s. ABC Ltd. for construction of building at a later stage to be used for furtherance of business or commerce [Liable to GST] | Taxable |
| (7) Premises let to a religious body being temple trust [Liable to GST] | Taxable |
| (8) Premises let to a coaching centre [Liable to GST] | Taxable |
| (9) Building let to a theater [Liable to GST] | Taxable |
| Total Taxable Value of Supply | 3,20,000 |
| GST payable @ 18% | 57,600 |

(98) SERVICES BY HOTELS ETC. HAVING VALUE NOT EXCEEDING ₹ 1,000 OR EQUIVALENT [Entry 14 of Notification No. 12/2017-CT (Rate)] :

Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to ₹ 1,000 per day or equivalent are exempt. [Omitted by Notification No. 04/2022-CT (Rate) dated 13-07-2022 w.e.f. 18-07-2022]-

(99) HIRING OF MEANS OF TRANSPORT OF PASSENGERS AND GOODS [Entry 22 of Notification No. 12/2017-CT (Rate)] :

Services by way of giving on hire -

- (a) to a state transport undertaking, a motor vehicle meant to carry **more than 12 passengers**; or
- (aa) to a local authority, an Electrically operated vehicle meant to carry more than twelve passengers; or
- (b) to a goods transport agency, a means of transportation of goods; or
- (c) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.

are exempt.

| |
|--|
| <p>❖ "State transport undertaking" has the same meaning as assigned to it in Section 2(42) of the Motor Vehicles Act, 1988. [Para 2(zzk) of Notification No. 12/2017-CT (Rate)]</p> <p>"State transport undertaking" means any undertaking providing road transport service, where such undertaking is carried on by (i) the Central Government or a State Government; (ii) any Road Transport Corporation established u/s 3 of the Road Transport Corporations Act, 1950. (iii) any municipality or any corporation or company owned or controlled by the Central Government or one or more State Governments, or by the Central Government and one or more State Governments.</p> <p>Explanation: Road transport service means a service of motor vehicles carrying passengers or goods or both by road for hire or reward [Section 2(42) of the Motor Vehicles Act, 1988].</p> <p>❖ "Electrically operated vehicle" means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 which is run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicle.</p> |
|--|

(100) ACCESS TO A ROAD OR A BRIDGE ON PAYMENT OF TOLL CHARGES [Entry 23 of Notification No. 12/2017-CT (Rate)] :

Service by way of access to a road or a bridge on payment of toll charges is exempt.

| | |
|---|---|
| <p><i>Circular No. 164/20/2021-GST dated 06-10-2021</i></p> | <p>Overloading charges at toll plaza - same is exempt from GST - <i>Vide</i> notification dated 25-09-2018, issued by Ministry of Road Transport And Highways, overloaded vehicles were allowed to ply on the national highways after payment of fees with multiplying factor of 2/4/6/8/10 times the base rate of toll. Therefore, it essence overloading fees are effectively higher toll charges. It is clarified that overloading charges at toll plazas would get the same treatment as given to toll charges.</p> |
| <p><i>Circular No. 177/09/2022-TRU dated 03-08-2022</i></p> | <p>Additional toll fees collected in the form of higher toll charges from vehicles not having fastag is exempt from GST. Issue : Whether the additional toll fees collected in the form of higher toll charges from vehicles not having fastag is exempt from GST. Clarification : Essentially, the additional amount collected from the users of the road not having a functional Fastag, is in the nature of Toll Charges and should be treated as additional toll charges. Therefore, it is clarified that additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and may be given the same treatment as given to toll charges.</p> |

Illustration 23 - Access to a road or a bridge on payment of toll charges : Compute taxable value of supply and GST from following sums received by M/s. Road Maintenance Ltd. (exclusive of GST) -

Toll Receipts from Highway of Jaipur to Chomu: ₹ 8,000 lakhs;

Commission earned on toll receipts : ₹ 75 lakh.

The rate of GST is 18%.

Solution: Toll receipts are exempt *vide* Entry 23 of Notification No. 12/2017-CT (Rate) from GST. However, commission thereon is liable to GST.

