



# CHAPTER 10

# EXEMPTIONS



## EXEMPTIONS UNDER GST – SECTION 11

### INTRODUCTION

For determining liability to pay tax, one needs to further check whether such supply of goods and/or services are **exempt** from tax.



#### “Meaning of Exempt Supply”

Exempt supply has been defined as supply of any goods or services or both

1. which attracts **NIL** rate of tax or
2. which may be **wholly exempt** from tax and
3. includes **NON-TAXABLE SUPPLY**.

Power to grant exemption from GST has been granted vide Section 11 of the CGST Act and vide Section 6 of the IGST Act.

**Essential goods/services, i.e. public consumption products/services, have been exempted**

### EXEMPTION FROM PAYMENT OF GST - SECTION 11 OF CGST

- A. No need to pay tax on goods and/or services on which absolute exemption granted:** Where an exemption in respect of goods and/or services has been granted absolutely, registered person supplying such goods and/or services shall not collect tax on such goods and/or services, in excess of the effective rate.
- B. Explanation inserted within 1 year to have retrospective effect:** The Government can issue an explanation **within 1 year** of issue of notification/ order of exemption (from payment of tax) or notification of exemption and such explanation shall have effect as if it was there when first such notification or order was issued, i.e. explanation so inserted would have **retrospective effect**.



## EXEMPTIONS

### Clarification on the effective date of insertion of explanation in notification [Circular No. 120/39/2019 GST dated 11.10.2019]

It is clarified that the explanation having been inserted u/s 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

**Example:** What is the effective date of explanation u/s 11?

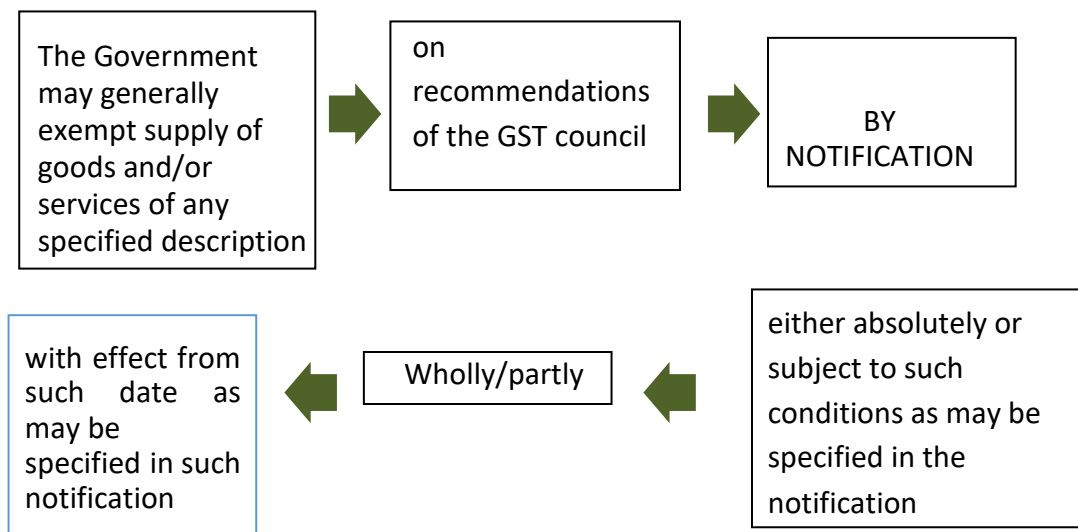
- ✚ Principal N/No. 11/2017 CT (R) dated 28.06.2017 came into force w.e.f. 01.07.2017
- ✚ New entry is inserted w.e.f. 21.09.2017.
- ✚ Explanation is also inserted with respect to that entry on 26.07.2018.

#### Solution:

The effective date mentioned in the notification which inserted said explanation is 27.07.2018. The said explanation will be effective from the inception of entry in notification i.e. 21.09.2017 and not 27.07.2018.

The Government is empowered to grant exemption from tax, if it is necessary in public interest so to do, on recommendation of the GST council, by way of issuance of-

#### A. NOTIFICATION



#### B. SPECIAL ORDER





## LIST OF GOODS EXEMPT FROM GST

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 Special Economic Zone (SEZ) for authorized operations are exempt from the whole of the IGST leviable under Section 3(7) of the Customs Tariff Act, 1975 read with Section 5 of IGST Act, 2017 [Notification No. 64/2017 Cus dated 05.07.2017]

## LIST OF SERVICES EXEMPT FROM GST

[N/N 12/2017 Central Tax (Rate) dated 28 June 2017] and [N/N 9/2017 Integrated Tax (Rate) dated 28 June 2017, as amended]

### 1. CHARITABLE ACTIVITIES [Entry 1]

Services by an entity **registered** under Section 12AA or 12AB of Income-tax Act, 1961 by way of charitable activities. Following 2 conditions must be satisfied:-

- (i) Entity is registered with income tax authorities under section 12AA or 12AB of the Income-tax Act, 1961, and
- (ii) Entity carries out one or more of the specified charitable activities.

**Charitable activities means** activities relating to -

- (i) public health by way of **(a)** care or counseling of terminally ill persons or persons with severe physical or mental disability **(b)** persons afflicted with HIV or AIDS, or **(c)** persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
- (ii) public awareness of preventive health, family planning or prevention of HIV infection;
- (iii) advancement of religion or spirituality or yoga;
- (iv) 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;
- (v) preservation of environment including watershed, forests and wildlife

**Charitable activities do not include advancement of general public utility**

### Illustration 1

Ananda Trust, an entity registered under section 12AA 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 tax liability from the information given below



## EXEMPTIONS

- (a) Amount received for the Yoga camps organized for elderly people - 4,83,000
- (b) Payment made for the services received from a service provider located in US, for the purposes of providing 'charitable activities' - 5,50,000
- (c) Amount received for counseling of mentally disabled persons - 10,50,000
- (d) Amount received for renting of commercial property owned by the trust - 1,50,000
- (e) Amount received for activities relating to preservation of forests and wildlife - 12,35,000

*Note: Applicable CGST 9% and SGST 9% have been charged separately wherever applicable.*

**Illustration 2:** Services of an NGO registered under Section 12AA of the Income Tax Act, 1961 working for the rehabilitation of disabled. The aggregate value of taxable supply is ₹ 20 Lakh. Find the taxability for the given service? – Fully Exempt under **Entry 74A**

### Whether Hostel accommodation services provided by trusts are exempt from GST?

- a) Hostel accommodation services provided by trusts to students do not fall within the ambit of charitable activities as defined above and hence **fully taxable**.
- b) However, accommodation service in hostels including such services provided by trusts having **declared tariff** below ₹ 1,000 per day is exempt [discussed later in this chapter]

[Circular No. 32/06/2018-GST dated 12.02.2018].

### Applicability of GST on Residential programmes /camps meant for advancement of religion, spirituality or yoga by religious and charitable trust

- a) 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.
- b) 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.
- c) However, if charitable or religious 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**.

[Circular No. 66/40/2018 GST dated 26.09.2018]



## 2. RELIGIOUS CEREMONIES /RENTING OF RELIGIOUS PLACE [Entry 13]

- (i) Services provided **BY** a person by way of conduct of any **religious ceremony** are **EXEMPT**. It also includes occasions like birth, marriage, and death which involve elaborate religious ceremonies.
- (ii) **Renting** of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust u/s. 12AA/ 10(23C)(v)/10(23BBA) of the Income-tax Act, 1961 is also **EXEMPT**. This exemption shall **NOT** apply to:
- Renting of rooms where charges are **₹ 1,000 or more per day**.
  - Renting of premises, community halls, kalyanmandapam or open area, and the like where charges are **₹ 10,000 or more per day**.
  - Renting of shops or other spaces for business or commerce where charges are **₹ 10,000 or more per month**.

**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**.

### Illustration 3

Ananda Deepam Charitable trust, registered under Section 10(23C)(v) of the Income Tax Act, 1961 manages a temple in Mylapore, Chennai. It has given on rent a community hall, located within temple premises, to public for celebration of new year evening. Rent charged is ₹ 9,499

**Solution:** In the given case Ananda Deepam Charitable trust, registered under Section 10(23C)(v) of the Income Tax Act, 1961 and given on rent for ₹ 9,499/- per day. Hence, it is exempted from GST

## 3. PILGRIMAGE SERVICES [Entry 60]

Services provided by a "**specified organisation**" in respect of a **religious pilgrimage** facilitated by the Government of India, under bilateral arrangement, is **EXEMPT**.

Specified organisations organising such pilgrimage services are "Kumaon Mandal Vikas Nigam Limited" (KMVNL), a Government of Uttarakhand Undertaking; or Haj Committee of India and State Haj Committees.

## 4. RECREATIONAL COACHING OR TRAINING [Entry 80]

Services provided by way of training or coaching in

- recreational activities** relating to **arts or culture by an individual, or**
- sports** by **charitable entities** registered under section 12AA or 12AB of the Income-tax Act are **EXEMPT**. [All forms of dance, music, painting, sculpture making, theatre, sports etc.]



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The training or coaching in recreational activities in the areas ***other than arts, culture or sports*** is chargeable to GST. Services provided to charitable or religious trusts are not outside the ambit of GST unless otherwise specified.

### Illustration 4

Mr. Rohith Sharma is undertaken training in cricket to improve his skill in various areas like bowling, batting, fielding etc. to enable him to participate in various levels of tournament. Sachin Trust registered under Section 12AB of the Income Tax Act, 1961 has provided such training by charging ₹ 10 lakhs. Is taxable supply of service?

**Solution:** Yes, it is a taxable service because training in such case is not for recreation.

### Illustration 5

Kapleswara Charitable Trust registered under Section 12AB of the Income Tax Act, 1961. Supplied the following services during the taxable period. Find the taxable supply or exempted supply from the following:

- (a) Income from Navratri functions, other religious functions, and religious poojas conducted for ₹ 2,12,345/-
- (b) During Ganeshutsav or other religious functions, charitable trusts rent out their space to agencies for advertisement hoardings, income from such advertisement ₹ 4,98,765/-
- (c) Donation for religious ceremony is received with specific instructions to advertise the name of a donor for ₹ 1,00,001

**Solution:**

Particulars	Nature	Remarks
Income from Navratri functions	Exempted supply	Meant for religious ceremony
Income for renting out space	Taxable supply	Advertisement services
Donation received with reciprocity	Taxable supply	Donation is compensating against consideration



## 5. GOVERNMENT SERVICES

**Abbreviations used in the exemptions:** Central Government - **CG**, State Government - **SG**, Union territory - **UT**, Local authority – **LA**; Governmental authority – **GA**; Government entity- **GE**

### **Meaning of Governmental authority and Government entity**

- (a) “**Governmental Authority**” means an authority / board / other body, set up by an Act of Parliament or a State Legislature; or 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**”
- (b) “**Government entity**” means an authority / board / other body, including a society, trust, corporation, set up by an Act of Parliament or a State Legislature; or established by any Government, with **90% or more** participation by way of equity or control carried “**to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority**”.

