

# Levy and Collection of GST

## Lesson 16

### KEY CONCEPTS

- Taxable Event ■ Supply ■ Exempt Supply ■ Reverse Charge

### Learning Objectives

#### To understand:

- Various Concepts Relating to Supply of Goods and Services
- Difference Between Composite Supply and Mixed Supply
- Charging Section of GST
- Various Exemptions Under GST
- Provisions Relating to Composition Scheme
- Concept of Forward Charge Mechanism
- Provisions Relating to Reverse Charge Mechanism

### Lesson Outline

- Taxable Event
- Concept of Supply
- Composite Supply and Mixed Supply
- Levy and Collection of CGST and IGST
- Exemptions Under GST
- Composition Scheme
- Forward Charge Mechanism
- Reverse Charge Mechanism
- Lesson Round-Up
- Glossary
- Test Yourself
- List of Further Readings

**REGULATORY FRAMEWORK****1. Central Goods and Services Tax**

<b>Section 7</b>	Meaning and Scope of Supply
<b>Section 2(30)</b>	Definition of Composite Supply
<b>Section 2(74)</b>	Definition of Mixed Supply
<b>Section 2(90)</b>	Definition of Principal Supply
<b>Section 2(47)</b>	Definition of Exempt Supply
<b>Schedule I</b>	Activities to be treated as Supply even if made without Consideration
<b>Schedule II</b>	Activities to be treated as Supply of Goods or Supply of Services
<b>Schedule III</b>	Activities or transaction which shall be treated neither as Supply of Goods nor a Supply of Services
<b>Section 8</b>	Tax Liability on Composite and Mixed Supplies
<b>Section 9</b>	Levy and Collection GST
<b>Section 10</b>	Composition Scheme
<b>Section 11</b>	Power to grant exemption

**2. Integrated Goods and Services Tax Act, 2017**

<b>Section 5</b>	Levy and Collection of GST
<b>Section 6</b>	Exemption from payment of IGST

**TAXABLE EVENT**

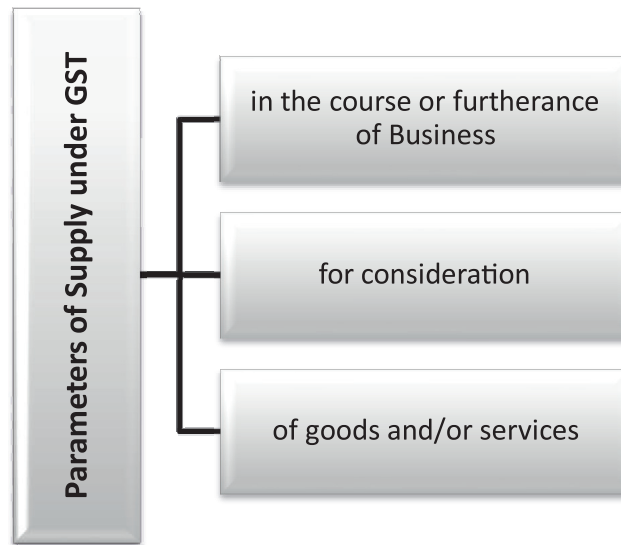
The crux of any taxation system is the incidence, i.e., the point at which the liability to charge tax arises, and that event is nomenclated as the taxable event. Goods and Services Tax, with its introduction and in the process of subsuming the other Acts, has overcome many shortcomings of the legacy system too, one of them being, the definition of taxable event. The multitude of tax laws that prevailed earlier, that is Central Excise, Sales Tax, Service Tax, VAT etc., were prone to ambiguity and controversies which has been overcome to a great extent by the comprehensive approach and definition as laid down by GST. GST has kept it not only simple, but also robust, by stating that the entire value of supply of goods / services are taxed in an integrated manner.

Taxable Event under Goods and Services Tax is Supply of goods or services or both for consideration.

Taxable event means an event or situation which gives rise to tax liability or which generate revenue for Government. The occurrence of a taxable event is a crucial event in GST since the levy and collection of tax is dependent on it. The 'taxable event' under GST is the Supply of Goods or Services or both for consideration. The taxable events under the previous indirect tax laws such as manufacture, sale, or provision of services is subsumed in the taxable event known as 'Supply'.

## CONCEPT OF SUPPLY

**Generic meaning of 'supply':** Supply includes all forms of supply (goods and / or services) and includes agreeing to supply when the supply is for a consideration and in the course or furtherance of business (as defined under Section 7 of the Act). Supply means to make something available to someone who needs it. The various taxable events in pre-GST regime such as purchase, sale, manufacturing, service, entry tax etc. have been subsumed in Supply. Supply includes sales, barter transfer, exchange, license, rental, lease and disposal. If a person undertakes any of these transactions during the course or furtherance of business for consideration. It is called Supply. The Scope of supply has been given under Section 7 of the CGST Act, 2017.



Supply specifically provides for the inclusion of the following 8 classes of transactions:

- (i) **Sale:** Sale is a lawful, permanent and absolute transfer of ownership of property in goods for money consideration under a valid contract such that no rights are left behind with the transferor;
- (ii) **Transfer:** Transfer is to lawfully convey property from one person to another. Here, consent of transferor and capacity of transferee need not be present although all other ingredients of a lawful contract are incumbent;
- (iii) **Barter:** Barter is where the consideration is in the form of goods or services (and not in money) for a sale or transfer. So in general, barter is itself not a supply but the form that consideration takes. But, when barter is called one of the forms of supply, it covers other forms of supply whose consideration is non-monetary. Therefore, barter will involve two supplies and not one. Each of these supplies would need to be examined for its respective taxability;
- (iv) **Exchange:** Exchange is where consideration is still not in money but in the form of immovable property (*CIT v. Motors and General Stores Pvt. Ltd. AIR 1968 SC 200*). Similar to barter, exchange also involves two supplies. Given that land and (completed) building is excluded from supply, exchange would be the supply whose consideration is immovable property. And the object of supply itself may be of goods or of services;

The term 'supply' is wide in its import covers all forms of supply of goods or services or both that includes sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

- (v) *License*: License is similar to lease except that possession is not transferred but mere permission to enter and use the property (movable or immovable) is allowed along with all other ingredients of a lease. Supplier of a license retains possession of the property during the term of license without right to use (if license precludes joint use). And after expiry of the term of license or on termination of license, the licensee will be a trespasser;
- (vi) *Rental*: Rental is lease in respect of movable property. And since recurring payment in lease (of immovable property) is called rental, transfer of possession with user rights for recurring payment of consideration is interchangeably applied for movable and immovable property;
- (vii) *Lease*: Lease is where possession is transferred along with the right to use immovable property with a duty to care, protect and return subject to normal wear and tear along for consideration in the form of non- recurring premium only or along with recurring rent. Essence of lease being delivery of possession along with user rights is the reason lease is also used in the context of movable property (under the earlier laws). Supplier of a lease does not have possession hence not enjoy the right to use but retains right to repossess after term of lease;
- (viii) *Disposal*: Disposal is sale or transfer but property that does not possess merchantable warranty. Articles that are not merchantable are not 'fit for sale' but trade does take place for the reason that the supplier disposes the article without ascribing any worth but the recipient accepts the article for some intrinsic worth that he is able to extract or obtain.

### MEANING AND SCOPE OF SUPPLY

<i>Heading</i>	<i>Provisions and Analysis</i>
<p><b>General meaning</b> [Section 7(1)(a)]</p>	<p>Supply includes –</p> <p>all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;</p> <p><b>Analysis:</b></p> <p>The definition of supply is inclusive which encompasses various forms of supply like sale, barter, etc. Significantly, it includes stock transfer of goods between two divisions of the same person or enterprise. Further, the services in the nature of renting, leasing, etc. are also included within the scope of 'supply'. However, to constitute an activity as 'supply', the common conditions are that the activity must be for a consideration and it should be in the course or furtherance of business.</p>
<p><b>Section 7(1)(aa)</b></p>	<p>Supply includes the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.</p> <p><i>Explanation</i> - For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, Tribunal or Authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;</p>

<i>Heading</i>	<i>Provisions and Analysis</i>
	<p><b>Analysis:</b> The aforesaid provision has been inserted through Finance Act, 2021 and has been given retrospective effect from 1.7.2017. The purpose of such insertion is to constitute activities or transactions between an association, club or similar entities and its members or constituents as 'supply'. For the purpose of taxability, the members and the entity shall be deemed to be two distinct persons.</p>
<p><b>Import of Services [Section 7(1)(b)]</b></p>	<p>Import of services for a consideration whether or not in the course or furtherance of business;</p> <p><b>Analysis:</b> Here, the business test is not relevant. The import of service may or may not be in the course or furtherance of business and still continue to fall within the scope of 'supply'. Thus, even the import of services by individuals for personal use is considered as supply and chargeable to tax in India.</p> <p>The transaction, however, should conform to the definition of 'import of service' as per Section 2(11) of the IGST Act, 2017 which provides that "import of service" means the supply of any service, where -</p> <ul style="list-style-type: none"> <li>(i) the supplier of service is located outside India;</li> <li>(ii) the recipient of service is located in India; and</li> <li>(iii) the place of supply of service is in India.</li> </ul> <p>Among other conditions, Place of Supply should be in India, which can be ascertained by referring to Section 13 of the IGST Act.</p> <p>Tax in such cases is payable under reverse charge by the recipient located in the taxable territory with no threshold.</p> <p>However, section 14 of the IGST Act, 2017 provides that in respect of import of service by way of online information and database access or retrieval services by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services.</p>
<p><b>Supply Without Consideration [Section 7(1)(c)]</b></p>	<p>The activities specified in <b>Schedule I</b>, made or agreed to be made Without a Consideration;</p> <p>Thus, the activities listed in <b>Schedule I</b> shall be treated as supply even if made without consideration.</p>
<p><b>Deeming certain activities as either supply of goods or supply of services [Section 7(1A)]</b></p>	<p>Where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in <b>Schedule II</b>.</p> <p>This provision is inserted in place of erstwhile Section 7(1)(d) vide the <b>Central Goods and Services Tax (Amendment) Act, 2018 retrospectively from 01.07.2017</b>.</p>

<i>Heading</i>	<i>Provisions and Analysis</i>
	<p><b>The effect of the amendment is that the activities listed in Schedule II</b> shall be treated either as supply of goods or supply of services provided the basic conditions for an activity to be construed as supply as laid down in Section 7(1) are fulfilled.</p>
<p><b>Neither a Supply of goods or services [Section 7(2)]</b></p>	<p>Notwithstanding anything contained in sub-section (1)</p> <p>(a) Activities or transactions specified in <b>Schedule III</b>; or</p> <p>(b) such activities or transactions undertaken by the Central Government, a State Government or any Local Authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.</p> <p>Vide Notification No. 25/2019-C.T. (Rate), dated 30-09-2019, the Central Government has exercised powers under Section 7(2) of the CGST Act and notified that the activity or transaction by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called, undertaken by the State Governments shall be treated neither as a supply of goods nor a supply of service.</p>
<p><b>Issue of Notification by Government [Section 7(3)]</b></p>	<p>Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as -</p> <p>(a) a supply of goods and not as a supply of services; or</p> <p>(b) a supply of services and not as a supply of goods.</p>

**Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors**

[Circular No. 116/35/2019 – GST, dated October 11, 2019]

Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc. The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude. When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation).

There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration. *For further details please visit:*

<https://taxinformation.cbic.gov.in/view-pdf/1002950/ENG/Circulars>

**Treatment of supply by an artist in various States and supply of goods by artists from galleries [Circular No. 22/22/2017 – GST, dated December 21, 2019]**

In case of supply by artists through galleries, there is no consideration flowing from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply. It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.

**No claim bonus offered by an insurance company to the insured.**

It is common practice in insurance sector that the insurance companies deduct no claim bonus from the gross insurance premium amount when no claim is made by the insured person during previous insurance periods. The insured person is not under any obligation not to claim insurance claim during any period covered under the policy, in lieu of no claim bonus.

It is therefore clarified that there is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous years and no claim bonus cannot be considered as consideration for any supply to the insurance company.