Taxable value of supply = ₹ 75 lakh ; GST @ 18% = ₹ 1350000.

(101) SERVICE BY WAY OF ACCESS TO A ROAD OR A BRIDGE ON PAYMENT OF ANNUITY [Entry 23A of Notification No. 12/2017-CT (Rate)] [Omitted by Notification No. 15/2022-CT (Rate) w.e.f. 01-01-2023]:

Service by way of access to a road or a bridge on payment of annuity is exempt.

| | |
|---|---|
| <p>Activity of construction of road where considerations are received in deferred payment (annuity)- Liable to GST since not covered under Exemption Entry 23A. - Circular No.150/06/2021-GST dated 17-06-2021</p> | <p>Services by way of <u>construction</u> of road fall under heading 9954. This heading <i>inter alia</i> covers general construction services of highways, streets, roads railways, airfield runways, bridges and tunnels. Consideration for construction of road service may be paid partially upfront and partially in deferred annual payments (and may be called annuities). GST is exempt on service, falling under heading 9967 (service code), by way of access to a road or a bridge on payment of annuity [Entry 23A of notification No. 12/2017-CT]. Said Entry 23A does not apply to services falling under heading 9954 (it specifically covers heading 9967 only). Therefore, plain reading of Entry 23A makes it clear that it does not cover construction of road services (falling under heading 9954), even if deferred payment is made by way of installments (annuities). Accordingly, as recommended by the GST Council, it is hereby clarified that Entry 23A of Notification No. 12/2017-CT(R) does not exempt GST on the annuity (deferred payments) paid for construction of roads.</p> |
|---|---|

(102) TRANSMISSION OR DISTRIBUTION OF ELECTRICITY BY AN ELECTRICITY TRANSMISSION OR DISTRIBUTION UTILITY [Entry 25 of Notification No. 12/2017-CT (Rate)] :

Transmission or distribution of electricity by an electricity transmission or distribution utility is exempt.

- ❖ **“Electricity transmission or distribution utility”** means the Central Electricity Authority; a State Electricity Board; the Central Transmission Utility or a State Transmission Utility notified under the Electricity Act, 2003; or a distribution or transmission licensee under the said Act, or any other entity entrusted with such function by the Central Government, or as the case may be, the State Government. [Para 2(z) of Notification No. 12/2017-CT (Rate)]
- ❖ **“State Electricity Board”** means the Board constituted under section 5 of the Electricity (Supply) Act, 1948. [Para 2(zz) of Notification No. 12/2017-CT (Rate)]
- ❖ **“State Transmission Utility”** shall have the same meaning as assigned to it in Section 2(67) of the Electricity Act, 2003. [Para 2(zzj) of Notification No. 12/2017-CT (Rate)]
- ❖ **“Central Electricity Authority”** means the authority constituted under section 3 of the Electricity (Supply) Act, 1948. [Para 2(p) of Notification No. 12/2017-CT (Rate)]
- ❖ **“Central Transmission Utility”** shall have the same meaning as assigned to it in Section 2(10) of the Electricity Act, 2003. [Para 2(q) of Notification No. 12/2017-CT (Rate)]

Other Aspects:**Circular No. 34/8/2018-GST dated 1-3-2018 :**

| Issue | Clarification |
|---|---|
| Whether the activities carried by DISCOMS against recovery of charges from consumers under State Electricity Act are exempt from GST? | Services other than service by way of transmission or distribution of electricity by an electricity transmission or distribution utility such as, - (i) Application fee for releasing connection of electricity; (ii) Rental Charges against metering equipment; (iii) Testing fee for meters/transformers, capacitors etc.; (iv) Labour charges from customers for shifting of meters or shifting of service lines; (v) Charges for duplicate bill, provided by DISCOMS to consumer are taxable. |

(103) TECHNOLOGY BUSINESS INCUBATEE SERVICES [Entry 44 of Notification No. 12/2017-CT (Rate)] :

Services provided by an incubatee up to a total turnover of ₹ 50 lakh in a financial year are exempt subject to the following conditions, namely:

- (a) the total turnover had not exceeded ₹ 50 lakh during the preceding financial year; and
- (b) a period of 3 years has not elapsed from the date of entering into an agreement as an incubatee.