## SERVICES PROVIDED BY GOVERNMENT

Services <b>BY</b> CG,SG,UT,LA,GA by way of a) Any activity in relation to any function entrusted to a <b>municipality</b> under <b>Article 243W</b> of the Constitution <b>[Entry 4]</b> b) Any activity in relation to any function entrusted to a <b>Panchayat</b> under <b>Article 243G</b> of the Constitution <b>[Entry 5]</b>	
Services <b>BY</b> Government:  <b>[Entry 6]</b>	Services by CG, SG, UT, LA, <b>excluding</b> the following services (†) Services <b>BY</b> Department of Posts and the Ministry of Railways (Indian Railways) (ii) Services in relation to an <b>aircraft or a vessel</b> , inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers; or (iv) “ <b>any service</b> ”, other than services covered under entries (i) to (iii) above, provided to <b>business entities</b>
Services provided <b>BY</b> CG, SG, UT, LA to a “ <b>BUSINESS ENTITY</b> ” with an aggregate turnover of <b>up to such amount in the preceding financial year as makes it eligible for exemption from registration.</b> It is hereby clarified that the provisions of this entry shall <b>not be applicable</b> to following services:- <b>(i)</b> Clauses (i), (ii) and (iii) of above entry. <b>(ii)</b> Services by way of renting of immovable property. <b>[Entry 7]</b>	
Services provided <b>BY</b> CG, SG, UT, LA to another CG, SG, UT, LA	



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<p>It shall not apply to services referred in clauses (i), (ii) and (iii) of above entry. <b>[Entry 8]</b></p>
<p>Services provided <b>BY</b> CG, SG, UT, LA where consideration for such services does not exceed <b>₹ 5,000</b>.</p> <p>It shall not apply to services referred in clauses (i), (ii) and (iii) of above entry.</p> <p>In case where “continuous supply of service” is provided by CG, SG, UT, LA, <b><u>the exemption shall apply only where consideration charged for such service does not exceed ₹ 5,000 in a FY</u></b> <b>[Entry 9]</b></p>
<p><b>Services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams) [Inserted vide N/N 04/2022 dated 18<sup>th</sup> July 2022] [Entry 24C]</b></p>
<p>Services provided <b>BY</b> the CG, SG, UT, LA, <del>GA, GE</del> by way of allowing a “<b>business entity</b>” to operate as a <b>telecom service provider</b> or use radio frequency spectrum during the period prior to the 1<sup>st</sup> April, 2016, on payment of licence fee or spectrum user charges, as the case may be. <b>[Entry 42]</b></p>
<p>Services provided <b>BY</b> the CG, SG, UT, LA by way of <b>(i)</b> registration required under any law for the time being in force <b>(ii)</b> testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large <b>[Entry 47]</b></p>
<p>Services provided <b>BY</b> the CG, SG, UT, LA by way of <b>issuance of passport, visa, driving licence, birth certificate or death certificate.</b> <b>[Entry 61]</b></p>
<p>Services provided <b>BY</b> the CG, SG, UT, LA by way of <b>tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable</b> to the CG, SG, UT, LA under such contract. <b>[Entry 62]</b></p>
<p>Services provided <b>BY</b> the CG, SG, UT, LA by way of <b>assignment of right to use natural resources to an individual farmer</b> for cultivation of plants and rearing of all life forms of animals, except rearing of horses, for food, fibre, fuel, raw material or other similar products. <b>[Entry 63]</b></p>
<p>Services provided <b>BY</b> the CG, SG, UT, LA by way of <b>deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo</b> on payment of Merchant Overtime charges. <b>[Entry 65]</b></p>
<p>Services provided by a “GE” to CG, SG, UT, LA or any person specified by CG, SG, UT, LA against consideration received from CG, SG, UT, LA <b>in the form of grants</b> <b>[Entry 9C]</b></p>
<p>Services by an <b>old age home</b> run by:</p> <ul style="list-style-type: none"><li>• Central Government, State Government or</li><li>• an entity registered u/s 12AA or 12AB of the Income-tax Act, 1961</li></ul> <p>to its <b>residents (aged 60 years or more)</b> against consideration upto <b>₹ 25,000 per month per member</b>, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance <b>[Entry 9D]</b></p>
<p>Services supplied by CG, SG, UT to their undertakings or Public Sector Undertakings (PSUs) by way of <b>guaranteeing the loans</b> taken by such undertakings or PSUs from the <b>banking companies/</b> financial institutions <b>[Entry 34A]</b></p>



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 centres established by CG/SG/UT or an entity registered u/s 12AA of the Income Tax Act, 1961 **[Entry 74A]**

Services by way of granting **National Permit** to a **goods carriage** to operate through-out India/ contiguous States **[Entry 61A]**

Services supplied by a SG to **Excess Royalty Collection Contractor (ERCC)** by way of **assigning the right to collect royalty** on behalf of the SG on the **mineral dispatched by the “mining lease holders”**. **[Entry 65B]**

At the end of the contract period, ERCC shall submit an account to the SG and certify that amount of GST deposited by **“mining lease holders”** on royalty is more than GST exempted on the service provided by SG to the ERCC of assignment of right to collect royalty and **if GST paid by mining lease holders < GST exempted**, exemption shall be restricted to amount as is equal to GST paid by the mining lease holders.

The ERCC shall pay difference of [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 Act.

### **GST on service supplied by State Govt. to their undertakings or PSUs by way of guaranteeing loans taken by them**

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 institution. Accordingly, as recommended by the Council, it is re-iterated that guaranteeing of loans by Central or State Government for their undertaking or PSU is specifically exempt under said entry No. 34A of N/N 12/2017-Central Tax (Rate) dated 28.06.2017. **[CBIC Circular No. 154/10/2021-GST dated 17th June 2021]**

### **Clarification on applicability of GST on accommodation services supplied by Air Force Mess and other similar messes to its personnel**

It is 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 Entry 6 provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority.



## EXEMPTIONS

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**Illustration 6:** Guideline Academy Pvt. Ltd. provided following services in the previous year:

- a) Manpower supply services to Higher Secondary School for ₹ 12,00,000.
- b) House-keeping services to Kidzee (i.e. Pre-school education) for ₹ 9,00,000.

In the current year Guideline Academy Pvt. Ltd. received advertisement services for ₹ 75,000 from Indian Railways. Find the following: *Note: Applicable rate of GST 18%*

- (a) Who is liable to pay GST?
- (b) Total tax liability if any?
- (c) Rework, if the previous total turnover ₹ 11,10,000 then find the GST liability in the C.Y.?

### **Illustration 7:**

Passport is issued by the office of the External Affairs Ministry under Passport Act, 1967 to individual. The fee of ₹ 6,500 paid by business entity in which such individual person is working. This activity will attract GST?

### **Illustration 8:**

X Pvt. Ltd., received the following services from the Government of India during the taxable period:

1. Application fee paid towards processing of application for issuance of advance authorization ₹ 12,000.
2. Security services provided by Government security agency for a period of four months for a total consideration of ₹ 6,000:
  - (a) Jan 2023 – Part payment ₹ 500
  - (b) Feb 2023 – Part payment ₹ 2,000
  - (c) Mar 2023 – Part payment ₹ 2,000
  - (d) April 2023 – Final payment ₹ 1,500.
3. Customs authorities have charged Merchant Over Time (MOT) fee for ₹ 1,000 at the time of special warehousing of goods.

Find the total GST payable by X Pvt. Ltd. if any? *Note: Previous Turnover of X Pvt. Ltd. ₹ 41 lakhs.*

*Note: Applicable rate of GST 18%*

### **Illustration 9:**

A contract awarded by Bombay Municipal Corporation (BMC) for repair of a particular road to M/s B Ltd of Mumbai with terms and conditions that the entire work should be completed within 30 days. However, there is a delay of 10 days to complete the work. BMC charged liquidated damages of ₹ 1,20,000 and the same recovered from M/s B Ltd.

Find the following:

- (a) who is liable to pay GST on what amount?
- (b) Total GST liability if any?

*Note: Previous year turnover of M/s B Ltd. was ₹ 88 lakhs. Applicable rate of GST 18%*

**Illustration 10:**

For registration of a company whose nominal share capital does not exceeds ₹ 1,00,000, paid registration fee of ₹ 5,000. Whether your answer is different if registration fee ₹ 5,000. Is it taxable supply? Attract GST?

**Illustration 11:**

Domicile Certificate for certifying the number of years during which the person has stayed in State, has been obtained from District Collector's Office, by paying fee of ₹ 5,500. It is taxable supply?

**Illustration 12:**

X Ltd. covered under the Factories Act, 1948. Inspector of Factories certified the factory is safe for the workers to carry their work and charged Government fee of ₹ 10,000. X Ltd. owned one more factory at another place, which is not covered under Factories Act, 1948. However, X Ltd. obtained safety certificate for the factory from the Inspector of Factories by paying ₹ 15,000 voluntarily. Is it taxable supply? Attract GST? If so who is liable to pay GST. *Applicable rate of GST 18%.*

**Illustration 13:**

The Inspector of the Metrology department verified the calibration of weighing scale as well as the weight and collected charges of ₹ 7,500 from the shop owner under the Legal Metrology Act, 2009. Is it taxable supply?

**Illustration 14:**

The Department of Agriculture, Co-operation and Farmers Welfare, provided Soil Conservation Service, Animal Husbandry, Dairying and Fisheries to a farmer by charging fee of ₹ 20,000 in relation to assignment of natural resources. Is it taxable supply?

**Applicability of GST on General Insurance policies provided by a State Government [Circular No. 16/16/2017 GST dated 15.11.2017]**

Services of 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.:	<b>Exempt</b> in both cases under different heads:
a) where premium is paid by State Government and	a) where premium is paid by State Government <b>[since premium is paid by government];</b>
b) where premium is paid by employees, students etc.	b) where premium is paid by employees, students etc. <b>[since services provided by government to individuals are exempt]</b>



## SERVICES RECEIVED BY GOVERNMENT

<p><b>Pure services and composite supply of goods/services provided TO Government</b></p>	<p><b>Pure services</b> (excluding works contract service or other composite supplies involving supply of any goods); or <b>[Entry 3]</b></p> <p><b>Composite supply</b> of goods and services in which the value of supply of goods constitutes <math>\leq 25\%</math> of value of said composite supply <b>[Entry 3A]</b></p> <p>provided <b>TO</b> CG, SG, UT, LA, by way of any activity:</p> <p>(i) <b>in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or</b></p> <p>(ii) <b>in relation to any function entrusted to a Municipality under Article 243W of the Constitution</b></p> <p>Services provided to a Governmental Authority by way of — (a) water supply; (b) public health; (c) sanitation conservancy; (d) solid waste management; and (e) slum improvement and upgradation. <b>[Entry 3B]</b></p>
<p>Services provided <b>TO</b> the CG, SG, UT under any “<b>insurance scheme</b>” for which <b>total premium</b> is paid by CG, SG, UT <b>[Entry 40]</b></p>	
<p>Services provided <b>TO</b> CG, SG, UT under any <b>training programme</b> for which <b>75% or more of the total expenditure</b> is borne by CG, SG, UT <b>[Entry 72]</b></p>	
<p>Service provided by <b>Fair Price Shops</b> to CG, SG or UT by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of <b>commission or margin</b>. <b>[Entry 11A]</b></p>	
<p><del>Services provided by the GSTN (Goods and Services Tax Network) to the CG or SG or UT for implementation of GST. <b>[Entry 51]</b></del></p>	

**Example:** 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**.

**Clarification on Coaching services supplied by coaching institutions and NGOs under the central sector scheme of ‘Scholarships for students with Disabilities’**

Services provided to the Central Government, State Government, Union territory administration under any training programme for which total expenditure is borne by the Central Government, State Government, Union territory administration.