**For further details please visit:**

<https://taxinformation.cbic.gov.in/view-pdf/1003138/ENG/Circulars>

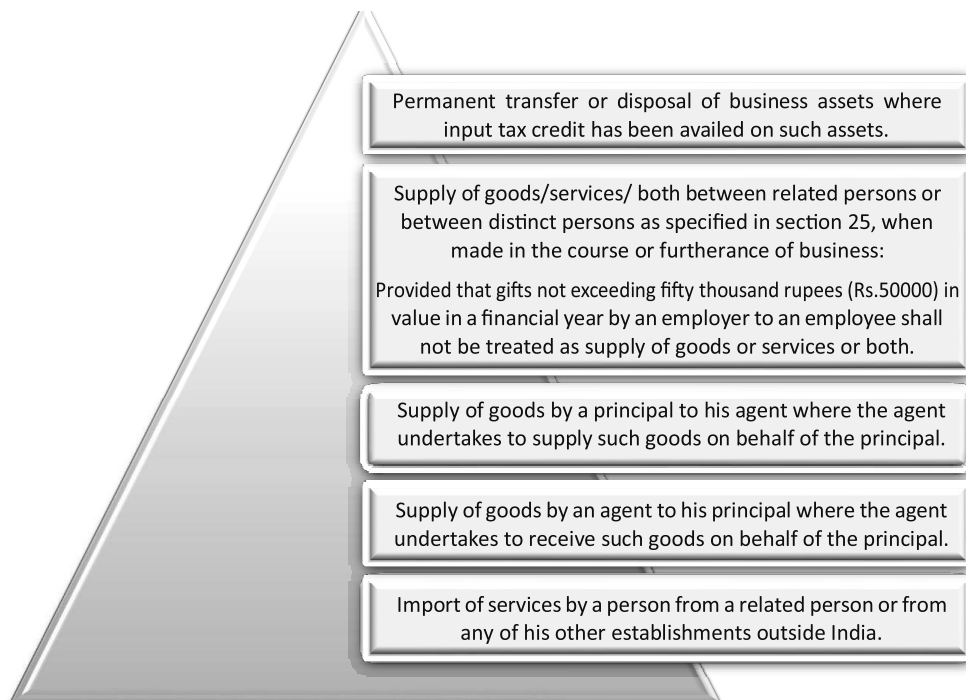
**GST liability in case of receipt of liquidated damages on account of breach of contract [Circular No. 178/10/2022-GST, dated 03-08-2022]**

While clarifying the taxability of liquidated damages received on account of breach of contract provisions, it was observed that where the amount paid as 'liquidated damages' is an amount paid only to compensate for injury, loss or damage suffered by the aggrieved party due to breach of the contract and there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages, in such cases it is a mere a flow of money from the party who causes breach of the contract to the party who suffers loss or damage due to such breach. Such payments do not constitute consideration for a supply and are not taxable.

**For further details please visit:**

<https://taxinformation.cbic.gov.in/view-pdf/1003044/ENG/Circulars>

## Schedule I

**ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION [DEEMED SUPPLIES]**

S. No.	Title	Provision	Analysis
1.	Permanent transfer or disposal of business assets	Permanent transfer or disposal of business assets where Input Tax Credit has been availed on such assets.	<p>Typically, donation of business assets or scrapping or disposal in any other manner (other than as a sale - i.e., without a consideration) would qualify as 'supply' under this clause, where Input Tax Credit has been claimed on the same.</p> <p><i>Example:</i></p> <p>In case of cars purchased by the company for use by directors would not qualify for Input Tax Credit and such Input Tax Credit would therefore, not have been claimed. Say, after a few years, the same car is transferred to such director on a free of cost basis. In normal course, it is a disposal of business assets. However, this would not be treated as a supply for Schedule I as no Input Tax Credit was availed on such car.</p>

2.	Goods or Services or both transferred between related persons or between distinct persons	<ul style="list-style-type: none"> <li>➤ Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.</li> <li>➤ Provided that gifts not exceeding fifty thousand rupees (Rs.50000) in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.</li> </ul>	<p>Transactions between distinct persons or between related persons have been considered as supply even if made without consideration.</p> <p>‘Distinct person’ has been defined in Section 25 of the CGST Act, to mean a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.</p>
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A persons shall be deemed to be “related persons” if –

- (i) such persons are officers or directors of one another’s businesses;
- (ii) such persons are legally recognised partners in business;
- (iii) such persons are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds twenty- five per cent. or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family.

**Example:**

Mr. Atin is engaged in supply of professional services as Company Secretary. He has obtained a Registration in the State of West Bengal in respect of his Head Office. In addition, he has obtained registration in the State of Delhi in respect of his branch. In the above case, both registrations of Mr. Atin shall be treated as distinct persons to each other.

- The amount paid by employer to employee in lieu of services rendered by the employee and which is mentioned in the offer letter or agreement is exempted from the levy of tax.
- Moreover, certain supplies are not agreed upon formally; say Diwali gifts, gifts by organization on achieving targets or gifts given casually will be taxable provided value of gifts exceeds Rs. 50,000.
- **Gifts upto Rs. 50,000 to employees are exempted. However, reversal of Input Tax Credit, if availed on purchase of such Gifts shall not be available.**

- **Taxation of perquisites. Press Release on 10.07.2017**

It is pertinent to point out here that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods nor supply of services). It follows therefrom that supply by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST. Further, the Input Tax Credit (ITC) scheme under GST does not allow ITC of membership of a club, health and fitness centre [section 17 (5) (b) (ii)]. It follows, therefore, that if such services are provided free of charge to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer. The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the Cost-To-Company (C2C).

- Stock transfer between the related persons or between distinct persons would be subject to GST.

3.	Supply of goods by a principal to his agent or vice versa	Supply of goods - (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.	Clearance of goods to a consignment agent / clearing agent and forwarding agent, even if such agents are located in the same State would attract GST.
4.	Import of Service by a taxable person from related person	Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.	Interior design service received by a branch in India from its Head office, located in Singapore, for its new office building, without consideration. The interior service is taxable and liable for GST on reverse charge.

Supply should be in furtherance of business .Any activity undertaken in course /for furtherance of business would constitute supply.

Business as defined under section 2(17) includes trade, commerce, manufacture, profession, vocation, etc whether or not undertaken for a monetary benefit.However there is one exception to this course of furtherance i.e. import of services for a consideration.

For example Mahesh bought a scooter for his personal use .He sold it after 5 years to dealer. This transaction will not constitute as supply in GST Act as it is not supply in furtherance of business.

**Scope of Principal-Agent relationship in the context of Schedule I of the CGST Act (Circular No. 57/31/2018 GST dated September 04, 2018)**

The key ingredient for determining relationship under GST would be whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not. Where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of the said entry. However, it may be noted that in cases where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the ambit of Schedule I of the CGST Act. Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered. In other words, the crucial point is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.

**Clarification regarding taxability of the transaction of providing loan by an overseas entity to its Indian related entity or by a person in India to a related person [Circular No. 218/12/2024-GST, dated 26-6-2024]**

Issue - Whether the activity of providing loans by an overseas affiliate to its Indian affiliate or by a person to a related person, where there is no consideration in the nature of processing fee/administrative charges/loan granting charges etc., and the consideration is represented only by way of interest or discount, will be treated as a taxable supply of service under GST or not.

1. As per clause (c) of sub-section (1) of Section 7 of the CGST Act, read with S. No. 2 and S. No. 4 of Schedule I of CGST Act, supply of goods or services or both between related persons, when made in the course or furtherance of business, shall be treated as supply, even if made without consideration. Therefore, it is evident that the service of granting loan/credit/advances by an entity to its related entity is a supply under GST.
2. Services by way of extending deposits, loans or advances *insofar as the consideration is represented by way of interest or discount* (other than interest involved in credit card services) are exempted under sub-entry (a) of entry 27 of *Notification No. 12/2017-Central Tax (Rate)*. Therefore, it is clear that the supply of services of granting loans/credit/advances, in so far as the consideration is represented by way of interest or discount, is fully exempt under GST.
3. It is mentioned that overseas affiliates or domestic related persons are generally charging no consideration in the form of processing fee/service fee, other than the consideration by way of interest or discount on the loan amount. Doubts are being raised regarding the taxability of the services of processing/administering/facilitating the loan in such cases, by deeming the same as supply as per clause (c) of sub-section (1) of Section 7 of the CGST Act, read with S. No. 2 and S. No. 4 of Schedule I of CGST Act. The *processing fee/service fee* is generally a one-time charge that lenders levy on applicants when they apply for a loan. This fee is generally non-refundable and is used to cover the *administrative cost of processing the loan application*. Charges of any other nature in respect of loan, other than by way of interest or discount, would represent taxable consideration for providing the facilitation/processing/administration services for the loan and hence would be liable to GST. This has been clarified at Serial Number 42 in the *Sectoral FAQ on Banking, Insurance and Stock Brokers Sector* issued by CBIC.
4. It is significant to note that the processing/service fee is generally charged by the bank/financial institution from the recipient of the loan in order to cover the administrative cost of processing the loan application. An independent lender may carry out a thorough credit assessment of the potential borrower to identify and evaluate the risks involved and to consider methods of monitoring and managing these risks. Such credit assessment may include understanding the business of the applicant, as well as the purpose of the loan, financial standing and credibility of the applicant, how it is to be structured and the source of its repayment which may include analysis of the borrower's cash flow forecasts, the strength

of the borrower's balance sheet, and where any collateral is offered, due diligence on the collateral offered may also be required to be carried out. To cover such costs, the independent lender generally collects a fee that is in the nature of processing fee/administrative charges/service fee/loan granting charges, which is leviable to GST.

5. However, when an entity is extending a loan to a related entity, it may not require to follow such processes as are followed by an independent lender. For example, it may not need to go through the same process of information gathering about the borrower's business, his financial standing and credibility and other details, as the required information may already be readily available within the group, or between related persons. The lender may not also take any collateral from the borrower. Accordingly, in case of loans provided between related parties, there may not be the activity of 'processing' the loan, and no administrative cost may be involved in granting such a loan. Therefore, it may not be desirable to place the services being provided for processing the loans by banks or independent lenders *vis-a-vis* the loans provided by a related party, on equal footing.
6. Even in case of loans provided between unrelated parties, there may not be any processing fee/administrative charges/loan granting charges etc., based on the relationship between the bank/independent lender and the person taking the loan. The lender might waive off the administrative charges in full, based on the nature and amount of loan granted, as well as based on the relationship between the lender and the concerned person taking the loan.
7. Accordingly, in the cases, where no consideration is charged by the person from the related person, or by an overseas affiliate from its Indian party, for extending loan or credit, other than by way of interest or discount, it cannot be said that any supply of service is being provided between the said related persons in the form of processing/facilitating/administering the loan, by deeming the same as supply of services as per clause (c) of sub-section (1) of Section 7 of the CGST Act, read with S. No. 2 and S. No. 4 of Schedule I of CGST Act. Accordingly, there is no question of levy of GST on the same by resorting to open market value for valuation of the same as per rule 28 of Central Goods and Services Tax Rules, 2017.
8. However, in cases of loans provided between related parties, wherever any fee in the nature of processing fee/administrative charges/service fee/loan granting charges etc. is charged, over and above the amount charged by way of interest or discount, the same may be considered to be the consideration for the supply of services of processing/facilitating/administering of the loan, which will be liable to GST as supply of services by the lender to the related person availing the loan.

*For further details please visit:*

<https://taxinformation.cbic.gov.in/view-pdf/1003009/ENG/Circulars>

## Schedule II

### ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

S. No.	Provision	Whether goods or service	Analysis
1(a)	Any transfer of the title in goods	Supply of goods	<b>Example:</b> When the goods are stolen, title of goods shall pass to insurance company. It would be treated as supply of goods even when there is no physical movement of goods from the insured to the insurer.