- ❖ **“Incubatee”** means an entrepreneur located within the premises of a Technology Business Incubator or Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the Technology Business Incubator or the Science and Technology Entrepreneurship Park to enable himself to develop and produce hi-tech and innovative products. [Para 2(zh) of Notification No. 12/2017-CT (Rate)]

(104) FSSAI SERVICES TO FOOD BUSINESS OPERATORS [Entry 47A of Notification No. 12/2017-CT (Rate)] [Omitted by Notification No. 04/2022-CT (Rate) dated 13-07-2022 w.e.f. 18-07-2022]:

~~Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators are exempt.~~

(105) SERVICES BY TBI/STEP/ BIO-INCUBATOR [Entry 48 of Notification No. 12/2017-CT (Rate)] :

Taxable services, provided or to be provided, by a Technology Business Incubator or a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or bio-incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India are exempt.

(106)NEWS AGENCY SERVICES [Entry 49 of Notification No. 12/2017-CT (Rate)] :

Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India are exempt.

(107)SERVICES OF PUBLIC LIBRARIES [Entry 50 of Notification No. 12/2017-CT (Rate)] :

Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material are exempt.

(108)ORGANISING BUSINESS EXHIBITION OUTSIDE INDIA [Entry 52 of Notif. No. 12/2017-CT (Rate)] :

Services by an organiser to any person in respect of a business exhibition held outside India are exempt.

(109)TOUR OPERATOR SERVICES SUPPLIED TO FOREIGN TOURIST [Entry 52A of Notification No. 12/2017-CT (Rate)] [Inserted by Notification No. 04/2022 -CT(Rate) dated 13-07-2022 w.e.f. 18-07-2022]:

Tour operator service, which is performed partly in India and partly outside India, supplied by a tour operator to a foreign tourist, to the extent of the value of the tour operator service which is performed outside India shall be exempt from tax.

Value of services performed outside India : Value of the tour operator service performed outside India shall be lower of the following -

- (a) Total consideration charged for the entire tour × Number of days for which the tour is performed outside India ÷ Total number of days comprising the tour, or
- (b) 50% of the total consideration charged for the entire tour.

In making the above calculations, any duration of time equal to or exceeding 12 hours shall be considered as one full day and any duration of time less than 12 hours shall be taken as half a day.

"Foreign tourist" means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non- immigrant purposes.

Illustrations: A tour operator provides a tour operator service to a foreign tourist as follows: -

- (a) 3 days in India, 2 days in Nepal; Consideration Charged for the entire tour: ₹ 1,00,000.
Exemption: ₹ 40,000(₹ 1,00,000 × 2 ÷ 5) or, ₹ 50,000 (50% of ₹ 1,00,000) whichever is less, i.e. ₹ 40,000.
Taxable value: ₹ 60, 000.
- (b) 2 days in India, 3 nights in Nepal; Consideration Charged for the entire tour: ₹ 1,00,000.
Exemption: ₹ 60 000(₹ 1,00,000 × 3 ÷ 5) or ₹ 50,000 (50% of ₹ 1,00,000) whichever is less, i.e. ₹ 50,000.
Taxable value: ₹ 50, 000.
- (c) 2.5 days in India, 3 days in Nepal; Consideration Charged for the entire tour: ₹ 1,00,000.
Exemption: ₹ 54,545 (₹ 1,00,000 × 3 ÷ 5.5), or ₹ 50, 000 (50% of ₹ 1,00,000) whichever is less, i.e., ₹ 50,000. Taxable value : ₹ 50, 000.

(110)SLAUGHTERING OF ANIMALS [Entry 56 of Notification No. 12/2017-CT (Rate)] [Omitted by Notification No. 04/2022 -CT(Rate) dated 13-07-2022 w.e.f. 18-07-2022] :

Services by way of slaughtering of animals are exempt.