Accordingly, as recommended by the GST Council, 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 exempt from GST. **[CBIC Circular No. 164 /20 /2021-GST dated 6th Oct 2021]**

**Clarification regarding applicability of GST on sanitation and conservancy services supplied to Army and other Central and State Government Departments**

The issue which arose for consideration was regarding taxability of sanitation and conservancy services supplied to Army and other Central and State Government Departments.

Functions that may be entrusted to municipalities and panchayats are listed in Schedules 11 & 12 of the Constitution. Central Government, State Governments & Union Territories also perform functions listed in Schedules 11 & 12 such as irrigation, public health etc.

The exemption under entries 3 & 3A 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<sup>th</sup> and 12<sup>th</sup> Schedules 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 11th and 12th Schedule, in the manner as a local authority does for the general public, the same are not eligible for exemption under Entries 3 and 3A. [Circular No. 177/09/2022 GST dated 03.08.2022]**

**Illustration 15:**

A contract awarded by Bombay Municipal Corporation (BMC) for repair of a particular road to M/s B Ltd. of Mumbai with a total consideration of ₹ 12 lakhs with terms and conditions as stated that:

- (a) It is pure service (excluding works contract service or other composite supplies involving supply of any goods) and
- (b) the entire work should be completed within 30 days.

The said work has been completed as per terms and conditions. Applicable rate of GST 18%.

- (a) Is it taxable supply?
- (b) Rework if the contract is in the nature of works contract where material is involved (40% of the Composite Supply) in the value of contract. Is it taxable supply? If so who is liable to pay GST.

*Note: Previous turnover of M/s B Ltd. was ₹ 22 crores*



## EXEMPTIONS

### Illustration 16:

A contract awarded by Chennai Corporation for repair of a particular road to M/s B Ltd. with a total consideration of ₹ 12 lakhs (pure service). Applicable rate of GST 18%

Find the following:

- (a) Is it taxable supply?
- (b) Rework if the contract is in the nature of works contract where material of ₹ 4 lakhs is involved in the value of contract. Is its taxable supply? If so, who is liable to pay GST.

## 6. TRANSPORTATION OF PASSENGERS

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

- (i) Air in **economy class**, embarking from or terminating in an airport located in state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; **[Entry 15]**
- (ii) **non-air-conditioned** contract carriage other than radio taxi, for transportation of passengers, **excluding tourism**, conducted tour, charter or hire; or **[Entry 15]**
- (iii) stage carriage other than **air-conditioned stage carriage**. **[Entry 15]**

**“Provided that nothing contained in items (ii) and (iii) above shall apply to services supplied through an electronic commerce operator, and notified under Section 9(5) of the CGST Act, 2017.”**

- (iv) Services provided to Central Government by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a **RCS (Regional Connectivity Scheme)** airport, against consideration in the form of **viability gap funding**: **[Entry 16]**

It shall not apply on or after expiry of **3 years** from date of commencement of operations of the RCS airport as notified by Ministry of Civil Aviation.

- (v) **railways** in a class other than—
  - (i) first class; or
  - (ii) air-conditioned coach; **[Entry 17]**
- (vi) metro, monorail or tramway;
- (vii) inland waterways; **[Entry 17]**
- (viii) public transport, other than **predominantly for tourism purpose**, in a vessel between places located in India; and **[Entry 17]**
- (ix) metered cabs or auto rickshaws (including e-rickshaws). **[Entry 17]**

**“Provided that nothing contained in item (ix) above shall apply to services supplied through an electronic commerce operator, and notified under Section 9(5) of the CGST Act, 2017.”**

**Relevant definitions**

- (i) **Contract carriage** means motor vehicle which carries passengers for hire and is engaged under a contract, for use of such vehicle as a whole for the carriage of passengers on a fixed or an agreed rate
- on time basis, whether or not with reference to any route or distance; or
  - from one point to another, and in either case, without stopping to pick up passengers not included in the contract anywhere during the journey
- (ii) **Stage carriage** means a motor vehicle constructed or adapted to carry more than 6 passengers excluding driver at separate fares paid by individual passengers, either for whole journey or for stages of the journey.
- (iii) **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.

**Tour operator service:** Generally, tour operator service is taxable. However, services provided by a tour operator to a **FOREIGN TOURIST** in relation to a tour conducted wholly outside India shall be **exempted**.

**[Entry 85]**

**What if some passengers using public transport are not tourists?**

Normal public ships or other vessels that sail between places located in India would be covered even if some of the passengers on board are using the service for tourism because **predominantly, such service is not for tourism purpose**. However, services provided by leisure/charter vessels/a cruise ship, predominant purpose of which is tourism, would not be covered in here **even if some of the passengers in such vessels are not tourists**.

**Clarification regarding hiring of vehicles by firms for transportation of their employees to and from work**

The issue which arose for consideration was as to whether the engagement of non-air-conditioned contract carriages by firms for transportation of their employees to and from work is exempt

The said exemption would apply to passenger transportation services by **non-air-conditioned contract carriages where 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.

**[Circular No. 177/09/2022 GST dated 03.08.2022]**



## EXEMPTIONS

### Clarification regarding applicability of GST on tickets of private ferry used for passenger transportation

The circular clarifies the applicability of GST on private ferry tickets. For instance, private ferries are used as means of transport from one island to another in Andaman and Nicobar Islands.

It is clarified that this exemption 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. **[Circular No. 177/09/2022 GST dated 03.08.2022]**

#### Illustration 17

Service provided by Indian tour operator to a Sri Lankan for a tour conducted in Bhutan. Is it taxable supply?

**Illustration 18:** Air Bus Ltd, furnishes you the following information for computation of its GST liability for the month of Oct.

- (a) Passenger travelling from Mizoram to Chennai – 2000 passengers, Gross Value per ticket ₹ 2,500
- (b) Passenger travelling from Chennai-USA 500 passengers, USA-CHENNAI – 200 passengers, Gross Value per ticket ₹ 45,000
- (c) Passengers travelling from Mumbai – Tripura - Mumbai with single ticket – 1000 passengers. Gross value per ticket ₹ 5,000.

Air Bus Ltd. charging 40% passenger tax which is not included in the gross value per ticket. Find the GST liability? All passengers are travelled in economic class except point (b).

#### Illustration 19

Compute value of taxable supply of services of Air Speed Air lines located in Chennai for transportation of passengers by air from the following data relating to sums received exclusive of GST –

- (1) Passengers embarking at Arunachal Pradesh: ₹ 5 lakhs;
- (2) Passengers where journey terminated at Assam: ₹ 4 lakhs;
- (3) Amount charged from passenger for flights starting from USA to Chennai: ₹ 250 lakhs;
- (4) Amount charged from passengers flying from Chennai to Sydney (Business class): ₹ 540 lakhs (including passenger taxes levied by government and shown separately on ticket: ₹ 100 lakhs). All passengers booked ticket from Delhi Office of Air Speed Air lines.



- (5) Passengers embarking from Chennai to Coimbatore (Economic class): ₹ 4 lakhs. Passengers booked tickets from Chennai office of Air Speed Air lines. Applicable rate of GST 5% and 12%. Find the IGST, CGST & SGST if any.

**Illustration 20**

M/s. R Ltd. is engaged in providing service of transportation of passengers, he furnished the following information in the month of Oct 2017. Find the GST liability.

- (1) Service of transportation of passengers by National Waterways: ₹ 50 lakhs;
- (2) Service of transportation of passengers by Stage carriage (non-A/c): ₹ 5 lakhs;
- (3) Service of transportation of passengers by contract carriage for tourism: ₹ 120 lakhs (bills inclusive of accommodation and transportation etc. indicated as narration at the bottom of invoice);
- (4) Transportation of passenger from Mumbai to Chennai port in a vessel and such service is not for tourism purpose: ₹ 12 lakhs;

*Note: R Ltd. is willing to avail exemption benefits if any. Taxable supplies of Mr. R in the previous year were ₹ 22 lakhs.*

**Illustration 21**

Indian railways have provided following services –

- (1) Transport of passengers by general class: ₹ 15,00,000;
- (2) Transport of passengers by sleeper class: ₹ 10,00,000;
- (3) Transport of passengers by 1st Class air-conditioned coach: ₹ 5,00,00,000;
- (4) Transport of passengers by 2-tier air-conditioned coach: ₹ 20,00,00,000;
- (5) Transport of passengers by 3-tier air-conditioned coach: ₹ 30,00,00,000;

Compute value of taxable supplies and GST liability. Applicable GST rate is 5%.



### 7. TRANSPORTATION OF GOODS

Services by way of transportation of goods-

a) by road **except** the services of—

- (i) a goods transportation agency;
- (ii) a courier agency; **[Entry 18]**

b) by inland waterways **[Entry 18]**

c) by an aircraft from place outside India upto the customs station of clearance in India. **[Entry 19]**

Services by way of transportation of goods by an **aircraft or vessel** from customs station of clearance in India to a place outside India have been exempted till **30.09.2022**. **[Entry 19A & 19B]**

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/State Government/Union territory; or
- (b) local authority; or
- (c) Governmental agencies,

which has taken GST registration only for the purpose of deducting tax u/s 51 and **not** for making a taxable supply of goods or services. **[Entry 21B]**

#### Relevant definitions

(i) **Goods Transport Agency:** Any person who provides service "*in relation to*" transport of goods by road and issues **consignment note**, by whatever name called

Hence, individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA and hence their services are exempt.

**Examples:** Hari Prasad owns a truck and operates it himself. He carries the goods booked for his truck without issuance of consignment note. Services provided by Hari Prasad by way of transportation of goods by road are exempt.

#### ***Significance of the term 'in relation to' in 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. If such incidental services are provided as separate services & charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies.



(ii) **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.

**Clarification regarding applicability of GST on transport of minerals from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time**

The issue which arose for consideration was 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 Entry 18 which exempts transport of goods by road except by a GTA.