S. No.	Provision	Whether goods or service	Analysis
1(b)	Any transfer of right in goods or of <b>undivided share</b> in goods without the transfer of title thereof	Supply of Service	<b>Example:</b> Hire Purchase
1(c)	<b>Any transfer of title in goods</b> under an agreement which stipulates that property in goods shall pass <b>at a future date</b> upon payment of full consideration	Supply of goods	<b>Example:</b> Financial lease / Hire purchase transaction would amount to supply of goods under the GST.
2(a)	<b>Any lease</b> , tenancy, easement, license to <b>occupy land</b>	Supply of Service	<b>Example:</b> Land used for circus, entertainment and parking purposes.
2(b)	Any lease or letting out of the <b>building</b> including a commercial, industrial or residential complex for business or commerce, either wholly or partly	Supply of Service	<b>Example:</b> Leasing of shop in multiplex shall amount to supply of service.
3	Any treatment or process which is applied to <b>another person's goods</b>	Supply of Service	<b>Example:</b> Job work shall be treated as supply of service.
4(a)	<b>Transfer or Disposed of business assets</b> whether or <b>not for a consideration.</b>	Supply of goods	<b>Example:</b> Old and discarded Machinery disposed.
4 (b)	Change of use of goods from business to <b>personal use.</b>	Supply of Service	<b>Example:</b> A computer, company car, when put to non-business use would be covered.
4(c)	Where any <b>person ceases</b> to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to have been disposed by him immediately preceding the ceasing of such business, it shall be treated as supply of goods <b>unless</b>  (a) the business is transferred as a going concern to another person; or  (b) the business is carried on by a personal representative who is deemed to be a taxable person.	Supply of goods	<b>Example:</b> Say a person runs a shop of refrigerators. On a particular day, he decides to shut his shop permanently. On such day, he is having a stock of refrigerators. In such situation, it shall be deemed that he has disposed of such stock of refrigerators immediately before shutting down his shop and such disposal shall be considered as supply of goods.

S. No.	Provision	Whether goods or service	Analysis
5(a)	<b>Renting of immovable property</b>	Supply of Service	<b>Example:</b> Renting of shop for a consideration.
5(b)	<b>Construction</b> of a complex, building, civil structure or a part thereof, including a complex or building <b>intended for sale to a buyer</b> , wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.	Supply of Service	<b>Example:</b> Real estate companies generally open booking of flats even before the construction is started and allow customers to pay the price in instalments spread over a number of years until the possession of flat is granted. Such modality of selling flats is considered as supply of service even though the underlying property being transferred is made up of goods.
5(c)	Temporary transfer or <b>permitting the use</b> or enjoyment of any intellectual property right	Supply of Service	<b>Example:</b> Permitting the use of patent, copyright, trademark shall amount to supply of service.
5(d)	Development, design, programming, customization, adaptation, upgradation, enhancement, implementation of <b>information technology software</b>	Supply of Service	<b>Example:</b> As such software per se has been considered as goods, the stated activities if undertaken in respect of <b>information technology software</b> have been considered as supply of service.
5(e)	Agreeing to the obligation to refrain from an Act, or to tolerate an act or a situation, or to do an Act;	Supply of Service	<b>Example:</b> Mr. Ram request to Mr. Shyam not to teach a particular subject in particular area for 5 years. Shyam agrees with the terms and condition against a consideration of Rs. 5,00,000.  The same would amount to supply of service by Shyam and would attract GST.
5(f)	Transfer of the <b>right to use any goods</b> for any purpose	Supply of Service	Renting of goods, i.e., movable property shall amount to supply of service.  <b>Example:</b> Renting of coffee machine, generator etc.

S. No.	Provision	Whether goods or service	Analysis
6	<p>The following <b>composite supplies</b> shall be treated as a supply of services, namely:-</p> <p>(a) works contract as defined in clause (119) of section 2; and</p> <p>(a) supply , by way of or as part of, or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.</p>	Supply of Service	<p><b>Example:</b></p> <p>Works contracts involving transfer of property is service under the GST law.</p> <p><b>Example:</b></p> <p>Restaurant and outdoor catering are service under GST law even though food, being goods, is supplied in the course of such activities.</p>

The **activities listed in Schedule II** shall be treated either as supply of goods or supply of services provided the basic conditions for an activity to be construed as supply as laid down in Section 7(1) are fulfilled.

#### Clarification issued by CBIC on issues related to taxability of 'tenancy rights' under GST

[Circular No. 44/18/2018-CGST, dated May 2, 2018]

- (i) Whether transfer of tenancy rights to an incoming tenant, consideration for which is in form of tenancy premium, shall attract GST when stamp duty and registration charges is levied on the said premium, if yes what would be the applicable rate?
- (ii) Further, in case of transfer of tenancy rights, a part of the consideration for such transfer accrues to the outgoing tenant, whether such supplies will also attract GST.

The transfer of tenancy rights against tenancy premium which is also known as "pagadi system" is prevalent in some States. In this system the tenant acquires, tenancy rights in the property against payment of tenancy premium (pagadi). The landlord may be owner of the property but the possession of the same lies with the tenant. The tenant pays periodic rent to the landlord as long as he occupies the property. The tenant also usually has the option to sell the tenancy right of the said property and in such a case has to share a percentage of the proceed with owner of land, as laid down in their tenancy agreement. Alternatively, the landlord pays to tenant the prevailing tenancy premium to get the property vacated. Such properties in Maharashtra are governed by Maharashtra Rent Control Act, 1999.

The contention that stamp duty and registration charges is levied on such transfers of tenancy rights, and such transaction thus should not be subjected to GST, is not relevant. Merely because a transaction or a supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the scope of supply of goods and services and from payment of GST. The transfer of tenancy rights cannot be treated as sale of land or building declared as neither a supply of goods nor of services in para 5 of Schedule III to CGST Act, 2017. Thus, a consideration for the said activity shall attract levy of GST.

To sum up, the activity of transfer of 'tenancy rights' is squarely covered under the scope of supply and taxable per se. Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. However, renting of residential dwelling for use as a residence is exempt [Sl. No. 12 of notification No. 12/2017-Central Tax (Rate)]. Hence, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. As regards services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST.

*For further details please visit:*

<https://taxinformation.cbic.gov.in/view-pdf/1003022/ENG/Circulars>

### **Clarification on doubts related to scope of “Intermediary”**

[Circular No. 159/15/2021 – GST, dated September 20, 2021]

'Intermediary' has been defined in the sub-section (13) of section 2 of the Integrated Goods and Services Tax Act, 2017 as under–

*“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.”*

#### **Primary Requirements for intermediary services**

The concept of intermediary services, as defined above, requires some basic prerequisites, which are discussed below:

**Minimum of Three Parties:** By definition, an intermediary is someone who arranges or facilitates the supplies of goods or services or securities between two or more persons. It is thus a natural corollary that the arrangement requires a minimum of three parties, two of them transacting in the supply of goods or services or securities (the main supply) and one arranging or facilitating (the ancillary supply) the said main supply. An activity between only two parties can, therefore, NOT be considered as an intermediary service. An intermediary essentially “arranges or facilitates” another supply (the “main supply”) between two or more other persons and, does not himself provide the main supply.

**Two distinct supplies:** As discussed above, there are two distinct supplies in case of provision of intermediary services;

- (1) Main supply, between the two principals, which can be a supply of goods or services or securities;
- (2) Ancillary supply, which is the service of facilitating or arranging the main supply between the two principals. This ancillary supply is supply of intermediary service and is clearly identifiable and distinguished from the main supply.

*For further details please visit:*

[https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular%20No.%20159\\_14\\_2021\\_GST.pdf](https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular%20No.%20159_14_2021_GST.pdf)

**Clarification regarding applicable GST rates & exemptions on certain services**

[Circular No. 164/20/2021 – GST, dated October 06, 2021]

**Services by cloud kitchens/central kitchens:**

The word ‘restaurant service’ is defined in Notification No. 11/2017 – CTR as below: - ‘Restaurant service’ means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied.

The explanatory notes to the classification of service state that ‘restaurant service’ includes services provided by Restaurants, Cafes and similar eating facilities including takeaway services, room services and door delivery of food. It is clarified that service provided by way of cooking and supply of food, by cloud kitchens/central kitchens are covered under ‘restaurant service’, as defined in notification No. 11/2017-Central Tax (Rate) and **attract 5% GST** [without ITC].

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

It is clarified that services provided by any institutions/ NGOs under the central scheme of ‘Scholarships for students with Disabilities’ where total expenditure is borne by the Government is covered under entry 72 of notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017 and hence **exempt** from GST.

*For further details please visit:*

[https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular%20No.%20164\\_2021\\_GST.pdf](https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular%20No.%20164_2021_GST.pdf)

**Schedule III****ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES**

Schedule III to CGST Act, 2017 lists down the following activities which shall be treated neither as supply of goods nor supply of services.

<b>S. No.</b>	<b>Provision</b>	<b>Analysis with examples</b>
1	Services by an <b>employee to the employer</b> in the course of or in <b>relation to his employment</b> .	It is important to note that only such services are covered in this entry which are provided in the course of or in relation to employment. If, an employee provides some services beyond her official functions, it will not be covered in this entry.
2	Services by any <b>court or Tribunal</b> established under any law for the time being in force.	Legal/ Filing fee taken by courts from petitioners in lieu of its services is not considered as supply.

S. No.	Provision	Analysis with examples
3	<p>(a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;</p> <p>(b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or</p> <p>(c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.</p>	<p><b>Example:</b> Judge of Supreme Court of India is a constitutional post, remuneration received by them shall not be subject to GST.</p> <p><b>Example:</b> CBDT is a body established by the Central Government. Chairman / Member / Director (who are not employees) of these body shall be out of GST.</p>
4	Services of <b>funeral</b> , burial, crematorium or mortuary including transportation of the deceased.	Not liable for tax.
5	<b>Sale of land</b> and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.	It is subject to stamp duty.
6	<p><b>Actionable claims</b>, other than specified actionable claim.</p> <p>Actionable claim [Section 2(1)] shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882.</p>	<p>Specified actionable claim are subject to GST.</p> <p>Specified actionable claims means the actionable claim involved in or by way</p> <ul style="list-style-type: none"> <li>(i) betting</li> <li>(ii) casinos</li> <li>(iii) gambling</li> <li>(iv) horse racing</li> <li>(v) lottery or</li> <li>(vi) online money gaming section 2(102A)</li> </ul> <p>Online money gaming means online gaming in which players pay or deposit money or money's worth including virtual digital assets in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force.</p>

S. No.	Provision	Analysis with examples
		Online gaming means offering of game on internet or an electronic network and includes online money gaming (Section 2 (80A)).
7	Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.	<p>Commonly called as 'third country exports', this category of transaction has been specially included in Schedule III w.e.f. 1.2.2019.</p> <p>The effect is that the supply of goods consigned directly from a place in the non-taxable territory to a place in the non-taxable territory without such goods touching the Indian shores shall not be treated as 'supply', thus not leviable to tax.</p>
8(a)	Supply of warehoused goods to any person before clearance for home consumption;	<p>Supply of goods lying in a customs bonded warehouse has been treated as neither supply of goods nor supply of service. This entry has been inserted in Schedule III w.e.f. 1.2.2019.</p> <p>However, IGST shall continue to be leviable at the time of clearance of goods from the warehouse for home consumption.</p> <p><b>Example:</b> Lydo Limited imported Chocolates and fill into bond bill of entry for storage of chocolates in customs bonded warehouse. While the goods were still in warehouse, Lydo Ltd. sold such chocolates to Mydo Ltd. Finally, Mydo Ltd. fill ex-bond bill of entry and cleared such chocolates for home consumption. In this situation, the sale transaction between Lydo Ltd. and Mydo Ltd. is not treated as a supply thus not liable to GST.</p>
8(b)	Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.	<p>This entry has been inserted in Schedule III w.e.f. 1.2.2018 to take High Sea Sale transaction out of the purview of 'supply' as per Section 7 CGST Act.</p> <p><b>Example:</b> Lor Ltd. Imported a consignment of Lipsticks from Italy. Before the clearance of such consignment for home consumption, Lor Ltd. sold the imported Lipsticks to L Mart Ltd. by endorsing the Bill of Lading. The sale transaction between Lor Ltd. and L Mart Ltd. shall not be considered as 'supply', thus not chargeable to tax.</p>

<b>S. No.</b>	<b>Provision</b>	<b>Analysis with examples</b>
9	Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements	Subject to the condition that the lead insurer pays the central tax, the State tax, the Union territory tax and the integrated tax on the entire amount of premium paid by the insured.
10	Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer	Subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.