(111)SERVICES BY FOREIGN DIPLOMATIC MISSION [Entry 59 of Notification No. 12/2017-CT (Rate)] :

Services by a foreign diplomatic mission located in India are exempt.

(112)INFORMATION UNDER RTI ACT [Entry 65A of Notification No. 12/2017-CT (Rate)] :

Services by way of providing information under the Right to Information Act, 2005 are exempt.

(113)SPORTS RELATED SERVICES [Entry 68 of Notification No. 12/2017-CT (Rate)] :

Services provided to a recognised sports body by –

- (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body;
 - (b) another recognised sports body
- are exempt.

| |
|---|
| <p>❖ “Recognised sports body” means—</p> <p>(i) the Indian Olympic Association;</p> <p>(ii) Sports Authority of India;</p> <p>(iii) a national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations;</p> <p>(iv) national sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government;</p> <p>(v) the International Olympic Association or a federation recognised by the International Olympic Association; or</p> <p>(vi) a federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India. [Para 2(zx) of Notification No. 12/2017-CT (Rate)]</p> |
|---|

Note : Services by individuals such as selectors, commentators, curators, technical experts are taxable.

Illustration 24 - Sports related services: Mr. X a famous cricketer furnishes you with the following information of the various receipts for the month ended 30-09-2022. You are required to determine his GST liability if all the amounts are exclusive of GST.

- (1) Receipts from Sports Authority of India for participation in recognised sport : ₹ 50 lakh ;
- (2) Receipts from franchisee of Indian Premier league (not a recognised sports body) : ₹ 75 lakh ;
- (3) Receipts from acting as brand ambassador for corporate client : ₹ 22 lakh ;
- (4) Receipts of sports training academy to coach young players : ₹ 15 lakh.

Rate of GST - 18%.

Solution: Computation of Value of taxable supply and GST liability (amount in ₹)–

| | | |
|-----|--|--------------------|
| (1) | Receipts from sports authority of India for participation in recognised sports [Exempt vide Entry No. 68 of Exemption Notification No. 12/2017-CT (Rate)] | Exempt |
| (2) | Receipts from franchisee of Indian Premier league (not a recognised sports body) [Liable for GST] | 75,00,000 |
| (3) | Receipts from acting as brand ambassador for corporate client [Liable for GST] | 22,00,000 |
| (4) | Receipts of sports training academy to coach young players [Liable for GST since sports training by charitable entities registered under Section 12AB of the Income-tax Act is exempt vide Entry No. 80 of Exemption Notification No. 12/2017-CT (Rate)] | 15,00,000 |
| | Value of Taxable Supply | 1,12,00,000 |
| | GST payable @ 18% | 20,16,000 |

(114) FIFA U-17 WOMEN'S WORLD CUP 2020 RELATED SERVICES [Entry 9AA of Notification No. 12/2017-CT (Rate)] :

Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India **whenever rescheduled** are exempt.

Condition : Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020.

(115) AFC WOMEN'S ASIA CUP 2022 RELATED SERVICES [Entry 9AB of Notification No. 12/2017-CT (R)] :

Services provided by and to Asian Football Confederation (AFC) and its subsidiaries directly or indirectly related to any of the events under AFC Women's Asia Cup 2022 to be hosted in India are exempt.

Condition : Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under AFC Women's Asia Cup 2022.

(116) ADMISSION TO FIFA U-17 WOMEN'S WORLD CUP 2020 [Entry 82A of Notification No. 12/2017-CT (Rate)] :

Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020 **whenever rescheduled** are exempt.

(117)ADMISSION TO AFC WOMEN'S ASIA CUP 2022 [Entry 82B of Notification No. 12/2017-CT (Rate)] :

Services by way of right to admission to the events organised under AFC Women's Asia Cup 2022 are exempt.

(118)PUBLIC CONVENIENCES [Entry 76 of Notification No. 12/2017-CT (Rate)] :

Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets are exempt.