The person who gives the vehicles on rent with operator cannot 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 and not service of transportation of goods by road. Consequently, it is not eligible for exemption under Entry 18. **[Circular No. 177/09/2022 GST dated 03.08.2022]**

**Illustration 22**

Discuss whether GST is leviable in respect of transportation services provided by Raja Ram Goods Transport Agency in each of the following independent cases:

- a) Transportation of milk – ₹ 22,00,000
- b) Transportation of books on a consignment transported in a single goods carriage - ₹ 1,30,000
- c) Transportation of chairs for a single consignee in the goods carriage – ₹ 600

*Note: Raja Ram Goods Transport Agency registered person under GST Law. Opted to pay CGST 6% and SGST @6%.*



## EXEMPTIONS

### 8. TRANSPORTATION OF GOODS BY RAIL/VESSEL/GTA

Transportation by RAIL / VESSEL from one place in India to another of following goods <b>[Entry 20]</b>	Services provided by GTA, by way of transport in a “goods carriage” of <b>[Entry 21]</b>
<b>relief materials</b> meant for victims of natural or man-made disasters, calamities, accidents or mishap;	relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
<b>defence or military equipments;</b>	defence or military equipments;
<b>Newspaper / magazines</b> registered with the Registrar of Newspapers	Newspaper / magazines registered with the Registrar of Newspapers
<b>agricultural produce;</b>	agricultural produce;
milk, salt and food grain including flours, pulses, rice and organic manure	milk, salt and food grain including flours, pulses, rice and organic manure
<b>railway equipments</b> or materials;	Supply of service to <b>unregistered person</b> , including an unregistered casual taxable person, <b><i>other than the recipients specified u/s 9(3) of CGST Act, 2017 [Entry 21A]</i></b>

#### Illustration 23

Compute taxable value for transport of goods by rail within India (all sums exclusive of all taxes) –

- (1) Transport of postal mails and postal bags: ₹ 55 lakhs;
- (2) Transportation 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 newspapers and magazines registered with registrar of newspapers: ₹ 15 lakhs
- (6) Transport of milk: ₹ 15 lakhs;
- (7) Transport of alcoholic beverages: ₹ 7 lakhs;
- (8) Transport of defence and military equipments: ₹ 40 lakhs;
- (9) Transport of chemical fertilizers: ₹ 90 lakhs;
- (10) Transport of other taxable goods: ₹ 200 lakh (including ₹ 20 lakhs demurrages).

#### Illustration 24

Air Speed Airlines transported Fruits (i.e. agricultural produce) from Chennai airport to Meghalaya. It is exempted supply of service under GST.

**Answer:** The given statement is invalid. Transportation of goods within India by Air, exemption not granted. Hence, GST will be levied.



## 9. SERVICES PROVIDED BY SPECIFIED ENTITIES

1. Services by the **Employees' State Insurance Corporation** to persons governed under the Employees' State Insurance Act, 1948. **[Entry 30]**
2. Services provided by **Employees Provident Fund Organisation** to persons governed under Employees Provident Funds and the Miscellaneous Provisions Act, 1952. **[Entry 31]**
3. 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.
4. Services by **Coal Mines Provident Fund Organisation** to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948. **[Entry 31A]**
5. Services by **National Pension System (NPS) Trust** to its members against consideration in the form of administrative fee. **[Entry 31B]**

## 10. HEALTH CARE SERVICES

- (i) Health care services provided **BY** a clinical establishment [hospital, nursing home etc.], an authorized medical practitioner or para-medics [Nursing staff, technician, lab assistance, physiotherapists etc.], **[Entry 74]**

**Provided that nothing in this entry shall 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 ₹ 5000 per day to a person receiving health care services. [Inserted vide N/N 04/2022 dtd. 18/07/2022]**

- (ii) Services provided **by** way of transportation of a patient in an ambulance **[Entry 74]**
- (iii) Services provided **BY** a veterinary clinic in relation to health care of animals or birds; **[Entry 46]**

### **Meaning of Health care services**

Health care services includes diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any **recognized system of medicines [Allopathy, Yoga, Ayurveda, Naturopathy, Homeopathy, Siddha, Unani etc.]**

It includes services by way of transportation of the patient to and from a clinical establishment.

It does not include **beauty treatment like 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.**



## EXEMPTIONS

**Illustration 25:** In relation to Health Care Service, answer briefly whether following services are exempt

(i) Ambulance service for transportation of patients	
(ii) Special care service provided to critically ill patients at their homes where the disease cannot be cured.	
(iii) Cord blood bank service in relation to preservation of stem cell	
(iv) Audit Services received by Hospital.	
(v) providing Reiki healing treatment, which is not a recognized system by the relevant Laws.	
(vi) Providing alternative medical treatment by way of yoga	
(vii) Surgery undertaken to correct deformity in the body	
(viii) Services received by a clinical establishment from a common bio-medical waste treatment facility operator in relation to disposal of bio-medical waste	

**Illustration 26:**

Synergy Waste Management (P) Ltd. provided following services to Apollo Hospitals Chennai during the month of Oct 2022:

- (i) Collection, transportation, Treatment & Disposal of Bio-Medical Waste for Rs. 5,25,000.
- (ii) Training on Segregation of Bio-Medical Waste to Hospital Staff to further increase efficiency of Bio-Medical Waste Management Services for Rs. 1,25,000.
- (iii) Laundry services for Rs. 50,000.
- (iv) Common Bio-medical Waste Treatment Facility services provided to Arvind pharma company during Oct 2017 for Rs. 2,00,000.

Find the GST liability for the month of October 2022?

**Illustration 27:**

Clean and Green Pvt. Ltd. provided the bio-medical waste treatment facility to a veterinary clinic is a taxable supply of service, if so GST will be levied

**Health care services [Circular No. 32/06/2018 GST dated 12.02.2018]**

<p>a) <b>Consultancy charges paid by hospitals to senior doctors/consultants/ technicians</b> without having any contract of such persons with patients and employer-employee relationship</p> <p>b) <b>Retention money</b> kept out of total payment received by hospitals from patients (after paying to consultants/technicians) for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc.</p> <p>c) <b>Food supplied to the patients</b> being prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers.</p>	<p><b>Exempt</b> Services provided by such persons hired by the hospitals, whether employees or not, are healthcare services.</p> <p><b>Exempt</b> The entire amount charged by hospitals from the patients including retention money and payments made to the doctors etc. is towards the healthcare services provided by the hospitals to patients and is exempt.</p> <p><b>Food supplied by outdoor caterers</b> – Taxable and without any input tax credit;</p> <p><b>Food supplied by own canteens of hospitals to doctors and their staff</b> – May be subjected to GST without any input tax credit</p> <p><b>Food supplied to the in-patients as advised by the doctor/nutritionists</b> – It is a part of composite supply of healthcare service and <b>not separately taxable.</b></p> <p><b>Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors</b> – Taxable</p>
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### **Applicability of GST on ambulance services provided to Government by Private Service Providers (PSPs) under National Health Mission (NHM)** **[Circular No. 51/25/2018-GST dated 31 July 2018]**

#### **What is NHM?**

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 free ambulance services (Dial 102/108 services).

- **Dial 102** services essentially are for basic patient transport aimed to cater the needs of pregnant women and children.
- **Dial 108** is the emergency response system primarily designed to attend to patients of critical care, trauma and accident victims etc.

#### **Taxability of ambulance services**

Three legs of activities in this entire project is involved: (i) By Government for the public (ii) By PSP for the public and (iii) By PSP for the Government

- Services provided by State Governments and Private Service Providers (PSPs) for public by way of transportation of patients in ambulance are **exempt** being health care services.
- 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**:
  - Pure service** (other than works contract service or composite supply involving supply of goods), and
  - 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

#### **Clarification regarding applicability of GST on services in form of ART/ IVF**

The issue which arose for consideration was whether GST is applicable on services by way of Assisted Reproductive Technology (ART) procedures such as In vitro fertilization (IVF).

**Since, 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.**

**[Circular No. 177/09/2022 GST dated 03.08.2022]**

**11. LEGAL SERVICES [Entry 45]**

SERVICE PROVIDER	SERVICE RECEIVER
ARBITRAL TRIBUNAL	(i) Any person other than a business entity (ii) Business entity with a <b>turnover</b> up to such amount in the preceding financial year as makes it eligible for exemption from registration (iii) CG/SG/UT/LA/GA/GE
Individual as an advocate /partnership firm of advocates ( <b>other than senior advocates</b> )	(i) an advocate or partnership firm of advocates providing legal services; (ii) any person other than a business entity; or (iii) Business entity with a turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration (iv) CG/SG/UT/LA/GA/GE
Senior Advocate	(i) Any person other than a business entity (ii) Business entity with a turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration (i) CG/SG/UT/LA/GA/GE

**“Business entity”** any person carrying out any business.

**“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.

**“Senior Advocate”** is 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.

**12. EDUCATIONAL SERVICES [Entry 66]**

- A. Services provided **BY** an educational institution to its **students, faculty and staff**;
- B. Services provided **BY** educational institution by way of conduct of **entrance examination** against consideration in the form of **entrance fee**
- C. Services provided **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 Government;
  - (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. [**exempt for all clauses of definition of educational institutions**]



## EXEMPTIONS

- (v) Supply of online educational journals or periodicals [exempt only for clause (b) of definition of educational institution] are **EXEMPT**

### Relevant Definitions:

**"Educational institution"** means an institution providing services by way of:

- (a) pre-school education and education up to higher secondary school or equivalent;
- (b) education as a part of a curriculum for obtaining a qualification **recognised by any law** for the time being in force; (it includes entrance examination also) [Degree courses by colleges, universities, Central and State Boards]
- (c) education as a part of an **"approved vocational education course"**

Clause (b) and (c) of meaning of educational institution is **not applicable** on services (other than services towards admission or examination) provided TO educational institution

Clause (a) and (c) of meaning of educational institution is **not applicable** on "supply of service of online educational journals or periodicals"

Similar exemption from IGST is provided when received from a service provider located in a non- taxable territory.

**"Approved vocational education course"** means, -

- (i) a course run by an industrial training institute / an industrial training centre affiliated to the National Council for Vocational Training (NCVT) or State Council for Vocational Training (NCVT) **offering courses in designated trades notified under the Apprentices Act, 1961**; or
- (ii) a **Modular Employable Skill Course**, approved by the NCVT, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship.

**Note: Commercial Coaching Centres are not approved and therefore taxable.**

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. **Therefore, the Maritime Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST [Circular No. 117/36/2019-GST dated 11 October 2019]**

**Taxability of services provided by Industrial Training Institutes (ITIs)****[Circular No. 55/29/2018 GST dated 10.08.2018]****Whether GST is payable on vocational training provided by Private ITIs in “designated trades” and in other than designated trades?**

Services provided by a private ITI **only in respect of designated trades** notified under Apprenticeship Act, 1961 are **exempt** from GST and **services in other than designated trades are liable to GST.**

**Whether GST is payable on service provided by Private ITIs for conduct of examination against consideration in form of entrance fees and also on services relating to admission to or conduct of examination?**

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. Moreover, 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**. However, in case of **other than designated trades** in private ITIs, **GST shall be payable** on provision of said services.

**Whether GST is payable on services provided by Government ITI to individual trainees/students?**

Services provided by a Government ITI to individual trainees/students, is exempt under Entry 6 (***discussed later on***) as these are in the nature of services provided **by the Central or State Government to individuals** (both - vocational training and examinations conducted by these Government ITIs)

**College Hostel Mess services [Circular No. 28/02/2018-GST dated 8 January 2018]**

Educational institutions generally have mess facility for providing food to their students and staff. Such facility is (i) either run by the institution/ students themselves or (ii) is outsourced to a third person.