## CIRCULARS

### **Taxability of ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company [Circular No. 213/07/2024-GST, dated 26-6-2024]**

#### **Extracts**

It has been represented that some of the Indian companies provide the option to their employees for allotment of securities/shares of their foreign holding company as part of the compensation package as per terms of contract of employment. In such cases, on exercising the option by the employees of Indian subsidiary company, the securities/shares of foreign holding company are allotted directly by the holding company to the concerned employees of Indian subsidiary company, and the cost of such securities/shares is generally reimbursed by the subsidiary company to the holding company.

Doubts are being raised regarding taxability of such a transaction under GST, i.e. whether such transfer of shares/securities by the foreign holding company directly to the employees of the Indian subsidiary company and subsequent reimbursement of the cost of such shares/securities by the Indian subsidiary company to the foreign holding company can be considered as import of financial services by the Indian subsidiary company from the foreign holding company and whether the same can be considered as liable to GST in the hands of Indian subsidiary company on reverse charge basis.

It is clarified that no supply of service appears to be taking place between the foreign holding company and the domestic subsidiary company where the foreign holding company issues ESOP/ESPP/RSU to the employees of domestic subsidiary company, and the domestic subsidiary company reimburses the cost of such securities/shares to the foreign holding company on cost-to-cost basis. However, in cases where an additional amount over and above the cost of securities/shares is charged by the foreign holding company from the domestic subsidiary company, by whatever name called, GST would be leviable on such additional amount charged as consideration for the supply of services of facilitating/arranging the transaction in securities/shares by the foreign holding company to the domestic subsidiary company. The GST shall be payable by the domestic subsidiary company on reverse charge basis in such a case on the said import of services.

**Illustration:**

Mr. Akshay a dealer sells a washing machine for Rs. 30,000 to earn a profit. Does it qualify as a supply?

**Solution:**

Yes, it qualifies as supply as per Section 7(1)(a) of CGST Act, 2017.

**Illustration:**

Mr. Ram (an unregistered person) wants to do MBA abroad. He takes Education consultancy services from a UK based consultant for Rs. 10,000. Does it qualify as a supply?

**Solution:**

Yes, it qualifies as supply, because as per Section 7(1)(b) of CGST Act, 2017, Supply includes import of services for a consideration whether or not in the course or furtherance of business. Hence, in the above case it will be treated as supply.

**Illustration:**

ABC Ltd. a manufacturing company scraps old plant and machinery due to renovation of manufacturing facility. The company has taken Input Tax Credit on plant and machinery so scrapped without consideration. Does it qualify as a supply?

**Solution:**

As per Section 7(1)(c) read with Schedule I of CGST Act, 2017, Permanent transfer or disposal of business assets where Input Tax Credit has been availed shall be treated as supply even made without consideration. Hence scrapping of old plant and machinery without consideration shall qualify as supply since Input Tax Credit has been availed by ABC Ltd.

**Illustration:**

Big Ltd. provides management technical services without consideration to Small Ltd. in which Big Ltd. has controlling rights. These technical services have been provided for benefit of entire group. Does it qualify as a supply?

**Solution:**

As per Section 7(1) (c) read with Schedule I of CGST Act, 2017, Supply of goods or services between related persons is treated as supply even if it is without consideration. As per Explanation to Section 15 of CGST Act, 2017, persons shall be deemed to be “related persons” if “one of them directly or indirectly controls the other”. Since Big Ltd. has controlling rights of Small Ltd., they will be treated as related person and the said transaction will qualify as supply.

**Illustration:**

American Express Pvt. Ltd. makes gifts to an employee worth Rs. 75,000 during the year. Do such gifts qualify as a supply? Would your answer be different if gifts of Rs. 45,000 have been given to employee?

**Solution:**

As per Section 7(1) (c) read with Schedule I of CGST Act, 2017, supply of goods or services between related persons is treated as supply even if it is without consideration. As per Explanation to Section 15 of CGST Act, 2017, persons shall be deemed to be “related persons” if such persons are employer and employee. Thus, gifts to employee worth Rs. 75,000 will qualify as supply and such supply would be leviable to GST.

If gifts of Rs. 45,000 are given instead of Rs. 75,000, the same will not qualify as supply since it has been specifically provided that gifts not exceeding Rs. 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

**Illustration:**

Honda Motors Ltd. engages DB Motors as an agent to sell motorcycle on its behalf. For the purpose, Honda Motors Ltd. has supplied 500 cars to the showroom of DB Motors located in Punjab. Does it qualify as supply?

**Solution:**

As per Section 7(1) (c) read with Schedule I of CGST Act, 2017, Supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal shall be treated as supply even if made without consideration. In view of the same Supply of motorcycles by Honda Motors Ltd. to DB Motors will qualify as supply.

**Illustration:**

Raheja Builders (a registered taxable person) receives architectural design supplied by a foreign architect to design a residential complex to be built in Faridabad for a consideration of Rs. 1 crore. Does it qualify as supply?

**Solution:**

As per Section 7(1) (b) of CGST Act, 2017, Importation of services for a consideration whether or not in the course or furtherance of business is covered under supply. In the above case it will be treated as supply and will be liable to GST.

## CASE LAWS

**1. In re: IIT Madras Alumni Association [2020 (42) G.S.T.L. 564 (A.A.R. - GST - T.N.)]**

The applicant sought Advance Ruling on the following question:

Whether collecting money by IITMAA from its members and receiving donations/grants/subsidies/ budgetary support from IIT, Madras to defray expenses incurred towards administering the association and other expenses related to its engagement activities initiated by members themselves amounts to supply or not. Consequently, whether there is any liability to comply with GST law including registration and payment of tax.

**Held:** In order to tax, the activity must be a supply of either goods or service, the supply is to be for a consideration to a person in the course of furtherance of business, i.e., there should be a supply of goods or service, recipient, provider, consideration, in the course or for furtherance of business. In the instant case it is evident from the Bye-laws/MOA submitted by the applicant that the mission of IITMAA is to provide a forum for its members and to facilitate professional networking among alumni, students, faculty for mutual benefit in academic, professional, and business areas and to facilitate alumni to contribute to IIT Madras by raising funds, sharing knowledge/expertise, research, academic support, technical collaboration etc. the objectives also include helping alumni families and needy alumni and mobilize funds to manage the association affairs. The applicant collects membership fee from the members and also collects charges for various events, activities which include conducting seminars, holding meetings, organizing events, publishing magazines and newsletters, maintaining websites, and technology infrastructure for the benefit of its members. Thus, the supply of the services of these activities by the applicant to its members for consideration either in form of membership fee or additional charges collected for specific activities constitute a 'supply of service' under Section 7(l)(a) of CGST/TNGST Act as it is in the course of furtherance of business of the applicant as per Section 2(17) of the Act.

**2. In re: B.R. Sridhar [2021 (44) G.S.T.L. 211 (A.A.R. - GST - Kar.)]**

The Applicant, being the owner of an immovable property bearing Sy. No. 4, measuring 1 acre 2 guntas, situated at Bikasipura Village, Uttarahalli Hobli, Bangalore has entered into a Joint Development Agreement dated 19-5-2016 with M/s. Suprabhat Constructions, a partnership firm, authorizing them to construct residential flats by incurring the necessary cost together with certain common amenities and upon the development of the said property, the applicant gets 40% share of undivided right, title and interest in the land proportionate to super built up area and 40% of car parking spaces. In view of this, the applicant has sought Advance Ruling in respect of the following question.

Whether the total amounts received by the Owner towards the advances or sale consideration of the flats fallen to his share of 40% in terms of the Joint Development Agreement dated 19-5-2016 and the subsequent Area Sharing Agreement dated 3-1-2018, are not amenable for payment of GST, since Applicant has sold or agreed to sell or gifted, the flats after obtaining Occupancy Certificate dated 26-8-2019 and that Applicant has not received any part of the sale consideration prior to the said date of Occupancy Certificate, thus falling under Entry No. 5 of Schedule III of CGST Act read with Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017 and the corresponding provisions of SGST Act.

**Held:** The amounts received by the applicant, either by himself or through his agents, towards sale of their share of flats are not eligible to GST, if and only if the entire consideration related to such sale of flats is received after the issuance of Completion Certificate dated 26-8-2019, as the said activities are treated neither supply of goods nor supply of service in terms of Schedule-III of the CGST Act, 2017 subject to Clause 5(b) of the Schedule-II of the CGST Act, 2017.

**3. Bai Mamubai Trust vs. Suchitra (2019) - Bombay High Court****Scope of Supply – damage constitutes supply?**

**Facts:** Commercial property owned by the plaintiff was illegally occupied by defendant.

Court appointed Receiver to collect formal possession but not physical possession of the property.

Court receiver is entitled to receive:

- His service charges towards function assigned by Court
- Receipt of royalty of Rs. 45,000/- pm from defendant

**Held that:** Service charges payable to the Receiver appointed by the Court is covered by “Services by any Court or Tribunal established under any law for the time being in force”.

Compensation paid towards damages or towards securing any future determination of compensation or damages for a violation of the legal rights of the landlord (plaintiff) in the tenanted premises. The basis of payment is illegal possession or trespass and hence lacked necessary reciprocity to make it a supply.

Damages represent an award in money for a civil wrong which is in contrast to ‘consideration’. While damages are towards restitution for loss caused on account of violation, consideration is towards an identifiable supply. The law of damages is not restricted to only unpaid consideration, i.e. what ought to have been paid, but also expands to compensating the loss to a party which may not even be privy to the agreement (e.g. in torts) – Para 60;

The measure for computation cannot be the litmus test for ascertaining the character of a supply.

Even though business and supply definitions are inclusive, a positive act of supply is a necessary concomitant of a supply transaction.

## COMPOSITE & MIXED SUPPLY

Often goods or services or both together are supplied in combination and that's when it may not be simple enough to distinguish supplies and identify them separately, as each of them may attract a different rate of tax but is sold as one package.

### **Illustration:**

Heera Printers is a printing house registered under GST. It receives an order for printing 5000 copies of a book on yoga and meditation authored by a well-known yoga guru. The content of the book is to be provided by the yoga guru to Heera Printers. It is agreed that Heera Printers will use its own paper to print the said books.

You are required to determine the rate of GST applicable on supply of printed books by Heera Printers assuming that rate of GST applicable on services is 18% whereas the rate of GST applicable on supply of goods is 12%.

### **Solution:**

Section 2(30) provides that a composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

***Circular No. 11/11/2017 GST dated 20.10.2017 has clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies.***

Further, section 8(a) stipulates that a composite supply comprising two or more supplies, one of which is a principal supply, is treated as a supply of such principal supply. Hence, one needs to ascertain what constitutes the principal supply in this supply. As per section 2(90), principal supply is the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

The above circular further clarifies that in the composite supply of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service.

Accordingly, in the given case, the supply of printed books by Heera Printers is a composite supply wherein the principal supply is supply of printing services. Thus, the rate of GST applicable thereon is the rate applicable on supply of printing services, i.e. 18%.

## Composite Supply

Section 2 (30) defined "Composite Supply" as a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

The features of a composite supply are:

- a) Two or more taxable supplies of goods / services / both which are supplied in conjunction with each other.

- b) They are naturally bundled.
- c) A single price is charged for the supply.
- d) One of the supplies within the package is identifiable as a principal supply.

**Examples:**

1. When a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance service are ancillary.
2. Package of accommodation facilities and breakfast are naturally bundled, thus a composite supply.
3. Suppose a dealer sells Laptop along with bags. The rate of GST on Laptop and bag are different. Since the Laptop is a principal supply, the rate of Laptop shall be applicable on such composite supply.

**Mixed Supply**

Under Section 2(74) of CGST Act, 2017, “Mixed Supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

The features of a mixed supply are:

- a) Two or more taxable supplies of goods / services / both which are supplied in conjunction with each other
- b) They are deliberately bundled
- c) A single price is charged for the supply
- d) None of the supplies within the package is identifiable as a principal supply

**Examples:**

1. A shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold separately.
2. Cadbury sold gift packets of chocolate and fresh Juices. The GST rate of chocolate is **28%** & fresh juice liable to GST at **12%**. This is the example of mixed supply & would be liable to GST at **28%** (higher of **12%** or **28%** applicable).