LIST OF SERVICES EXEMPT FROM IGST

Apart from the above services, list of services exempt from IGST by Notification No. 9/2017-IT (Rate) dated 28-06-2017 also include following three services –

(1) IMPORT OF SERVICES [Entry 10 of Notification No. 9/2017-IT (Rate)] :

Services received from a provider of service located in a non- taxable territory by –

- (a) the Central Government, State Government, Union territory, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;
 - (b) an entity registered under section 12AA/12AB of the Income-tax Act, 1961 for the purposes of providing charitable activities; or
 - (ba) way of supply of online educational journals or periodicals to an educational institution other than an institution providing services by way of –
 - (i) pre-school education and education up to higher secondary school or equivalent; or
 - (ii) education as a part of an approved vocational education course;
 - (c) a person located in a non-taxable territory
- are exempt.

However, the exemption shall not apply to –

- (i) online information and database access or retrieval services received by persons specified in entry (a) or entry (b); or
- (ii) services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by persons specified in the entry.

☛ **“Online information and database access or retrieval services”** shall have the same meaning as assigned to it in clause (17) of the section 2 of the Integrated goods and Services Tax Act, 2017. [Para 2(zr) of Notification No. 12/2017-CT (Rate)]

(2) SERVICES RECEIVED BY RBI FROM OUTSIDE INDIA IN RELATION TO MANAGEMENT OF FOREIGN EXCHANGE RESERVES [Entry 42 of Notification No. 9/2017-IT (Rate)] :

Services received by the Reserve Bank of India, from outside India in relation to management of foreign exchange reserves are exempt.

(3) SERVICES PROVIDED BY A TOUR OPERATOR TO A FOREIGN TOURIST [Entry 54 of Notification No. 9/2017-IT (Rate)] :

Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India are exempt.

☛ **“Tour operator”** means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours. [Para 2(zzm) of Notification No. 12/2017-CT (Rate)]

(4) EXPORT OF SERVICES TO OWN ESTABLISHMENT OUTSIDE INDIA PROVIDED PLACE OF SUPPLY IS OUTSIDE INDIA [Entry 10F of Notification No. 9/2017-IT (Rate)] :

Services supplied by an establishment of a person in India to any establishment of that person outside India, which are treated as establishments of distinct persons in accordance with Explanation 1 in section 8 of the IGST Act, 2017 are exempt.

Condition : Place of supply of the service is outside India in accordance with section 13 of IGST Act, 2017.

(5) IMPORT OF SERVICES BY UN OR SPECIFIED INTERNATIONAL ORGANISATION [Entry 10G of Notification No. 9/2017-IT (Rate)] :

Import of services by United Nations or a specified international organisation for official use of the United Nations or the specified international organisation are exempt.

“Specified international organisation” means an international organisation declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities Act) 1947, to which the provisions of the Schedule to the said Act apply.

(6) IMPORT OF SERVICES BY FOREIGN DIPLOMATIC MISSION OR CONSULAR POST IN INDIA [Entry 10H of Notification No. 9/2017-IT (Rate)] :

Import of services by Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein shall be exempt from IGST, subject to the conditions, –

- (i) that the foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein, are entitled to exemption from integrated tax, as stipulated in the certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity;
- (ii) that the services imported are for official purpose of the said foreign diplomatic mission or consular post; or for personal use of the said diplomatic agent or career consular officer or members of his or her family;
- (iii) that in case the Protocol Division of the Ministry of External Affairs, after having issued a certificate to any foreign diplomatic mission or consular post in India, decides to withdraw the same subsequently, it shall communicate the withdrawal of such certificate to the foreign diplomatic mission or consular post;
- (iv) that the exemption from the whole of the integrated tax granted to the foreign diplomatic mission or consular post in India for official purpose or for the personal use or use of their family members shall not be available from the date of withdrawal of such certificate.

(7) INTERMEDIARIES SERVICES [Entry 12AA of Notification No. 9/2017-IT (Rate)] :

Services provided by an intermediary when location of both supplier and recipient of goods is outside the taxable territory are exempt.