**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 of ‘educational institution’ as given above, then the same is exempt. [covered in exemption notification].**

**If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, i.e. the institution outsources the activity to an outside contractor, then it is a supply of service to the concerned educational institution and attracts GST\*.**

***\*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.***



## EXEMPTIONS

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### Whether IIMs are covered under definition of educational institutions?

Circular No. 82/01/2019 GST dated 01.01.2019 has clarified that with effect from 31.01.2018,

- All the IIMs are “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.
- IIMs also provide various short duration/ short term programs for which they award participation certificate to the executives/ professionals as they are considered as “participants” of the said programmes. These participation certificates are not any qualification recognized by law. Such participants are also not considered as students of IIM.
- Services provided by IIMs as an educational institution to such participants **is not exempt from GST**. Such short duration executive programs attract standard rate of GST @ 18%

### Clarification regarding GST on supply of various services by Central and State Board (such as National Board of Examination)

- (i) GST is exempt on services provided by Central or State Boards (including the boards such as National Board of Examination) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution. Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.
- (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.
- (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. **[CBIC Circular No. 151/07/2021-GST dated 17th June 2021]**

### Clarification regarding applicability of GST on supply of food in Anganwadis and Schools.

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. Educational institutions as defined in the notification include anganwadi. Hence, serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates. **[CBIC Circular No. 149/05/2021-GST dated 17th June 2021]**

**Clarification regarding National Testing Agency [Explanation inserted in Para 3 of N/N 12/2017 CT(Rate) dated 28<sup>th</sup> June 2017 vide N/N 01/2023 CT(Rate) dated 28/02/2023]**

Exemption extended to educational institutions and Central and State educational boards for conduct of entrance examination to any authority, board or a body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions.

**(iva) For removal of doubts, it is clarified that 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.**

**Clarification regarding 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**

The issue which arose for consideration was regarding 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.

Therefore, it can be seen that 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 institutions are also exempt. [Circular No. 177/09/2022 GST dated 03.08.2022]**

**Illustration 28:** Determine the taxability of the following services

- (a) A Coaching Institute is engaged in providing private tuition (by sending tutors at home) to the students of professional courses.
- (b) A charitable trust provides coaching classes for chartered Accountancy to poor students at a very low price.
- (c) Vocational training courses provided by ITI/ITC affiliated to State Council of Vocation Training
- (d) Courses run by institute affiliated to the National Skill Development Corporation
- (e) Online preparatory classes provided to students giving Medical Entrance



## EXEMPTIONS

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### Illustration 29

Security services provided by a Safety and Security Bureau in Chennai. Supplied security services to the ICAI New Delhi for four months. Monthly charges ₹ 1,200. Is it taxable supply of service? Applicable GST 18%. Find the GST liability.

### Illustration 30

Campus Interviews conducted by Cost Accountants of India Institute, by collecting entry fee from the corporate houses. Is it taxable supply of service under GST?

### Illustration 31

Hr. Sec. School provided auditorium hall on rent to Guideline Academy in Chennai. Monthly charges ₹ 1,21,200 throughout the year (w.e.f 1-7-2017). Is it taxable supply of service? Applicable GST 18%. Find the GST liability.

### Illustration 32

Indian Institute of Management, Ahmedabad provided the following services in the month of July 2017:

- (i) Post Graduate Diploma in Management services provided to those candidates who selected through Common Admission Test (CAT) for ₹ 25 lakhs.
- (ii) Services provided by way of Executive Development Programme ₹ 55 lakhs.

Find the GST liability if rate of GST is 18%?



### 13. SKILL DEVELOPMENT SERVICES

Any services provided **BY**

- (i) the National Skill Development Corporation; a Sector Skill Council approved by the National Skill Development Corporation and entities affiliated/approved entities by them in relation to NSDC programme. **[Entry 69]**
- (ii) Skill/vocational training by training partners “Deen Dayal Upadhyay Grameen Kaushalya Yojana” (DDU-GKY) implemented by the Ministry of Rural Development, Government of India **[Entry 71]**
- (iii) Services of **assessing bodies empanelled centrally** by Directorate General of Training, Ministry of Skill Development & Entrepreneurship by way of **assessments** under the Skill Development Initiative Scheme **[Entry 70]**

are **EXEMPT** from GST.

#### Illustration 33

Industrial and Technical Consultancy Organisation of Tamil Nadu Limited (ITCOT) is accredited for conducting assessment for Modular Employable Skills (MES) couwellrses under SDI scheme.

Following services provided in the month of Oct 2022:

1. Skill development services for ₹ 20 lakhs;
2. Skill Assessment examination and certification under SDI for ₹ 25 lakhs;
3. Feasibility reports to various industries for ₹ 60 lakhs. Find the GST liability?

*Note:*

- (i) ITCOT is a registered person under GST Law and (ii) Assume GST applicable 18%



## EXEMPTIONS

### 14. SPORTS SERVICES [Entry 68]

Services provided **TO** a “recognized sports body” **BY** -

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

are **EXEMPT** from GST.

**Recognized sports body means –**

- (i) *Indian Olympic Association*
- (ii) *Sports Authority of India*
- (iii) *A national sports federation recognised by Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations [Refer Study Material of Institute for further details]*

Whether the following services are exempt under this head or taxable?

S. No.	Service provided	Exempt / Taxable
1.	Services provided to a recognized sports body by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body	
2.	Service of a player provided to a franchisee which is <b><i>not a recognized sports body</i></b>	
3.	Services provided by a recognized sports body to another recognized sports body	
4.	Services provided by individuals such as <b><i>selectors, commentators, curators, technical experts</i></b>	
5.	Services of an individual as umpire, referee when provided directly to a recognized sports body	

#### Illustration 34

Mr. M.S. Dhoni provided services to Chennai Super Kings (a franchisee) in a premier league. Is it taxable service?

#### Illustration 35

Mr. Krishnamachari Srinivasan provided services as umpire in a premier league (IPL). This service is taxable?

**15. SPONSORSHIP OF SPORTING EVENTS [Entry 53]**

Services provided 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; **[Outside country excluded]**
- (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

**Illustration 36**

M/s DLF Ltd., sponsored ₹ 20 lakhs in respect of a Tournament organized by Board of Council for Cricket in India (BCCI).

- (a) Is it taxable supply of service?
- (b) If so who is liable to pay GST?

**16. ARTIST PERFORMANCE [Entry 78]**

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**. If consideration from such activities exceeds ₹ 1,50,000, **entire consideration** is subject to GST.

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

Further, 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**.

**Clarification regarding GST on payment of honorarium to the Guest Anchors**

It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability. However, guest anchors whose aggregate turnover in a financial year does not exceed ₹ 20 lakh (₹ 10 lakh in case of specified Special Category States) shall not be liable to take registration and pay GST.

**[Circular No. 177/09/2022 GST dated 03.08.2022]**



## EXEMPTIONS

Whether the following activities are exempt under this head or taxable?

S.L. No.	Activities	Taxable/ Exempt
1.	Activities by a performing artist in folk or classical art forms of music, dance, or theatre if the consideration therefor is up to ₹ 1,50,000	
2.	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	
3.	Activities of artists in still art forms e.g. painting, sculpture making etc.	
4.	Services provided by an artist as brand ambassador	
5.	Activities by a performing artist in folk or classical art forms of music, dance, or theatre if consideration exceeds ₹ 1,50,000	

### Illustration 37:

Mr. Navab, a performing artist, provides the following information relating to August, 2017

Receipts from:	₹
Performing classical dance	98,000
Performing in television serial	2,80,000
Services as brand ambassador	12,00,000
Coaching in recreational activities relating to arts	2,10,000
Activities in sculpture making	3,10,000
Performing western dance	90,000

Determine value of taxable supply of services and GST payable by Mr. Navab. GST @ 18%.

## 17. NEWS SERVICES

Services provided by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India are **EXEMPT** from GST. [Entry 49]

## 18. HIRING OF MOTOR VEHICLE [Entry 22]

Services by way of giving on hire -

- TO** a state transport undertaking, a motor vehicle meant to carry more than **12 passengers**; or
- TO** a **goods transport agency (GTA)**, a means of transportation of **goods**;
- TO** a person providing services of **transportation of students, faculty and staff** who is providing service to an **educational institution** providing services by way of **pre-school education and education upto higher secondary school** or equivalent.



(d) **TO** a local authority, an “**Electrically operated vehicle**” meant to carry > 12 passengers.

“**Electrically operated vehicle**” means vehicle which run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicle.

**Illustration 39:** X Ltd., has given on hire 7 trucks to ABC transporters of Delhi (a goods transport agency) for transporting goods in Central Chennai. The hiring charges for the trucks are ₹ 6,200 per truck per day.

Examine whether GST is payable?

**Solution:** GST is not payable in case of hiring of trucks to ABC Transporters

**Illustration 40:** From the following information compute the value of taxable supply and GST payable thereon if all charges are exclusive of GST.

- 1) Hiring of bus (capacity to carry 12) to APSRTC (a state transport undertaking): ₹ 22 lakhs
- 2) Hiring of goods vehicle to a goods transport agency: ₹ 12 lakhs
- 3) Hiring of cars designed to carry passengers to a goods transport agency: ₹ 22 lakh
- 4) Renting of dumpers: ₹ 15 lakhs
- 5) Hiring of audio-visual equipment’s for an event: ₹ 15 lakhs
- 6) Hiring of pandal or shamiana for organizing functions/events: ₹ 30 lakhs
- 7) Hiring of agro machinery for use in agriculture: ₹ 11 lakh

Assessee willing to avail the exemption benefits if any. Assume applicable rate of GST is 5%. Location of supplier and place of supply in the same State.