**Guiding principles for determining whether a supply is a composite supply or mixed supply:** While there are no infallible tests for such determination, the following guiding principles could be adopted to determine as to whether it would be a composite supply or a mixed supply. However, every supply should be independently analyzed.

<i>Description</i>	<i>Composite Supply</i>	<i>Mixed Supply</i>
Naturally bundled	Yes	No
Supplied together	Yes	Yes
Can be supplied separately	No	Yes
One is predominant supply for recipient	Yes	No

Other supply is not 'aim in itself of recipient	Yes	No
Each supply priced separately	No	No
All supplies are goods	Yes	Yes
All supplies are services	Yes	Yes
One supply is goods and other supply is services	Yes	Yes

S. No.	Issue	Clarification
1.	<p><b>Supply of books, pamphlets, brochures, envelopes,</b> annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.</p> <p>Principal supply has been defined in Section 2(90) of the Central Goods and Services Tax Act, 2017 as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.</p>	<p>In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.</p> <p>In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.</p>
2.	Whether retreading of tyres is a supply of goods or services?	<p>In retreading of tyres, which is a composite supply, the pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Which part of a composite supply is the principal supply, must be determined keeping in view the nature of the supply involved. Value may be one of the guiding factors in this determination, but not the sole factor. The primary question that should be asked is what is the essential nature of the composite supply and which element of the supply imparts that essential nature to the composite supply.</p> <p>Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods (retreaded tyres under heading 4012 of the Customs Tariff attracting GST @ 28%).</p>

S. No.	Issue	Clarification
3.	Whether Priority Sector Lending Certificates (PSLCs) are outside the purview of GST and therefore not taxable?	In Reserve Bank of India FAQ on PSLC, it has been mentioned that PSLC may be construed to be in the nature of goods, dealing in which has been notified as a permissible activity under section 6(1) of the Banking Regulation Act, 1949 vide Government of India notification dated 4thFebruary, 2016. PSLC are not securities. PSLC are akin to freely tradeable duty scrips, Renewable Energy Certificates, REP license or replenishment license, which attracted VAT. In GST there is no exemption to trading in PSLCs. Thus, PSLCs are taxable as goods at standard rate of 18% under the residuary S. No. 453 of Schedule III of notification No. 1/2017-Central Tax (Rate). GST payable on the certificates would be available as ITC to the bank buying the certificates.
4.	(i) Nature of supply of extended warranty, at the time of original supply of goods, as a separate supply from supply of goods, if the supply of extended warranty is made by a person different from the supplier of the goods;  (ii) Nature of supply of extended warranty, made after original supply of goods:	(a) If a customer enters into an agreement of extended warranty with the supplier of the goods at the time of original supply, then the consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly. However, if the supply of extended warranty is made by a person different from the supplier of the goods, then supply of extended warranty will be treated as a separate supply from the original supply of goods and will be taxable as supply of services.  (b) In case where a consumer enters into an agreement of extended warranty at any time after the original supply, then the same shall be treated as a supply of services distinct from the original supply of goods and the supplier of the said extended warranty shall be liable to discharge GST liability applicable on such supply of services.”

**CASE LAWS****1. In IN RE: HITACHI ENERGY INDIA LTD. 2024 (A.A.R. - GST - Chh.)**

HVDC terminal erection – Construction Service – Heading 9954 – Classification- Applicant manufactures and supplies electrical equipment – Assessee entered into contract with Power Grid Corporation of India Ltd. (PGCIL) for supply of goods and services for setting up 800 KV, 6000 MW HVDC terminals.

**HELD:** Supply of services made by applicant relating to construction, erection, civil works, testing, commissioning, etc., of said HVDC terminals which include service of transportation, freight, and insurance is a composite supply of works contract - Said activity of applicant being composite works contract classifiable under construction services falling under Heading 9954 and attracts GST @18% as per Sl. No. 3(xii) of

Notification No. 11/2017-C.T. (Rate) - Since CGST Act, 2017 itself classifies instant supply of composite supply of works contract as 'supply of service', there exist no reason to identify 'principal supply' in instant transaction.

**2. In Re: Mfar Hotels & Resorts Pvt. Ltd. [2020 (42) G.S.T.L. 470 (AAR - GST - T.N.)]**

The applicant sought ruling on the following query

What is the rate of tax applicable on the supply of Tobacco (Smokes) when these items are supplied independently and not as composite supply in the restaurant? In other words what is the rate of GST if these items alone are supplied and not along with food as Composite supply to the guest?

**Held:** The applicant supplies cigarettes as a separate supply in the restaurant to a casual guest who do not avail of any other services offered by the applicant other than buying cigarettes at the restaurant. The applicant in the menu for restaurant has various cigarette products, i.e., any guest who comes to the restaurant can have cigarettes alone also as these are in the menu of the restaurant. When a guest (resident or non-resident) comes to the restaurant and orders from the menu tobacco products, it involves supply of goods (cigarettes) and supply of services by the restaurant. In this case both the supplies are taxable. The serving of any items by a restaurant involves the supply of the items along with the use of the facilities/staff of the restaurant. However, in this case the sale of cigarette products are not naturally bundled together with the restaurant services as the services of the restaurant involve serving of food and beverages alone in the normal course. Hence is not a composite supply as per Section 2(30) of the Act. However, when such cigarettes products are supplied by the restaurant, a single price is charged as seen in the invoices submitted by the applicant.

In the instant case, supply of tobacco products by the restaurant is not a composite supply but involves supply of two individual supplies of goods (tobacco products) and supply of services of serving by the restaurant. Such a supply is a mixed supply.

**3. IN RE: HRPL RESTAURANTS PVT. LTD. 2023 (A.A.R. - GST - Guj.)**

Sale of readily available ice-cream with cooked food - Composite Supply - Heading 9963 - Classification - Applicant-assessee is engaged in restaurant business supplying food which is prepared and cooked in restaurant/eatery - Along with cooked food, it also supplies, as and when ordered, ice-creams which are not prepared or produced by them but are readily available in market - Applicant seeks advance ruling on whether supply of ice-cream that is ordered along with cooked food can be considered as supply of 'restaurant services' -

**HELD:** An ice-cream when ordered and supplied along with cooked or prepared food through their outlets would assume character of composite supply, wherein prepared food being principal supply and, hence, qualifies as 'restaurant services' - Hence, they are composite supply, classifiable under 'restaurant service' which would be leviable to GST at 5% with no input tax credit as per Serial No. 7(ii) of Notification No. 11/2017-C.T. (Rate), dated 28-6-2017 as amended vide Notification No. 20/2019-C.T. (Rate), dated 30-9-2019.

## LEVY AND COLLECTION OF CGST AND IGST

### Levy and collection [section 9 of CGST Act, 2017/ section 5 of IGST Act, 2017/ section 7 of UTGST Act, 2017]<sup>1</sup>

The charging section is a must in any tax law for levy and collection of tax. Section 9, Section 5 and Section 7 are the charging provision of CGST Act,

Charging Sections of GST

<sup>1</sup> Provision related to Levy and collection under IGST and UTGST Fare contained in Section 5 of IGST Act, 2017 and Section 7 of UTGST Act, 2017 respectively.

2017, IGST Act, 2017 and UTGST Act, 2017 respectively. GST is levied at the point of supply, that is at the time and place of supply and that's when the liability to charge GST arises.

As explained under Section 15 to Central Goods & Services tax Act, 2017, such GST would be levied on the transaction value.

<b>Under CGST Act (Section 9)</b>	<b>Under IGST Act (Section 5)</b>	<b>Under UTGST Act (Section 7)</b>
<p>(1) Subject to the provisions of sub-section (2),</p> <ul style="list-style-type: none"> <li>➤ there shall be levied a tax called the CGST,</li> <li>➤ on all Intra-State supplies,</li> <li>➤ of goods or services or both,</li> <li>➤ except on the supply of alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption</li> <li>➤ on the value determined under section 15 and</li> <li>➤ at such rates, not exceeding twenty per cent (20%),</li> <li>➤ as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</li> </ul> <p><b>Note:</b></p> <p>Supply of alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption is specifically excluded and continue to be subject to state excise and VAT State levy.</p> <p>(2) The central tax on the supply of <i>petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel</i> shall be levied with effect from such date as may be <b>notified by the Government</b> on the recommendations of the Council.</p> <p><b>Analysis</b></p> <p>Alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption is currently outside the ambit of GST. Further petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel is also kept outside GST for the time being, but can be brought under it's regime from such date as may be notified by the GST Council.</p>	<p>The provisions under section 5 of IGST Act are similar to section 9 of CGST Act except-</p> <ul style="list-style-type: none"> <li>(i) the word CGST has been substituted by IGST under IGST Act</li> <li>(ii) under IGST Act, tax called integrated tax to be levied on all inter-State supplies and on goods imported into India</li> <li>(iii) maximum rate under section 5(1) of the IGST Act is 40% (i.e. 20% CGST+20% UTGST)</li> </ul>	<p>The provisions under section 7 of UTGST Act are similar to section 9 of CGST Act except-</p> <ul style="list-style-type: none"> <li>(i) the word CGST has been substituted by UTGST under UTGST Act</li> <li>(ii) under UTGST Act, tax called UT integrated tax to be levied on all intra-State supplies,</li> <li>(iii) maximum rate under section 5(1) of the UTGST Act is 20%</li> </ul>

<i>Under CGST Act (Section 9)</i>	<i>Under IGST Act (Section 5)</i>	<i>Under UTGST Act (Section 7)</i>
<p>(3) The Government may, on the recommendations of the Council, <b>by notification</b>, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</p> <p>(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.</p> <p>The above noted provision was substituted w.e.f. 01.02.2018 in place of Section 9(4) as originally introduced. By way of this amendment, the reverse charge on supplies received from unregistered person shall require notification from the Government.</p> <p>Under the substituted provision, Notification No. 7/2019-Central Tax (Rate), dated 29- 03-2019 has been issued by the Government to prescribe payment of tax under reverse charge by the promoters of real estate project in respect of purchase of materials, cement and capital goods from unregistered persons in certain scenarios.</p> <p>Hitherto, Section 9(4) was generally requiring payment of tax under reverse charge on supplies received from unregistered persons. Although, the said provision was suspended until 30.9.2019 and finally it ceased to have an effect w.e.f. 31.1.2019.</p> <p>(5) The Government may, on the recommendations of the Council, by notification, <b>specify categories of services</b> the tax on Intra-State supplies of which shall be paid by the Electronic Commerce Operator (ECO) if such services are supplied through it, and all the provisions of this act</p>		

Under CGST Act (Section 9)	Under IGST Act (Section 5)	Under UTGST Act (Section 7)
<p>shall apply to such ECO as if he is the supplier liable for paying the tax in relation to the supply of such services:</p> <ul style="list-style-type: none"> <li>➤ Provided that where an Electronic Commerce Operator does not have a physical presence in the taxable territory, any person representing such ECO for any purpose in the taxable territory shall be liable to pay tax:</li> <li>➤ Provided further that where an ECO does not have a physical presence in the taxable territory and he also does not have a representative in the said territory, such ECO shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.</li> </ul>		

Vide Notification No.17/2017-Central Tax (Rate), dated June 28, 2017 as amended from time to time, the following services have been notified under Section 9(5) of the CGST Act, 2017 Central Government hereby notifies that in case of the following categories of services, the tax on Intra-State supplies shall be paid by the Electronic Commerce Operator -

- (a) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle, omnibus or any other motor vehicle.

*Note:* With effect from 01.01.2022 Transport of passengers by any type of motor vehicles through Electronic Commerce Operator is covered as service on which tax shall be paid by the ECO.

- (b) Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through ECO is liable for registration under sub-section (1) of section 22 of the said Central Goods and Services Tax Act, 2017.

- (c) Services by way of house-keeping, such as plumbing, carpentering etc., except where the person supplying such service through ECO is liable for registration under clause (v) of section 20 of the Integrated Goods and Services Tax Act, 2017 read with sub-section (1) of section 22 of the said Central Goods and Services Tax Act.