Documentation requirement : Following documents shall be maintained for a minimum duration of 5 years:

- (a) Copy of Bill of Lading
- (b) Copy of executed contract between Supplier/Seller and Receiver/Buyer of goods
- (c) Copy of commission debit note raised by an intermediary service provider in taxable territory from service recipient located in nontaxable territory
- (d) Copy of certificate of origin issued by service recipient located in nontaxable territory
- (e) Declaration letter from an intermediary service provider in taxable territory on company letter head confirming that commission debit note raised relates to contract when both supplier and receiver of goods are outside the taxable territory.

OTHER EXEMPTIONS**(1) INTRA-STATE SUPPLIES RECEIVED BY A TAX DEDUCTOR FROM ANY UNREGISTERED SUPPLIER EXEMPT FROM CGST [Notification No. 9/2017-CT (Rate) dated 28-06-2017] :**

Intra-State supplies of goods or services or both received by a deductor under Section 51, from any unregistered supplier, is exempt from the whole of the central tax leviable thereon under Section 9(4), subject to the condition that the deductor is not liable to be registered otherwise than u/s 24(vi).

(2) SERVICES IMPORTED BY UNIT/DEVELOPER IN SEZ EXEMPT FROM IGST [Notification No. 18/2017-IT (Rate) dated 05-07-2017] :

All services imported by a unit/developer in the Special Economic Zone (SEZ) for authorised operations are exempt from the whole of the integrated tax leviable thereon under Section 3(7) of the Customs Tariff Act, 1975 read with Section 5 of the IGST Act, 2017.

(3) GOVERNMENT'S SHARE OF PROFIT FROM GRANT OF LICENCE/LEASE TO EXPLORE OR MINE PETROLEUM CRUDE OR NATURAL GAS - EXEMPTION FROM TAX [Notification No. 5/2018-CT (Rate) dated 25-01-2018] :

The Central Government has exempted the intra-State supply of services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, from so much of the central tax as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf.

Parallel exemption from IGST has been extended to inter-State supply of such services vide Notification No. 5/2018-IT (R) dated 25-01-2018.

(4) ROYALTY AND LICENCE FEE INCLUDED IN TRANSACTION VALUE UNDER RULE 10(1)(c) OF CUSTOMS VALUATION RULES - EXEMPTION FROM IGST [Notification No. 6/2018-IT (Rate) dated 25-01-2018] :

The Central Government has exempted the integrated tax on the supply of services, imported into the territory of India, covered by sub-item (c) of item 5 of Schedule II to the CGST Act, 2017 (*i.e.* temporary transfer or permitting the use or enjoyment of any intellectual property right), to the extent of the aggregate of the duties of Customs leviable under section 3(7) of the Customs Tariff Act, 1975, on the consideration declared under section 14(1) of the Customs Act, 1962 towards royalties and license fees included in the transaction value as specified under Rule 10(1)(c) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 on which the appropriate duties of Customs have been paid.

2. List out certain goods which have been made exempt from GST.

Ans: A list of items have been notified under section 11(1) of the CGST Act, 2017/Section 6(1) of the IGST Act, 2017. These items have been exempted from whole of the tax. Since GST is a tax for common man, everyday items used by the common man have been included in the list of exempted items.

Items such as unbranded atta/maida/besan, unpacked food grains, milk, eggs, curd, lassi and fresh vegetables are among the items exempted from GST.

Goods imported by unit/ developer in SEZ exempt from IGST : All goods imported by a unit/developer in the Special Economic Zone (SEZ) for authorised operations are exempt from the whole of the integrated tax leviable thereon under section 3(7) of the Customs Tariff Act, 1975 read with section 5 of the IGST Act, 2017. [Notification No. 64/2017-Cus dated 05-07-2017]

3. An individual acts as a referee in a football match organized by Sports Authority of India. He has also acted as a referee in another charity football match organized by a local sports club, in lieu of a lump sum payment. Discuss whether he is required to pay any GST?

Ans: Services provided to a recognized sports body by an individual *inter alia* as a referee in a sporting event organized by a recognized sports body is exempt from GST.

Since in the first case, the football match is organized by Sports Authority of India, which is a recognized sports body, services provided by the individual as a referee in such football match will be exempt.