**Solution:**

Particulars	Value in ₹
Hiring of bus to APSRTC	22
Hiring of goods vehicle to a goods transport agency	Exempted
Hiring of cars designed to carry passengers to a goods transport agency	22
Renting of dumpers	15
Hiring of audio-visual equipment’s for an event	15
Hiring of pandal or shamiana for organising functions	30
Hiring of agro machinery for use in agriculture	Exempted
Taxable value of supply	104
CGST @ 2.5%	2.60
SGST @ 2.5%	2.60



## EXEMPTIONS

### Renting of vehicles to State Transport Undertakings and Local Authorities

It is clarified that the expression “giving on hire” in Entry No. 22 of the Notification No. 12/2017-CT (Rate) includes renting of vehicles. Accordingly, services where the said vehicles are rented or given on hire to State Transport Undertakings or Local Authorities are eligible for the said exemption irrespective of whether such vehicles are run on routes, timings as decided by the State Transport Undertakings or Local Authorities and under effective control of State Transport Undertakings or Local Authorities which determines the rules of operation or plying of vehicles. [CBIC Circular No. 164 /20 /2021-GST dated 6th October 2021]

## 19. INSURANCE SERVICES

### A. LIFE INSURANCE [Entry 36]

- 1) Services of life insurance
- 2) business provided under following schemes are **EXEMPT** from GST -
  - (a) Janashree Bima Yojana (JBY); or
  - (b) Aam Aadmi Bima Yojana (AABY)
  - (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 Yojna
  - (e) Pradhan Mantri Jeevan Jyoti Bima Yojna
  - (f) Pradhan Mantri Jan Dhan Yojna
  - (g) Atal Pension Yojna

*[Life micro insurance product means- any term insurance contract with or without return of premium, any endowment insurance contract or health insurance contract, with or without an accident benefit rider, either on individual or group basis, as per terms stated IRDA (Micro-Insurance) Regulation,2005]*
- 3) Services of life insurance business provided **by the Army, Naval and Air Force Group Insurance Funds** to **members** of Army, Navy and Air Force, respectively, under Group Insurance Schemes of the Central Government. [Entry 29]
- 4) 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. [Entry 29A]
- 5) Services of life insurance business provided by way of **annuity** under **National Pension System** regulated by **Pension Fund Regulatory and Development Authority of India** under Pension Fund Regulatory and Development Authority Act, 2013. [Entry 28]
- 6) 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. [Entry 29B]



## B. GENERAL INSURANCE BUSINESS [Entry 35 & 36A]

Services of general insurance business provided under following schemes are **EXEMPT** from GST –

- (a) Hut Insurance Scheme. Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme; Scheme for Insurance of Tribals: Janata Personal Accident Policy and Gramin Accident Policy; Group Personal Accident Policy for Self- Employed Women; Agricultural Pumpset and Failed Well Insurance; premia collected on export credit insurance; (h) **Restructured Weather Based Crop Insurance Scheme** approved by the Government of India and implemented by the Ministry of Agriculture; Jan Arogya Bima Policy; National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana); Pilot Scheme on Seed Crop Insurance; Central Sector Scheme on Cattle Insurance; Universal Health Insurance Scheme; Rashtriya Swasthya Bima Yojana; or Coconut Palm Insurance Scheme; Pradhan Mantri Suraksha Bima Yojna, Pradhan Mantri Fasal Bima Yojana (PMFBY);
- (b) Niramaya Health Insurance Scheme
- (c) Bangla Shasya Bima
- (d) Services by way of reinsurance of the general and life insurance schemes prescribed above.**

**Illustration 41:** Kotak Mahindra Pension Fund provided the following services in a financial:

- (a) Annual Premium of ₹ 6,000 collected from each individual in relation to National Pension Scheme. No. of subscribers 200.
- (b) Monthly premium collected ₹ 8,750 towards general insurance to cover risk. No. of subscribers 500. Applicable rate of GST 18%. Find the GST liability.

## 20. INCUBATEE SERVICE [Entry 44]

Services provided **BY** an incubatee up to a total turnover of ₹ 50 lakhs in a FY subject to following conditions:

- (a) Total turnover had not exceeded ₹ 50 lakhs during the preceding financial year; and
- (b) Period of 3 years has **not elapsed** from the date of entering into an agreement as an incubatee are **EXEMPT** from GST.

*“Incubatee” means an entrepreneur located within premises of Technology Business Incubator (TBI) or Science and Technology Entrepreneurship Park (STEP) recognized by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of Department of Science and Technology **and** who has entered into an agreement with the TBI or the STEP to enable himself to develop and produce hi-tech and innovative products.*

All taxable services provided by Technology Business Incubators (TBI)/Science and Technology Entrepreneurship Parks (STEP) recognized by National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science & Technology have been EXEMPTED from whole of GST. [Entry 48]



## EXEMPTIONS

### Illustration 42:

Cloud M Power Technologies Pvt. Ltd., is a business incubatee provided following taxable services in the financial year 2022-23 (after July 2022):

Cloud computing services	=	₹ 25,00,000
Mobile application services	=	₹ 20,00,000
Social networking and location aware applications	=	₹ 10,00,000

### Note:

- (a) Previous year taxable services is ₹ 22,00,000.
- (b) Service provider enter into an agreement with STEP in the year 2021-22.

Find GST liability of Cloud M Power Technologies Pvt. Ltd. for the financial year 2022-23. Assume applicable rate of GST 18%.

### Illustration 43:

Technopark Technology Business Incubator (T-TBI), provided the following taxable services in the financial year 2022-23 (on or after 1-7-2022):

1. Entrepreneurship Awareness Camps to a Business incubatee for ₹ 20 lakhs.
2. Commercial space provided to Infosys Ltd. a non-incubatee for ₹ 2 lakhs.

Find GST liability of Technopark Technology Business Incubator?

## 21. AGRICULTURAL SERVICES [Entry 54]

- (i) 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—
  - (i) agricultural operations directly related to production of any **agricultural produce** including cultivation, harvesting, threshing, plant protection or testing;
  - (ii) supply of **farm labour**;
  - (iii) 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**;
  - (iv) renting or leasing of **agro machinery** or **vacant land** with or without a structure incidental to its use;
  - (v) **loading, unloading, packing, storage or warehousing** of agricultural produce;



- (vi) agricultural extension services; **[Application of scientific research and knowledge to agriculture through farmer education and training]**
- (vii) services by any **Agricultural Produce Marketing Committee** or Board or services provided by a commission agent for sale or purchase of agricultural produce.
- (ii) loading, unloading, packing, storage or warehousing of **rice**. **[Entry 24]**
- (iii) storage or warehousing of cereals, pulses, fruits, ~~nuts~~ and vegetables, **[Entry 24B]**
- (iv) Services by way of warehousing of **minor forest produce** **[Entry 24A]**
- (v) 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 **[Entry 55]**
- (vi) **Services by way of artificial insemination of livestock (other than horses)** **[Entry 55A]**

**Meaning of agricultural produce:** It 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

**Examples: Following are taxable as not covered in definition of agricultural produce**

- (i) Potato chips / tomato ketchup are manufactured through processes which alter the essential characteristic of farm produce (potatoes and tomatoes in this case).
- (ii) 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 here. Only such processes are covered in this entry which makes agricultural produce marketable in the **primary market**.

**Whether following products are covered in ambit of agricultural produce**

<b>Processed Tea and coffee</b>	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 <b>green leaf</b> and is the processed output of the same.  Thus, <b>green tea leaves and not tea is the “agricultural produce” eligible for exemption</b> available for loading, unloading, packing, storage or warehousing of agricultural produce. Same is the case with coffee obtained after processing of coffee beans.
<b>Jaggery</b>	Processing of sugarcane into jaggery changes its essential characteristics. Thus, jaggery is also not an agricultural produce
<b>Pulses</b>	Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of dehusking or splitting is usually not carried out by farmers or at farm level



## EXEMPTIONS

but by the pulse millers.

**Therefore pulses (dehusked or split) are also not agricultural produce.** However, whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce

In view of the above, it is inferred that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce and therefore the exemption from GST is not available to their loading, packing, warehousing etc. [Circular No. 16/16/2017 GST dated 15.11.2017].

### Custom milling of paddy into rice

- (i) 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.
- (ii) 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.

In view of the above, it is clarified that **milling of paddy into rice is not eligible for exemption.** [Circular No. 19/19/2017 GST dated 20.11.2017].

#### Illustration 44:

Find the taxability for the following independent cases:

- (a) Packing of pulses in retail packs for ₹ 42,000.
- (b) Packing of tomato ketchup for ₹ 54,000
- (c) Commission on sale of rice for ₹ 10,125.
- (d) Storage of rice flour in the warehouse for ₹ 12,000.

**Solution: All are taxable supply of services**

#### Illustration 45:

Mark Agro Products Ltd., furnishes the following details of various services provided by it in the month of August, 2017:

- (a) Rearing of Silkworm and horticulture – ₹ 2,50,000
- (b) Plantation of tea and coffee - ₹ 2,00,000
- (c) Renting of vacant land for performing marriage ceremony - ₹ 4,50,000
- (d) Sale of wheat on commission basis - ₹ 50,000
- (e) Sale of rice on commission basis - ₹ 2,00,000

Compute the value of taxable supply of services and the GST liability for Mark Agro Prudcs Ltd. for the month of August 2022. Assume rate of GST 18%.

**Illustration 46:**

From the following information find GST liability of M/s A. Ltd. for the month of October 2017:

Particulars	₹ lakhs
(i) Renting of Agro-machinery	5.0
(ii) Cultivation of Ornamental flowers	2.5
(iii) Processing of Tomato Ketchup under the brand name of Y Ltd.	3.0
(iv) Plantation of Rubber	3.5
(v) Processing of Potato chips on jobwork basis	1.5

Assume applicable CGST 2.5% & SGST 2.5%.

**22. SERVICES OF SPECIFIED PERSONS [Entry 39]**

SERVICES PROVIDED BY	SERVICES PROVIDED TO
Business facilitator / business correspondent with respect to <b>Basic Savings Bank Deposit Account</b> covered by Pradhan Mantri Jan Dhan Yojana in the banking company's <b>rural area branch</b> , by way of account opening, cash deposits, cash withdrawals, obtaining e-life certificate, Aadhar seeding	Banking company
<b>Any intermediary providing services TO business facilitator / business correspondent with respect to services mentioned above</b>	
<b>Business facilitator / business correspondent</b>	<b>Insurance company in a rural area</b>

**Relevant definitions**

- (i) 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 RBI.
- (ii) Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account



## EXEMPTIONS

### Illustration 47:

Mr. X being a registered person under GST Law provided the following services in the month of Oct:

- (a) Services provided to Gramena Bank located in rural area in the nature of Enrollment of customers and charge ₹ 20,000.
- (b) Disbursal of credit facilities to borrowers involving small amounts strictly as per the instructions of the Bank locate in a village and collected ₹ 12,250.
- (c) Facilitating the repayment of dues owed to the HDFC bank (Mylapore Branch, Chennai) by its customers and collected fee ₹ 55,000 from the bank.
- (d) Recovery agent services to the State Bank of India, Mount Road Branch, Chennai, for ₹ 2,20,500.

Find the GST liability to pay by Mr. X. Applicable rate of GST @18%.

## 23. BANKING & FINANCIAL SERVICES

- (i) Extending deposits, loans or advances in so far as consideration is represented by way of **interest or discount** (other than interest involved in credit card services); **[Entry 27]**

This would not cover investments by way of equity or any other manner where the investor is entitled to a share of profit. Interest does not include any service fee or other charge incurred for money borrowed so it is **taxable**. Interest on fixed deposits, loan, overdraft facility etc. is **exempt**.

Service charges or administrative charges or entry charges collected over and above interest are **not exempt**.