- (d) Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.

*Note:* With effect from 01.01.2022 Restaurant services through Electronic Commerce Operator with some exception is covered as service on which tax shall be paid by the ECO.

**Explanation-** For the purposes of this notification -

- (a) **“Radio taxi”** means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS);

- (b) “**maxicab**”, “**motorcab**” and “**motor cycle**” shall have the same meanings as assigned to them respectively in clauses (22), (25) and (26) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (c) “specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.”

## EXEMPTIONS UNDER GST<sup>2</sup>

Governments offer exemptions which are based on goods and services consumed by low income people, people living in disadvantaged regions and so on. Central Government has the power to grant exemption on goods and / or services in the public interest generally or by special order.

General exemption is granted by **notification** and is available to all persons. It may be absolute or conditional. Such exemption may be total or partial.

Specific, also known as *ad hoc* exemption is granted to persons under circumstances of an exceptional nature by a **special order** communicated to the party seeking exemption. Example: charitable, educational, scientific, research, defence purpose etc.

Central Government also has the power to interpret by an explanation the provisions of the notification or order at a later date but within one year which has retrospective effect.

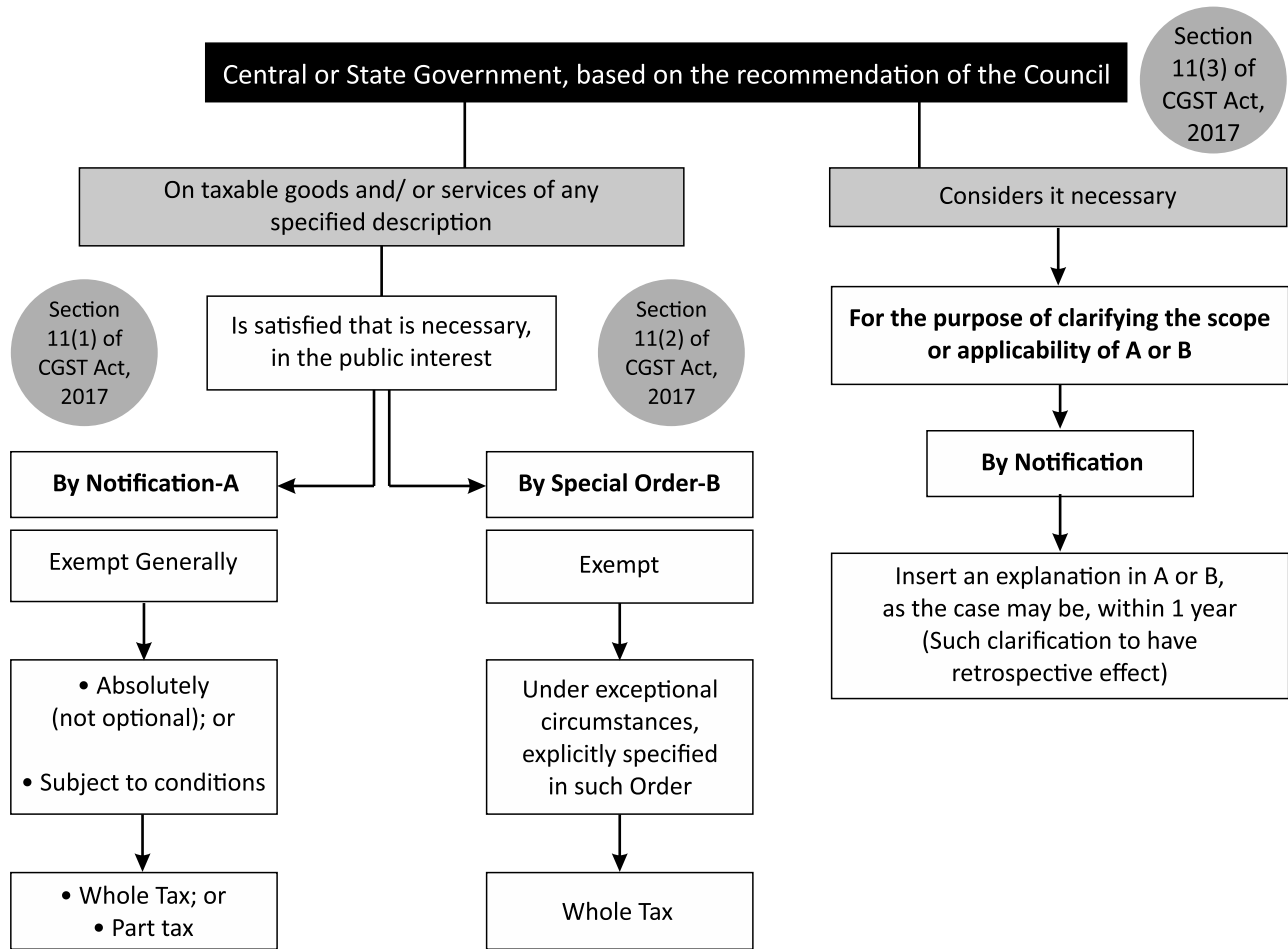
Exempt supply has been defined as supply of any goods / services / both, which attract a NIL rate of tax, or which may be wholly exempt from tax, and therefore includes non-taxable supplies.

### Goods exempt from Tax [Notification No. 2/2017- Central Tax (Rate) dated June 28, 2017]

Certain goods that have been exempted under GST, some of the key ones are:

- a) Unprocessed food grains except packaged and labelled
- b) Fresh Milk ,except UHT milk
- c) Eggs
- d) Curd except packaged and labelled
- e) Fresh vegetables
- f) Betel Leaves
- g) Plastic Bangles
- h) Live Fish
- i) Indian National Flag
- j) Paneer except prepackaged and labelled
- k) Fabrics like raw silk ,jute fibre ,cotton ,Khadi
- l) Puffed rice except packaged and labelled
- m) Hearing Aid

2. <https://www.cbic.gov.in/resources//htdocs-cbec/gst/Notification-for-CGST-exemption.pdf>



**Power to grant exemption from tax [Section 11 of CGST Act, 2017 and Section 6 of the IGST Act, 2017]**

<p><b>General Exemption [Section 11(1)]</b></p>	<p>Where the Government is satisfied that it is <b>necessary</b> in the public interest so to do, it may, on the recommendations of the Council, <b>by notification, exempt generally</b>, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from <b>such date as may be</b> specified in such notification.</p> <p><b>Explanation-</b> For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.</p>
<p><b>Circumstances of an exceptional nature [Section 11(2)]</b></p>	<p>Where the Government is satisfied that it is necessary in the <b>public interest</b> so to do, it may, on the recommendations of the Council, by <b>special order</b> in each case, under circumstances of an <b>exceptional nature</b> to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.</p>

<p><b>Power to Insert explanation within one year [Section 11(3)]</b></p>	<p>The Government may, if it considers necessary or expedient so to do for the <b>purpose of clarifying</b> the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), <b>insert an explanation in such notification or order</b>, as the case may be, by notification at any time <b>within one year of issue of the notification</b> under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it <b>had always been the part</b> of the first such notification or order, as the case may be.</p>
<p><b>Power to grant exemption where the tax was not levied because of a generally prevalent practice [Section 11A]</b></p>	<p>Notwithstanding anything contained in this Act, if the Government is satisfied that – (a) a practice was, or is, generally prevalent regarding levy of central tax (including non-levy thereof) on any supply of goods or services or both; and (b) such supplies were, or are, liable to, – (i) central tax, in cases where according to the said practice, central tax was not, or is not being, levied, or (ii) a higher amount of central tax than what was, or is being, levied, in accordance with the said practice, the Government may, on the recommendation of the Council, by notification in the Official Gazette, direct that the whole of the central tax payable on such supplies, or, as the case may be, the central tax in excess of that payable on such supplies, but for the said practice, shall not be required to be paid in respect of the supplies on which the central tax was not, or is not being levied, or was, or is being, short-levied, in accordance with the said practice.”.</p>

### Distinctions between General Exemption and Specific (Special Order) Exemption

<i>General Exemption [Section 11(1) of CGST Act, 2017]</i>	<i>Exemption By Special Order [Section 11(2) of CGST Act, 2017]</i>
This is granted by a notification.	This is granted by a special order.
This is goods/ services specific. Any supplier supplying these notified goods or services can enjoy the exemption.	This is person specific and purpose specific. The goods are generally chargeable but exempted in special circumstances and hence not available to all persons generally.
It may be absolute or conditional. If absolute, the supplier has to avail it and he can collect tax only at effective rates.	No such distinction.
It may be partial or total.	It is always total.

Both the exemptions are granted in the public interest and both can be explained within one year of issue by the government. All the exemptions are based on the recommendations of the GST Council.

### Exempt Supply

Section 2(47) of the CGST Act, 2017 defines “exempt supply” as supply of any goods or services or both which attracts **Nil** rate of tax or which may be wholly exempt from tax under section 11 of CGST Act, 2017, or under section 6 of the IGST Act, 2017 and includes non-taxable supply.

Thus, exempt supply includes the following:

- Any goods or services which attract Nil rate of tax under GST tariff.
- Any goods or services which are wholly exempted from tax under any notification issued under Section 11 CGST Act or Section 6 IGST Act. [Refer Notification No. 12/2017- Central Tax (Rate)].
- Any goods or services are held as no-supply under the GST law. It includes goods or services which have been excluded from the purview of GST like Alcoholic liquor for human consumption. It also includes goods or services listed under Schedule III of the CGST Act.

### Zero Rated Supply

Section 16(1) IGST Act provides that “zero rated supply” means any of the following supplies of goods or services or both, namely: -

- Export of goods or services or both; or
- Supply of goods or services or both for authorized operations to a Special Economic Zone developer or a Special Economic Zone unit.

Section 16(2) of the IGST Act, 2017 provides that subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, 2017, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply. It means that even though one is not required to pay output tax on zero rated supply, the supplier is eligible to avail Input Tax Credit in respect of such supply. Section 16(3) provides that a registered person making zero rated supply shall be eligible to claim refund of unutilised Input Tax Credit on supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the CGST Act, 2017 or the rules made thereunder.

However, a condition has been imposed that the registered person making zero rated supply of goods shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable interest under section 50 of the CGST Act, 2017 within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 (FEMA) for receipt of foreign exchange remittances. Students may note that hitherto, the person making zero rated supplies was permitted to charge output tax on such supplies and later claim refund of such tax under section 54 of the CGST Act. However, in the Finance Act, 2021, the legislature has withdrawn such general provision and delegated powers to the Government to grant such facility to specific class of persons or specific class of goods or services based on the recommendation of GST Council. Section 16(4) inserted in the IGST Act, 2017 thus reads as below.

The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify-

- (i) a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid;
- (ii) a class of goods or services which may be exported on payment of integrated tax and the supplier of such goods or services may claim the refund of tax so paid.

Thus, any export of goods or services and supply to SEZ developer or unit for authorized operations is termed as zero-rated supply. The supplier is eligible to avail Input Tax Credit in relation to such supply. The Input Tax Credit so availed can be utilized towards payment of output tax against other taxable supplies or can be claimed as refund subject to the condition that the export proceeds are realized within the time line permissible under FEMA.

**CASE LAW*****In re: Carnation Hotels Private Limited (2019) - GST AAR Karnataka***

Accommodation services provided to SEZ units are to be treated as zero rated supplies.

The applicant having registered office in New Delhi proposed to operate hotels and rent out the rooms to the employees of SEZ units sought advance ruling whether such accommodation services rendered by the applicant to SEZ units can be treated as 'zero rated supplies' under GST.

Under GST, Supply of goods/services or both to a SEZ Developer/Unit are treated as 'Zero Rated Supplies'. Supply to SEZ developer/units shall be treated as such only if those are used towards authorized operations by SEZ.

GST AAR Karnataka held that if the hotel or accommodation services received by SEZ developer/ unit for authorized operations, as endorsed by the specified officer of the zone, the benefit of zero rated supply shall be available to the supplier. Therefore, accommodation services supplied by the applicant to SEZ units are to be treated as 'zero rated supplies'.