However, when he acts as a referee in a charity football match organized by a local sports club, he would not be entitled to afore-mentioned exemption as a local sports club is not a recognized sports body and thus, GST will be payable in this case.

Illustration 25 - Exemptions : HLL Pvt. Ltd. manufactures cosmetic products with the brand name 'Forever Young'. HLL Pvt. Ltd. has organized a concert to promote its brand. Ms. Aalia Sharma, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert. The proceeds of the concert worth ₹ 1,00,000 will be donated to a charitable organization. Whether Ms. Aalia Sharma will be required to pay any GST?

Ans: Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre are exempt from GST, if the consideration charged for such performance is not more than ₹ 1,50,000.

However, such exemption is not available in respect of service provided by such artist as a brand ambassador.

Since Ms. Aalia Sharma is the brand ambassador of 'Forever Young' soap manufactured by HLL Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by HLL Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST. The fact that the proceeds of the concert will be donated to a charitable organization will not have any bearing on the eligibility or otherwise to the above-mentioned exemption.

Illustration 26 - Exemptions : Determine taxable value of supply under GST law with respect to each of the following independent services provided by the registered persons :

| Particulars | Gross amount charged (₹) |
|--|--------------------------|
| Fees charged for yoga camp conducted by a charitable trust | 2,25,000 |
| Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts | 1,25,000 |
| Amount charged by cord blood bank for preservation of stem cells | 4,50,000 |
| Amount charged for service provided by commentator to a recognized sports body | 4,25,000 |

Solution: Determination of taxable value of supply (amount in ₹) –

| | | |
|--|--------|-----------------|
| Fees charged for yoga camp conducted by a charitable trust | [WN-1] | Nil |
| Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts | [WN-2] | Nil |
| Amount charged by cord blood bank for preservation of stem cells | [WN-3] | 4,50,000 |
| Amount charged for service provided by commentator to a recognized sports body | [WN-4] | 4,25,000 |
| Value of taxable supply | | 8,75,000 |

Working Notes :

- (1) Services by an entity registered u/s 12AB of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. The activities relating to advancement of yoga are included in the definition of charitable activities. So, such activities are exempt from GST.
- (2) Services by business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch have been exempted from GST.
- (3) Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are liable to GST.
- (4) Services provided to a recognized sports body only by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST. Thus, services provided by commentators are liable to GST.

Illustration 27 - Services provided by Government : With reference to the provisions of CGST Act, 2017, examine whether GST is leviable in the following situations :

- (1) Government of Rajasthan has provided services to ABC Ltd. of Rajasthan in the month of November, 2022 for a consideration of ₹ 50,000. The turnover of ABC Ltd. in Financial Year 2021-22 was ₹ 18,00,000.
- (2) Government of Rajasthan has provided services to XYZ Ltd. in the month of November, 2022 for a consideration of ₹ 5,000. The turnover of XYZ Ltd. in Financial Year 2021-22 was ₹ 28,00,000.
- (3) Jaipur Municipal corporation has awarded a contract for construction of road to PQR Ltd. failed to perform the contract and paid liquidated damages amounting ₹ 50,00,000 in accordance with the terms of contract.
- (4) XYZ Ltd. has applied for registration under Companies Act, 2013 to Registrar of companies Rajasthan and has paid registration fees of ₹ 13,85,510.
- (5) Delhi Government has charged ₹ 50,00,000 from Agro Care Ltd. for allocation of natural resources for agricultural purposes in the month of November, 2022.

- (6) XYZ Ltd. has paid to Customs department ₹ 50,000 on account Merchant Overtime charges for deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo.
- (7) XYZ Ltd. has made an upfront payment of ₹ 80,00,000 to Bihar Government on account of assignment of right to use minerals in the State of Bihar.