- (ii) Inter se **sale or purchase of foreign currency** amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers. [Such services provided to general public is taxable] **[Entry 27]**
- (iii) 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. Acquiring bank includes any person, who makes payment to any person who accepts such card. **[Entry 34]**
- (iv) 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 INR** have been exempted. **[Entry 39A]**

Intermediary of financial services in IFSC is a person:

- (a) who is permitted / recognised as such by the **Government of India / 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
- (v) Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under **Pradhan Mantri Jan Dhan Yojana (PMJDY) [Entry 27A]**

**Illustration 48:**

Robinson Bank Ltd. furnishes the following information relating to services provided and the gross amount received during the month of December 2017. Compute the value of taxable supply of services and GST payable:

<b>Particulars</b>	<b>₹ in Lakhs</b>
(a) Amount of commission received for debt collection service	10
(b) Discount earned on bills discounted	4.5
(c) Dealing in sale and purchase of forward contract	5.7
(d) Charges received on credit card and debit card facilities extended	3.8
(e) Penal interest recovered from the customers for the delay in repayment of loan	2.6
(f) Commission received for service rendered to Government for tax collection	6.0
(g) Interest earned on reverse repo transaction	25.0

(Show the workings with explanation wherever required)

**Illustration 49:**

X Bank Ltd., furnishes the following information relating to services provided and the gross amount received

<b>Particulars</b>	<b>₹ in Lakhs</b>
Merchant Banking Services	8
Asset Management (including portfolio management)	3
Service charges for services to the Government of India	1.5
Interest on overdraft and cash credits	2
Banker to the issue	5
Locker rent	2
Repayment of financial lease made by the customer to the bank ₹ 80 lakhs which includes a principal amount of ₹ 50 lakhs.	

Compute the value of taxable supply of services under “Banking and other financial services” and also find the CGST and SGST where rate of GST is 9% each. *ITC availed by the bank on the asset which is given on financial lease.*



## EXEMPTIONS

### Clarification regarding applicability of GST on additional / penal interest [Circular No. 102/21/2019-GST dated 28/06/2019]

**Issue:** Applicability of GST on delayed payment charges in case of late payment of Equated Monthly Instalments (EMI). In cases where the EMI is not paid at the scheduled time, there is a levy of additional / penal interest on account of delay in payment of EMI.

- (i) Whether it would be exempt from GST as per Notification No. 12/2017-Central Tax (Rate) dated 28<sup>th</sup> June 2017
- (ii) Whether penal interest would be treated as consideration for liquidated damages [amounting to a separate taxable supply of services under GST covered under Para 5(e) of Schedule II of the CGST Act, 2017 i.e. i.e. "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act]

<p><b>Case 1</b></p> <p>X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000.</p> <p>However, X gives Y an option to pay in installments, Rs 11,000 every month before 10<sup>th</sup> day of the following month, over next 4 months (Rs. 11,000 *4 = Rs. 44,000).</p> <p>Further, as per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional / penal interest amounting to Rs. 500 per month for the delay. In some instances, X is charging Y Rs. 40,000 for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional / penal interest amounting to Rs. 500 per month for each delay in payment.</p>	<p>The amount of penal interest is to be included in the value of supply u/s 15(2)(d).</p> <p>The transaction between X and Y is for supply of taxable goods i.e. mobile phone.</p> <p>Accordingly, <b>the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.</b></p>
<p><b>Case 2</b></p> <p>X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s ABC Ltd. The terms of the loan from M/s ABC Ltd. allows Y a period of 4 months to repay the loan and an additional / penal interest @ 1.25% per month for any delay in payment</p>	<p>The additional / penal interest is charged for a transaction between Y and M/s ABC Ltd., and the same is getting covered under N/No. 12/2017. <b>Accordingly, in this case the 'penal interest' charged thereon on a transaction between Y and M/s ABC Ltd. would not be subject to GST</b>, as the same would be covered under Exemption N/No. 12/2017-CT (Rate) dtd. 28.06.2017. The value of supply of mobile by X to Y would be Rs. 40,000 for the purpose of levy of GST.</p>

**Notes:**

- (i) **Value of Supply:** As per Section 15(2)(d) of the CGST Act, the value of supply shall include “interest or late fee or penalty for delayed payment of any consideration for any supply”.
- (ii) **Exemption:** 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)” is **exempted**.
- (iii) **Meaning of Interest covered in exemption:** “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 utilized.

(iv) **Penal interest is exempt**

The transaction of levy of **additional / penal interest does not fall within the ambit of Para 5(e) of Schedule II** of the CGST Act i.e. “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act”, as this levy of additional / penal interest satisfies the definition of “interest” as contained in exemption notification No. 12/2017- Central Tax (Rate) dated 28.06.2017.

(v) **Service fee/charge on loans and advances is not exempt and include in value of supply**

It is further clarified that **any service fee/charge** or any other charges that are levied by M/s ABC Ltd. in respect of the transaction related to extending deposits, loans or advances **does not qualify to be interest** as defined in exemption notification No. 12/2017- Central Tax (Rate) dated 28.06.2017, and accordingly will not be exempt.

**Illustration 50:**

M/s. Apna Bank Limited, a scheduled commercial bank, has furnished the following details for the month of August

<b>Particulars</b>	<b>Amount (in ₹ crores) excluding tax</b>
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	01

Compute value of taxable supply. [Answer: ₹ 91 crores]



### 24. CONSTRUCTION SERVICES

- (i) 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 **Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana [Entr 10]**
- (ii) 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. [Entry 11]**
- (iii) 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. [Entry 10A]**
- (iv) Supply of **TDR, FSI, long term lease (premium) of land by a landowner to a developer** have been exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them.

Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, **but such withdrawal shall be limited to**

- 1% of value in case of affordable houses and
- 5% of value in case of other than affordable houses.

This will achieve a fair degree of taxation parity between under construction and ready to move property.

#### Relevant definitions

##### Original Works

The term ‘original works’ means

- All new constructions;
- All types of additions and alterations to abandoned or damaged structures **on land** that are required to make them workable;
- erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise.

##### Single residential unit

Single residential unit means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family.



**Clarification regarding applicability of GST on sale of land after levelling, laying down of drainage lines etc.**

As per Para 5 of Schedule III of the CGST Act, 2017, 'sale of land' is neither a supply of goods nor a supply of services. Therefore, the sale of land does not attract GST.

Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by Para 5 of Schedule III and accordingly, does not attract GST.

**However, it may be noted that any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services.**

**[Circular No. 177/09/2022 GST dated 03.08.2022]**

## 25. LEASING SERVICES

- 1) 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 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**, has been exempted.

**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.

**Conditions:**

- Leased plots shall be **used for the purpose for which they are allotted**, i.e, for industrial or financial activity in an industrial or financial business area;
- The State Government concerned **shall monitor and enforce the above condition** as per the order issued by the State Government in this regard
- 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 CGST, 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**
- 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**



## EXEMPTIONS

plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the CGST 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. **[Entry 41]**

It has been clarified that GST exemption on the upfront amount 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. 101/20/2019 GST dated 30.04.2019]**

**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 thus exempted**

The issue which arose for consideration was 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 upfront amount charged for long term lease of land and are eligible for the same tax treatment.

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.

**Accordingly, 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 Entry 41. [Circular No. 177/09/2022 GST dated 03.08.2022]**

## 26. RIGHT TO ADMISSION TO VARIOUS EVENTS

1) Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo **[Entry 79]**

2) 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 recognized sporting event;
- c) recognized 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. **[Entry 81]**

“Recognised sporting event” means any sporting event organized by a **recognized sports body** where the participating team or individual represent any district, state, zone or country and organized by prescribed organizations.



- 2) Services by way of **admission to a protected monument** as declared under the Ancient Monuments and Archaeological Sites and Remains Act 1958 or any of the State Acts have been exempted. **[Entry 79A]**

### 27. SERVICES BY NPO's

- (i) 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 GST; 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** is **EXEMPT** from GST. **[Entry 77]**

**Notes:**

- (a) Statutory dues such as property tax, electricity charges etc. forming part of the monthly maintenance bill raised by the society on its members **would be excluded** while computing the aforesaid monthly limit of ₹ 7,500
  - (b) Exemption is available up to an amount of ₹ 7,500 and GST would be applicable on the amount in excess of ₹ 7,500.
- (ii) Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in:
- (a) activities relating to the welfare of industrial or agricultural labour or farmers; or
  - (b) 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** **[Entry 77A]**

**Illustration 51:**

The Resident Welfare Association (RWA) of Blue Heaven Building Housing Society in Delhi provides the following information pertaining to amounts received by it in the month of Oct, 2017.

Particulars	(₹)
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
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)	4,00,000

Find the GST liability if any. The applicable rate of GST 18%. The Gross receipts of RWA was ₹ 24,50,000.



## EXEMPTIONS

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### Illustration 52:

Green Tree society provided following services in the month of Oct 2022:

- (i) Banquet hall provided to a Member of the society on hire for the purpose of celebrating his son birthday party for ₹ 25,000.
- (ii) Payment of electricity bill issued by third person, in the name of its members; collected ₹ 1,10,000 from its members and paid to electricity department ₹ 1,00,000.
- (iii) Contribution per month per member is ₹ 8,500 for 20 members and ₹ 2,500 for 30 members has been received in the Oct 2017.

Find the tax liability of the Green Tree Society for the month of Oct 2022.

### Taxability of various charges collected by societies

If a society collects the following charges from the members on quarterly basis as follows:

- (a) Property Tax - actual as per Municipal Corporation of Greater Mumbai (MCGM)
- (b) Water Tax - Municipal Corporation of Greater Mumbai (MCGM)
- (c) Non-Agricultural Tax - Maharashtra State Government
- (d) Electricity charges
- (e) Sinking Fund-mandatory under the Bye-laws of the Co-operative Societies
- (f) Repairs & maintenance fund
- (g) Car parking Charges
- (h) Non-Occupancy Charges
- (i) Simple interest for late payment.

### Clarifications issued by the CBIC with respect to above charges: [Source: FAQs issued by CBIC]

- (i) Services provided by the Central Government, State Government, Union territory or local authority to **a person other than business entity, is exempted from GST**. So, Property Tax, Water Tax, if collected by the RWA/Co-operative Society on behalf of the MCGM from individual flat owners, **then GST is not leviable**.
- (ii) Similarly, GST is not leviable on Non-Agricultural Tax, Electricity Charges etc., which are collected under other statutes from individual flat owners. However, if these charges are collected by the Society for generation of electricity by Society's generator or to provide drinking water facility or any other service, then such charges collected by the society are liable to GST.
- (iii) Sinking fund, repairs & maintenance fund, car parking charges, Non-occupancy charges or simple interest for late payment, attract GST, as these charges are collected by the RWA/Co-operative Society for supply of services meant for its members.