**Difference between Nil Rated, Exempt, Zero Rated and Non-GST supplies**

<b><i>Supply Name</i></b>	<b><i>Description</i></b>
Zero Rated	Exports Supplies made to SEZ or SEZ Developers. ITC can be availed.
Nil Rated	Supplies that have a declared rate of 0% GST. ITC cannot be availed. <i>Example: Salt, Grains etc.</i>
Exempt	Supply which attracts Nil rate of tax or which are specifically exempt from GST through government notification and includes non-taxable supply. ITC cannot be availed. <i>Example: Fresh Milk, Fresh Fruits, Curd, Bread etc.</i>
Non-GST	These supplies do not come under the purview of GST law. ITC cannot be availed. <i>Example: Alcohol for human consumption, Petrol etc.</i>

***Illustration:***

XYZ Education Advisory promotes the courses of foreign universities among prospective students. It has tied up with various Universities all over the world. These Universities have engaged them for promotional and marketing activities for promotion of the courses taught by them and making the prospective students aware about the course fee and other associated costs, market intelligence about the latest educational trend in the territory and ensuring payment of the requisite fees to the Universities if the prospective students decide upon pursuing any course promoted by the Applicant.

XYZ Education Advisory receives consideration in the form of commission from the foreign University for these services rendered to prospective students. It wants to know whether the service provided to the Universities abroad would be considered "export" within the meaning of Section 2(6) of the Integrated Goods and Services Act, 2017, and, therefore, a zero-rated supply under the CGST Act, 2017?

**Solution:**

The facts of the case are similar to the matter before Authority of Advance Ruling in the case of *Global Reach Education Services Pvt. Ltd.* where the West Bengal Authority for Advance Ruling has held that Section 2(6) of the Integrated Goods and Services Tax Act, 2017, reads as “export of services” means the supply of any service when -

- i) the supplier of service is located in India;
- ii) the recipient of service is located outside India;
- iii) the place of supply of service is outside India;
- iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in Section 8.”

It is, thus, evident from the above citation that in the case of Export of Services all the conditions as laid down under Section 2(6) of IGST Act, 2017 is to be followed in totality without any violation, and that there is no scope of partial compliance of the conditions laid down therein. The main service provided by the applicant is facilitating recruitment of students and the consideration is paid as commission.

XYZ Education Advisory, therefore, represents the University in the territory of India and acts as its recruitment agent and not as an independent service provider.

Being an intermediary service provider, the place of supply shall be determined under section 13(8)(b) of the IGST Act, 2017 and not under section 13(2) of the IGST Act, 2017. The place of supply under the above legal framework is the territory of India. As the condition under section 2(6)(iii) of the IGST Act, 2017 is not satisfied, the service provided by XYZ Education Advisory to the foreign universities does not qualify as “Export of Services”, and is, therefore, taxable under the GST Act.

Pertinently, the referred Advance Ruling has also been affirmed by the Appellate AAR.

### Services Exempt from Tax [Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017]

Sr. No.	<i>Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017</i>
1.	Services by an entity registered <b>under section 12AA or section 12AB</b> of the Income-tax Act, 1961 <b>by way</b> of charitable activities.
2.	Services by way of <b>transfer of a going concern</b> , as a whole or an independent part thereof.
3.	<b>Pure services</b> (excluding works contract service or other composite supplies involving supply of any goods) provided to <ul style="list-style-type: none"> <li>➤ the Central Government,</li> <li>➤ State Government, or</li> <li>➤ Union Territory, or</li> <li>➤ Local Authority, or</li> </ul>

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
	by way of any activity in relation to any function entrusted <b>to a Panchayat</b> under Article 243G of the Constitution or in relation to any function entrusted to a Municipality under Article <b>243W</b> of the Constitution.
3A.	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.
3B.	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
4.	Services by Governmental authority by way of any activity in relation to any function entrusted to a municipality under Article 243W of the Constitution.
5.	Services <b>by</b> ➤ a <b>Governmental authority</b> by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.
6.	Services <b>by</b> the <b>Central Government, State Government, Union Territory or Local Authority</b> excluding the following services - (a) services by the Department of Post and the Ministry of Railways (Indian Railways); (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (c) transport of goods or passengers; or (d) any services, other than services covered under entries (a) to (c) above, provided to business entities.  <b>NOTE:</b> Clarifications regarding applicability of GST on accommodation services supplied by Air Force Mess to its personnel: 'It is hereby clarified that accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are covered by Sl. No. 6 of notification No. 12/2017 –Central Tax (Rate) dated 28.06.2017 provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority. Hence, accommodation services supplied by Air Force Mess to its personnel are exempt from GST'. [Circular No. 190/02/2023- January 13, 2023]

Sr. No.	<i>Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017</i>
7.	<p>Services provided <b>by</b></p> <ul style="list-style-type: none"> <li>➤ The Central Government,</li> <li>➤ State Government,</li> <li>➤ Union Territory, or</li> <li>➤ Local authority</li> </ul> <p>to a business entity with an aggregate turnover of to <b>such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017.</b></p> <p>Explanation: For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to -</p> <p>(a) services, -</p> <ul style="list-style-type: none"> <li>(i) by the Department of Posts and the Ministry of Railways (Indian Railways);</li> <li>(ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</li> <li>(iii) of transport of goods or passengers; and</li> </ul> <p>(b) services by way of renting of immovable property.</p>
8.	<p>Services provided by</p> <ul style="list-style-type: none"> <li>➤ The Central Government,</li> <li>➤ State Government,</li> <li>➤ Union Territory, or</li> <li>➤ Local Authority</li> </ul> <p>to another Central Government, State Government, Union Territory or Local Authority.</p> <p>Provided that nothing contained in this entry shall apply to services -</p> <ul style="list-style-type: none"> <li>(i) by the Department of Posts and the Ministry of Railways (Indian Railways);</li> <li>(ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</li> <li>(iii) of transport of goods or passengers.</li> </ul>
9.	<p>Services provided <b>by</b> -</p> <ul style="list-style-type: none"> <li>➤ Central Government,</li> <li>➤ State Government,</li> <li>➤ Union Territory, or</li> <li>➤ A Local Authority</li> </ul> <p>where the consideration for such services does not exceed five thousand rupees:</p>

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
	<p><b>Provided</b> that nothing contained in this entry shall apply to -</p> <ul style="list-style-type: none"> <li>(i) services by the Department of Posts and the Ministry of Railways (Indian Railways);</li> <li>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</li> <li>(iii) transport of goods or passengers:</li> </ul> <p><b>Provided further</b> that in case where continuous supply of service, as defined in sub-section (33) of section 2 of the Central Goods and Services Tax Act, 2017, is provided by the Central Government, State Government, Union Territory or a Local Authority, the exemption shall apply only where the consideration charged for such service does not exceed five thousand rupees (Rs. 5000) in a financial year.</p>
9A	<p>Services provided by and to Federation Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 World Cup 2017 to be hosted in India.</p> <p>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 FIFA U-17 World Cup 2017.</p>
9AA	<p>Services provided by and to Federation 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]</p> <p>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 FIFA U-17 Women's World Cup 2020.</p>
9AB	<p>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.</p> <p>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.”;</p>
9B	Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries).
9C	Supply of service by a Government Entity to Central Government, State Government, Union Territory, Local Authority or any person specified by Central Government, State Government, Union Territory or Local Authority against consideration received from Central Government, State Government, Union Territory or Local Authority, in the form of grants.
9D	Services by an old age home run by Central Government, State Government or by an entity registered under section 12AA or section 12AB of the Income-tax Act, 1961 to its residents (aged 60 years or more) against consideration upto twenty five thousand rupees (Rs. 25,000) per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.
9E	<p>Services provided by Ministry of Railways (Indian Railways) to individuals by way of -</p> <ul style="list-style-type: none"> <li>a. sale of platform tickets</li> <li>b. facility of retiring rooms/ waiting rooms</li> <li>c. clock room services</li> <li>d. battery operated car services</li> </ul>

<b>Sr. No.</b>	<b>Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017</b>
9F	Services provided by one zone/ Division under Ministry of Railways (Indian Railways) to another zone/ Division under Ministry of Railways (Indian Railways)
9G	Services provided by Special Purpose Vehicles (SPVs) to Ministry of Railways (Indian Railways) by allowing Ministry of Railways (Indian Railways) to use the infrastructure built and owned by them under concession period against consideration and services of maintenance supplied by Ministry of Railways (Indian Railways) in relation to the said infrastructure built and owned by the SPVs during the concession period against consideration.
10	<p>Services provided <b>by</b> way of pure labour contracts of:</p> <ul style="list-style-type: none"> <li>➤ construction,</li> <li>➤ erection,</li> <li>➤ commissioning,</li> <li>➤ installation,</li> <li>➤ completion,</li> <li>➤ fitting out,</li> <li>➤ repair,</li> <li>➤ maintenance,</li> <li>➤ renovation,</li> <li>➤ or alteration</li> </ul> <p>of a civil structure or any other original works pertaining to the Beneficiary-led individual house construction or enhancement under the Housing for <b>All (Urban) Mission</b> or Pradhan Mantri Awas Yojana.</p>
10A	Services supplied <b>by</b> 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.
11.	<p>Services <b>by</b> way of pure labour contracts of</p> <ul style="list-style-type: none"> <li>➤ construction,</li> <li>➤ erection,</li> <li>➤ commissioning, or</li> <li>➤ installation of</li> </ul> <p>original works pertaining to a <b>single residential unit</b> otherwise than as a part of a residential complex.</p>
11A	Service provided <b>by</b> Fair Price Shops to Central Government, State Government or Union Territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
12.	<p>Services by way of renting of residential dwelling for use as residence.</p> <p>Services <b>by</b> way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person.</p> <p><i>Explanation 1</i> – 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, -</p> <ol style="list-style-type: none"> <li>1. 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</li> <li>2. such renting is on his own account and not that of the proprietorship concern</li> </ol> <p><i>Explanation 2</i> – Nothing contained in this entry shall apply to -</p> <ol style="list-style-type: none"> <li>a. accommodation services provided to students in student residences</li> <li>b. accommodation services provided by the Hostels, Camps, Paying guest accommodation and the like.</li> </ol> <p>Renting of residential dwelling either by a registered person or an unregistered person for use as residence to unregistered person is exempt from GST .</p> <p>Renting of residential dwelling for use as residence to a registered person ( other than proprietor mentioned in above explanation above ) as well as renting of residential dwelling for commercial use to registered or unregistered person is liable to GST.</p> <p>Tax on renting of residential dwelling to a registered person is payable by registered person under reverse charge mechanism whether it is used for residential or commercial purposes.</p>
12A.	<p>Supply of accommodation services of having value less than or equal to twenty thousand per person per month provided that the accommodation services are provided for a minimum continuous period of ninety days.</p>
13.	<p>Services <b>by</b> a person by way of -</p> <ol style="list-style-type: none"> <li>(a) conduct of any religious ceremony;</li> <li>(b) renting of precincts of a religious place meant for general public, owned or managed by             <ul style="list-style-type: none"> <li>➤ an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961, or</li> <li>➤ a trust or an institution registered under sub-clause (v) of clause (23Q) of section 10 of the Income-tax Act, or a body or an authority covered under clause (23BBA) of section 10 of the Income-tax Act:</li> </ul> </li> </ol> <p><b>Provided</b> that nothing contained in entry (b) of this exemption shall apply to,-</p> <ol style="list-style-type: none"> <li>(i) renting of rooms where charges are Rs. 1000 or more per day;</li> <li>(ii) renting of premises, community halls, kalia mandapam or open area, and the like where charges are Rs. 10,000 or more per day;</li> <li>(iii) renting of shops or other spaces for business or commerce where charges are Rs. 10,000 or more per month.</li> </ol>