Solution:

- (1) Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017 are exempt *vide* Entry 7 of Notification No. 12/2017-CT(Rate). Since the aggregate turnover of ABC Ltd. in preceding financial year does not exceed ₹ 20 lakhs, it is exempt from obtaining registration. Hence, no GST shall be levied on services provided by Government of Rajasthan to ABC Ltd.
- (2) Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed ₹ 5,000 are exempt. *vide* Entry 9 of Notification No. 12/2017-CT (Rate). Hence, on said services no GST shall be levied.
- (3) Services provided by the Central Government, State Government, Union territory or local authority by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract are exempt *vide* Entry 62 of Notification No. 12/2017-CT (Rate). Hence, no GST shall be payable on liquidated damages of ₹ 50,00,000 paid by PQR Ltd. to Jaipur municipal corporation.
- (4) Services provided by the Central Government, State Government, Union territory or local authority by way of registration required under any law for the time being in force *vide* Entry 47 of Notification No. 12/2017-CT (Rate). Hence, no GST shall be levied on fees paid for incorporation by XYZ Ltd.
- (5) Services by way of allocation of natural resources to an individual farmer for the purposes of agriculture have been exempted *vide* Entry 63 of Notification No. 12/2017-CT (Rate). Such allocations/ auctions to categories of persons other than individual farmers would be leviable to GST. Hence, Agro Care Ltd. will be liable to pay GST on ₹ 50,00,000 under reverse charge basis.
- (6) Services provided by the Central Government, State Government, Union territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges are exempt from GST *vide* Entry 65 of Notification No. 12/2017-CT (Rate). Hence, on such charges no GST shall be levied.
- (7) XYZ Ltd. will be liable to pay GST on assignment of rights to use minerals in the State of Bihar.

Illustration 28 – Exemption : State with reasons whether the following are liable to Goods and Services Tax :

- (1) Services by an individual way of training or coaching in recreational activities relating to arts or culture.
- (2) Services provided by a player to a franchisee which is not a recognized sports body.
- (3) Pre-school education and education up to higher secondary school or equivalent.
- (4) Services by a veterinary clinic in relation to health care of animals or birds.
- (5) Services by way of public conveniences such as provision of facilities of washrooms.

Ans: The taxability is discussed as under –

- (1) **Exempt :** Services by an individual way of training or coaching in recreational activities relating to arts or culture are not liable to GST as it is specifically exempt *vide* Entry 80 of Notification No. 12/2017-CT (Rate).
- (2) **Taxable :** Service of a player to a franchisee which is not a recognized sports body is taxable as it does not get covered under Entry 68 of Notification No. 12/2017-CT (Rate).
- (3) **Exempt :** Pre-school education and education up to higher secondary school or equivalent is not liable to GST as it is specifically exempt under Entry 66 of Notification No. 12/2017-CT (Rate).
- (4) **Exempt :** Services by a veterinary clinic in relation to health care of animals or birds is not liable to GST as it is specifically exempt *vide* Entry 46 of Notification No. 12/2017-CT (Rate).
- (5) **Exempt :** Services by way of public conveniences such as provision of facilities of washrooms are not liable to GST as it is specifically exempt *vide* Entry 76 of Notification No. 12/2017-CT (Rate).

Illustration 29 - Exemption: Examine whether GST is exempted on the following independent supply of services :

- (a) Teja & Co., a tour operator, provides services to a foreign tourist for tour conducted to Jammu Kashmir and receives a sum of ₹ 3,00,000.
- (b) Ms. Poorva acts as a Team Manager for Indian Sports League (ISL), a recognised sports body, for a Tennis tournament organised by Multi brand retail company and received a remuneration of ₹ 2,00,000.

Ans: (a) Liable to GST : Yes, Tejas and Co. will be liable to pay GST. Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India are exempt *vide* Entry 54 of Notification No. 9/2017-IT (Rate)]. In this case tour is conducted in Jammu and Kashmir and the IGST Act applies to whole of India including Jammu and Kashmir, hence exemption will not operate.

(b) Liable to GST : Services provided to a recognised sports body by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body are exempt *vide* Entry 68 of Notification No. 12/2017-CT (Rate)]. Since multi brand retail company is not a recognized sports body hence exemption will not be available. Thus, the said services will be liable to GST.

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