**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 July 2019]**

Issue	Clarification													
<p>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?</p>	<p>Supply of service by RWA 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.</p>													
<p>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 ₹ 7500 per month per member?</p>	<p>No. If aggregate turnover of an RWA does not exceed ₹ 20 Lakhs in a financial year, it shall not be required to take registration and pay GST even if the amount of maintenance charges exceeds ₹ 7500 per month per member.</p> <p>RWA shall be required to pay GST on monthly subscription/ contribution charged from its members, only if such subscription is more than Rs. 7500 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.</p> <table border="1" data-bbox="810 1205 1473 1682"> <thead> <tr> <th data-bbox="810 1205 1031 1346">Annual turnover of RWA</th> <th data-bbox="1031 1205 1251 1346">Monthly maintenance charge</th> <th data-bbox="1251 1205 1473 1346">Whether exempt?</th> </tr> </thead> <tbody> <tr> <td data-bbox="810 1346 1031 1514" rowspan="2"> <p>&gt; Rs. 20 lakhs</p> </td> <td data-bbox="1031 1346 1251 1429"> <p>&gt; Rs. 7500</p> </td> <td data-bbox="1251 1346 1473 1429"> <p>No</p> </td> </tr> <tr> <td data-bbox="1031 1429 1251 1514"> <p>₹ 7500 or less</p> </td> <td data-bbox="1251 1429 1473 1514"> <p>Yes</p> </td> </tr> <tr> <td data-bbox="810 1514 1031 1682" rowspan="2"> <p>Rs. 20 lakhs or less</p> </td> <td data-bbox="1031 1514 1251 1597"> <p>&gt; ₹ 7500</p> </td> <td data-bbox="1251 1514 1473 1597"> <p>Yes</p> </td> </tr> <tr> <td data-bbox="1031 1597 1251 1682"> <p>₹ 7500 or less</p> </td> <td data-bbox="1251 1597 1473 1682"> <p>Yes</p> </td> </tr> </tbody> </table>	Annual turnover of RWA	Monthly maintenance charge	Whether exempt?	<p>&gt; Rs. 20 lakhs</p>	<p>&gt; Rs. 7500</p>	<p>No</p>	<p>₹ 7500 or less</p>	<p>Yes</p>	<p>Rs. 20 lakhs or less</p>	<p>&gt; ₹ 7500</p>	<p>Yes</p>	<p>₹ 7500 or less</p>	<p>Yes</p>
Annual turnover of RWA	Monthly maintenance charge	Whether exempt?												
<p>&gt; Rs. 20 lakhs</p>	<p>&gt; Rs. 7500</p>	<p>No</p>												
	<p>₹ 7500 or less</p>	<p>Yes</p>												
<p>Rs. 20 lakhs or less</p>	<p>&gt; ₹ 7500</p>	<p>Yes</p>												
	<p>₹ 7500 or less</p>	<p>Yes</p>												
<p>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 &gt; ₹ 7,500 per month per member?</p>	<p>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.</p>													
<p>Where a person owns two or more flats in the housing society or residential complex, whether the ceiling of ₹ 7500 per month per member on</p>	<p>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</p>													



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the maintenance for the exemption to be available shall be applied per residential apartment or per person	member of the RWA for each residential apartment owned by him separately. The ceiling of ₹ 7500 per month per member shall be applied separately for each residential apartment owned by him. For example, 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 (₹ 7500 per month in respect of each residential apartment), the exemption from GST shall be available to each apartment.
How should the RWA calculate GST payable where the maintenance charges exceed ₹ 7500 per month per member? Is the GST payable only on the amount exceeding ₹ 7500 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 ₹ 7500 per month per member. In case the charges exceed ₹ 7500 per month per member, the entire amount is taxable. For example, if the maintenance charges are ₹ 9000 per month per member, GST @18% shall be payable on the entire amount of ₹ 9000 and not on [₹ 9000 - ₹ 7500] = ₹ 1500

### 28. TOUR OPERATOR SERVICE [Entry 52A]

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:

Provided that value of the tour operator service performed outside India shall be such proportion of the total consideration charged for the entire tour which is equal to the proportion which the number of days for which the tour is performed outside India has to the total number of days comprising the tour, or 50% of the total consideration charged for the entire tour, whichever is less:

Provided further that 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.

Explanation. “**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/- x 2/5) or, ₹ 50,000/- (50% of ₹ 1,00,000/-) whichever is less, i.e., ₹ 40,000/- (i.e., 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/- x 3/5) or, ₹ 50,000/- (50% of ₹ 1,00,000/-) whichever is less, i.e., ₹ 50,000/- (i.e., 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/- x 3/5.5) or, ₹ 50,000/- (= 50% of ₹ 1,00,000/-) whichever is less, i.e., ₹ 50,000/- (i.e., Taxable value: ₹ 50,000/-).

**29. OTHER MISCELLANEOUS SERVICES**

- 1) 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. [Entry 57]**
- 2) Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets; are **EXEMPT. [Entry 76]**
- 3) Services by way of transfer of a going concern, as a whole or an independent part thereof are **EXEMPT. [Entry 2]**

**Example:** Conversion of firm into LLP wherein LLP takes over the assets and liabilities and continues to operate the same business – Not a taxable supply

- 3) Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material; are **EXEMPT. [Entry 50]**
- 4) Services provided by an organizer to any person in respect of a business exhibition held **outside India** are **EXEMPT [Entry 52]**
- 5) Transmission or distribution of electricity by an electricity transmission or distribution utility. **[Entry 25]**

**Note:** The other services provided by DISCOMS (distribution companies) to consumer against charges are liable to GST such as:

- Application fee for releasing connection of electricity;
- Rental Charges against metering equipment;
- Testing fee for meters/transformers, capacitors etc.;
- Labour charges from customers for shifting of meters or shifting of service lines;
- Charges for duplicate bill

**[Circular No. 34/8/2018 GST dated 01.03.2018].**



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- 6) Service by way of access to a road or a bridge on payment of **toll charges**. [Entry 23]
- 7) Services by a foreign diplomatic mission located in India.
- 8) Services by way of collection of contribution under any pension scheme of the **State Governments**. [Entry 38]
- 9) Services by way of collection of contribution under the **Atal Pension Yojana**. [Entry 37]
- 10) Services by way of renting of residential dwelling for use as *residence* **except where the residential dwelling is rented to a registered person**. [Entry 12]

Explanation: For the purpose of exemption under this entry, this entry shall cover 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

**Example:** Mr. A owns a residential building in a prime commercial locality. Basement of the building is leased to Mr. B, a wholesaler. One-fourth of the basement is used by Mr. B as his office and remaining portion is used as a godown for storing his merchandise. Ground floor of the building is given on rent to Mr. C who uses the same as a guest house for his business contacts. First floor of the building is occupied by Mr. A. and his family. Second floor is given on rent to Mr. D who uses the same as his residence.

There is a large vacant land in the backyard of the building which is also given on rent to a parking contractor, Mr. E who has set up a parking facility on the said land. Separate rent/lease deeds have been executed in respect of each floor of the building and vacant land given on rent/lease.

Examine the GST liability of Mr. A with respect to the residential building owned by him.

**Solution:** Basement: Taxable; Ground Floor: Taxable; First Floor: Not Taxable; Second Floor: Exempt; Vacant Land: Taxable

- 11) Services by way of providing information under **Right to Information Act, 2005** have been exempted. [Entry 65A]
- 12) 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**. (subject to certification by Director (Sports), Ministry of Youth Affairs and Sports) [Entry 9A]
- 13) Supply of services by way of **right to admission** to the events organised under FIFA U- 17 Women's World Cup 2020 **whenever rescheduled**. [Entry 82A]
- 14) Services by way of right to admission to the events organised under AFC Women's Asia Cup 2022 [Entry 82B]



- 15) 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 Provided that 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 **[Entry 9AB]**
- 16) Supply of services associated with **transit cargo to Nepal and Bhutan** (landlocked countries) have been exempted. **[Entry 9B]**

**Clarification regarding applicability of GST on transportation of empty containers returning from Nepal and Bhutan after delivery of transit cargo, to India**

Entry 9B exempts GST on supply of services associated with transit cargo to Nepal and Bhutan.

In this regard, it is clarified that exemption under Entry 9B covers services associated with transit cargo both to and from Nepal and Bhutan.

**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. [Circular No. 177/09/2022 GST dated 03.08.2022]**

- 17) Supply of services by way of **grant of license** or lease to explore or mine **petroleum crude or natural gas or both**, has been exempted as is leviable on the **consideration paid to the CG** in the form of CG's **share of profit petroleum** as defined in the contract entered into by the CG.
- 18) **Satellite launch services [Entry 19C]**

**GST on overloading charges at toll plaza.**

Overloading charges at toll plazas is exempt from GST as given to toll charges under GST. **[CBIC Circular No. 164 /20 /2021-GST dated 6th October 2021]**

**Whether the additional toll fees collected in the form of higher toll charges from vehicles not having fastag is exempt from GST?**

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. **[Circular No. 177/09/2022]**

**Illustration 53:**

BCCI conducted a tournament in the month of October 2017, in India (i.e. India vs. Australia) by selling tickets in the following denominations:

- a) 1,00,000 tickets @ 495 per ticket  
b) 10,000 tickets @ 550 per ticket. Find the GST if any?



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### Illustration 54:

Admission to IPL is ₹ 495 and entertainment tax ₹ 25. Whether this is activity exempt from GST?

## LIST OF ADDITIONAL SERVICES EXEMPT FROM IGST [N/No. 9/2017 IT (R) dated 28.06.2017]

### 1. SERVICES RECEIVED FROM OUTSIDE INDIA

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 or 12AB of the Income-tax Act, 1961 for purposes of providing charitable activities; or
- c) 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;
- d) a person located in a non-taxable territory.

This exemption shall **not apply** to –

- a) **online information and database access or retrieval services** received by persons specified in entry (a) or entry (b); or
  - b) ~~services by way of transportation of goods by a vessel from place outside India up to customs station of clearance in India received by persons specified in the entry.~~ **[Entry 83]**
2. 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] provided the **place of supply of the service is outside India** as per section 13 of IGST Act.
  3. Import of services by United Nations or a **“specified international organization”** for **official use** of the United Nations or the **specified international organisation.**

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.



4. 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) They are entitled to exemption from IGST, as stipulated in the certificate issued by the **Protocol Division of the Ministry of External Affairs**, based on the principle of reciprocity;
  - (ii) 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) 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) The exemption granted shall not be available from the date of withdrawal of such certificate.
5. Any supply of goods by a **retail outlet** established in the departure area of an international airport, beyond the immigration counters, to an **outgoing international tourist**.
- Explanation. - "Outgoing international tourist" shall mean a person not normally resident in India, who enters India for a stay of not more than 6 months for legitimate non-immigrant purposes.

### **OTHER SERVICES EXEMPT FROM GST**

**A. Intra-State supplies received by TDS deductor from unregistered supplier exempt from CGST** [Notification No.9/2017 CT (R) dated 28.06.2017]

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

**B. Services imported by unit/developer in SEZ exempt from IGST** [Notification No. 18/2017 IT (R) dated 05.07.2017].

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



## EXEMPTIONS

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### **C. Central Government's share of profit petroleum exempted from CGST [Notification No. 5/2018 CT (R) dated 25.01.2018]**

Intra-State supply of services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, has been exempted from so much of CGST 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.

### **D. IGST exempted to the extent it is paid on the consideration attributable to royalty and license fee included in transaction value under Rule 10(1)(c) of Customs Valuation (Determination of value of imported Goods) Rules, 2007 [Notification No. 6/2018 IT (R) dated 25.01.2018].**

IGST leviable on import of services in relation to **temporary transfer or permitting the use or enjoyment of any intellectual property right has been exempted** 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