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
14.	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal one thousand rupees per day or equivalent.
15.	<p>Transport of passengers, with or without accompanied belongings, by -</p> <ol style="list-style-type: none"> <li>a. air in economy class, embarking from or terminating in an airport located in the State of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal</li> <li>b. non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or</li> <li>c. stage carriage other than air-conditioned stage carriage.</li> </ol> <p>“Provided that nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017).”;</p>
16.	<p>Services provided -</p> <ul style="list-style-type: none"> <li>➤ to the Central Government,</li> <li>➤ by way of transport of passengers with or without accompanied belongings,</li> <li>➤ by air,</li> <li>➤ embarking from or terminating at a regional connectivity scheme airport,</li> <li>➤ against consideration in the form of viability gap funding:</li> </ul> <p><b>Provided</b> that nothing contained in this entry shall apply on or after the expiry of a <b>period of 3 years</b> from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.</p>
17.	<p>Service of transportation of passengers, with or without accompanied belongings, <b>by</b> -</p> <ol style="list-style-type: none"> <li>(i) railways in a class other than - <ol style="list-style-type: none"> <li>(A) first class; or</li> <li>(B) an air-conditioned coach;</li> </ol> </li> <li>(ii) metro, monorail or tramway;</li> <li>(iii) inland waterways;</li> <li>(iv) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and</li> <li>(v) metered cabs or auto rickshaws (including e-rickshaws).</li> </ol> <p>Provided that nothing contained in item (e) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017).”</p>

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
18.	Services <b>by</b> way of transportation of goods (a) by road except the services of- (A) a goods transportation agency; or (B) a courier agency; (b) by inland waterways.
19.	Services <b>by</b> way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.
19A.	Services <b>by</b> way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India.  Nothing contained in this serial number shall apply after the 30th day of September, 2022.
19B.	Services <b>by</b> way of transportation of goods by a vessel from customs station of clearance in India to a place outside India.  Nothing contained in this serial number shall apply after the 30th day of September, 2022.
19C.	Satellite launch services
20.	Services <b>by</b> way of transportation by <b>rail or a vessel</b> from one place in India to another of the following goods- (i) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; (ii) defence or military equipments; (iii) newspaper or magazines registered with the Registrar of Newspapers; (iv) omitted; (v) agricultural produce; (vi) milk, salt and food-grain including flours, pulses and rice; and (vii) organic manure.
21.	Services provided <b>by a goods transport</b> agency, by way of transport in a goods carriage of,- (a) agricultural produce; goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees; (b) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty milk, salt and food grain including flour, pulses and rice;

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
	<ul style="list-style-type: none"> <li>(c) organic manure;</li> <li>(d) newspaper or magazines registered with the Registrar of Newspapers;</li> <li>(e) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or</li> <li>(f) defence or military equipments.</li> </ul>
21A.	<p>Services provided <b>by</b> a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely:-</p> <ul style="list-style-type: none"> <li>(a) any factory registered under or governed by the factories Act, 1948; or</li> <li>(b) any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</li> <li>(c) any Co-operative Society established by or under any law for the time being in force; or</li> <li>(d) any body corporate established, by or under any law for the time being in force; or</li> <li>(e) any partnership firm whether registered or not under any law including association of persons;</li> <li>(f) any casual taxable person registered under the Central Goods and Services Tax Act, 2017 or the Integrated Goods and Services Tax Act, 2017 or the State Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017.</li> </ul>
21B.	<p>Services provided <b>by</b> a goods transport agency, by way of transport of goods in a goods carriage, to, -</p> <ul style="list-style-type: none"> <li>(a) a Department or Establishment of the Central Government or State Government or Union Territory; or</li> <li>(b) Local Authority; or</li> <li>(c) Governmental agencies,</li> </ul> <p>which has taken registration under the Central Goods and Services Tax Act, 2017 only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services.</p>
22.	<p>Services by way of giving on hire -</p> <ul style="list-style-type: none"> <li>(a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or</li> <li>(aa) to a Local Authority, an Electrically operated vehicle meant to carry more than twelve passengers; or</li> </ul> <p><i>Explanation</i> - For the purposes of this entry, “Electrically operated vehicle” means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 which is run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicle.</p>

Sr. No.	<i>Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017</i>
	(b) to a goods transport agency, a means of transportation of goods; (c) motor vehicle for transport of students, faculty and staff to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.
23.	Service <b>by</b> way of access to a road or a bridge on payment of toll charges.
23A.	Service <b>by</b> way of access to a road or a bridge on payment of annuity.
24.	Services <b>by</b> way of loading, unloading, packing, storage or warehousing of rice.
24A.	Services <b>by</b> way of warehousing of minor forest produce.
24B.	“Services by way of storage or warehousing of cereals, pulses, fruits and vegetables.”
24C.	Services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams).
25.	Transmission or distribution of electricity by an electricity transmission or distribution utility. Supply of services by way of providing metering equipment on rent, testing for meters/transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission or distribution of electricity provided by electricity transmission or distribution utilities to their consumers.
26.	Omitted.
27.	Services <b>by</b> way of- (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services); (b) inter se sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers.
27A.	Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).
28.	Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013.
29.	Services of life insurance business provided or agreed to be provided ➤ by the Army, Naval and Air Force Group Insurance Funds; ➤ to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.
29A.	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.

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
29B.	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.
30.	Services <b>by</b> Employees' State Insurance Corporation to persons governed under the Employees' Insurance Act, 1948.
31.	Services provided <b>by</b> Employees Provident Fund Organisation to persons governed under the Employees Provident Funds and Miscellaneous Provisions Act, 1952 .
31A.	Services <b>by</b> Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 .
31B.	Services <b>by</b> National Pension System (NPS) Trust to its members against consideration in the form of administrative fee.
32.	Omitted.
33.	Omitted.
34.	<p>Services <b>by</b> an acquiring bank,</p> <ul style="list-style-type: none"> <li>➤ to any person in relation to settlement of an amount upto <b>two thousand rupees</b> in a single transaction transacted through credit card, debit card, charge card or other payment card service.</li> </ul> <p><b>Explanation</b> - For the purposes of this entry, "acquiring bank" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.</p>
34A.	Services supplied <b>by</b> Central Government, State Government, Union Territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions.
35.	<p>Services of <b>General Insurance business</b> provided under following schemes-</p> <ul style="list-style-type: none"> <li>(a) Hut Insurance Scheme;</li> <li>(b) Cattle Insurance under Swamajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);</li> <li>(c) Scheme for Insurance of Tribals;</li> <li>(d) Janata Personal Accident Policy and Gramin Accident Policy;</li> <li>(e) Group Personal Accident Policy for Self-Employed Women;</li> <li>(f) Agricultural Pumpset and Failed Well Insurance;</li> <li>(g) Premia collected on export credit insurance;</li> <li>(h) Restructured Weather Based Crop Insurance Scheme (RWCIS) approved by the Government of India and implemented by the Ministry of Agriculture;</li> </ul>

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
	<ul style="list-style-type: none"> <li>(i) An Arogya Bima Policy;</li> <li>(j) Pradhan Mantri Fasal Bima Yojna (PMFBY);</li> <li>(k) Pilot Scheme on Seed Crop Insurance;</li> <li>(l) Central Sector Scheme on Cattle Insurance;</li> <li>(m) Universal Health Insurance Scheme;</li> <li>(n) Rashtriya Swasthya Bima Yojana;</li> <li>(o) Coconut Palm Insurance Scheme;</li> <li>(p) Pradhan Mantri Suraksha Bima Yojna;</li> <li>(q) Niramaya Health Insurance Scheme implemented by Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;</li> <li>(r) Bangla Shasya Bima.</li> </ul>
36.	<p>Services of Life Insurance business provided under following schemes-</p> <ul style="list-style-type: none"> <li>(i) Janashree Bima Yojana;</li> <li>(ii) Aam Aadmi Bima Yojana;</li> <li>(iii) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of two lakh rupees (Rs. 200,000);</li> <li>(iv) Varishtha Pension Bima Yojana;</li> <li>(v) Pradhan Mantri Jeevan Jyoti Bima Yojana;</li> <li>(vi) Pradhan Mantri Jan Dhan Yojana;</li> <li>(vii) Pradhan Mantri Vaya Vandan Yojana.</li> </ul>
36A.	<p>Services <b>by</b> way of reinsurance of the insurance schemes specified in serial number 35 or 36 or 40. Retrocession means a re-insurance transaction whereby a part of assumed reinsured risk is further ceded to another Indian Insurer or a CBR (Cross Border Insurer). The term reinsurance includes retrocession services as per circular no 228/22/2024 GST dated 15.07.2024.</p>
36B	<p>Services of insurance provided by the Motor vehicle Accident Fund constituted under section 164B of the Motor Vehicles Act 1988, against contributors made by insurers out of premiums collected for third party insurance of motor vehicles.</p>
37.	<p>Services <b>by</b> way of collection of contribution under Atal Pension Yojana.</p>
38.	<p>Services <b>by</b> way of collection of contribution under any pension scheme of the State Governments.</p>

<b>Sr. No.</b>	<b>Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017</b>
39.	<p>Services <b>by</b> the following persons in respective capacities-</p> <p>(a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;</p> <p>(b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in clause (a); or</p> <p>(c) business facilitator or a business correspondent to an insurance company in a rural area.</p>
39A.	<p>Services <b>by</b> an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).</p> <p><b>Explanation.</b> - For the purposes of this entry, the intermediary of financial services in IFSC is a person,-</p> <p>(i) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or</p> <p>(ii) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or</p> <p>(iii) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or</p> <p>(iv) 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.</p>
40.	<p>Services provided to the Central Government, State Government, Union Territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union Territory.</p>
41.	<p>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 thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 50 per cent, or more ownership of Central Government, State Government, Union Territory to the industrial units or the developers in any industrial or financial business area.</p> <p><b>Explanation.</b> - For the purpose of this exemption, the Central Government, State Government or Union Territory shall have 50 per cent. or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union Territory.</p> <p>Provided that the leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area:</p> <p>Provided further that the State Government concerned shall monitor and enforce the above condition as per the order issued by the State Government in this regard:</p>

Sr. No.	<i>Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017</i>
	<p>Provided also that in case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or buyer or owner shall be jointly and severally liable to pay such amount of central tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty:</p> <p>Provided also that the lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub-lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the central tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above condition and that the parties to the said agreements undertake to comply with the same.</p>
41A.	<p>Supply of TDR ,FSI ,long term lease (premium ) of land by a land owner to a developer are exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them.</p> <p>Exemption of TDR,FSI, Long term (premium) shall be withdrawn in case of flats sold after issue of completion, 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.</p> <p>[GST payable on TDR or FSI (including additional FSI) or both for construction of the project] × (carpet area of the residential apartments in the project ÷ Total carpet area of the residential and commercial apartments in the project)</p> <p>Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of value of development rights, or FSI (including additional FSI), or both, as is attributable to the residential apartments, which remain un-booked on the date of issuance of completion certificate or first occupation of the project, as the case may be, in the following manner -</p> <p><b>[GST payable on TDR or FSI (including additional FSI) or both for construction of the residential apartments in the project but for the exemption contained herein] × (carpet area of the residential apartments in the project which remain un-booked on the date of issuance of completion certificate or first occupation ÷ Total carpet area of the residential apartments in the project)</b></p> <p>Provided further that tax payable in terms of the first proviso hereinabove shall not exceed 0.5 per cent. of the value in case of affordable residential apartments and 2.5 per cent. of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation.</p> <p>The liability to pay central tax on the said portion of the development rights or FSI, or both, calculated as above, shall arise on the date of completion or first occupation of the project, as the case may be, whichever is earlier.</p> <p>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 thirty years, or more, on or after 1-4-2019, for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p>

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
	<p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under:</p> <p><b>[GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the project] × (carpet area of the residential apartments in the project ÷ Total carpet area of the residential and commercial apartments in the project).</b></p>
41B.	<p>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 thirty years, or more, on or after 1-4-2019, for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under:</p> <p><b>[GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the project] × (carpet area of the residential apartments in the project ÷ Total carpet area of the residential and commercial apartments in the project)].</b></p> <p>Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, as is attributable to the residential apartments, which remain un-booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner -</p> <p><b>[GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the residential apartments in the project but for the exemption contained herein] × (carpet area of the residential apartments in the project which remain un-booked on the date of issuance of completion certificate or first occupation ÷ Total carpet area of the residential apartments in the project)</b></p> <p>Provided further that the tax payable in terms of the first proviso shall not exceed 0.5 per cent. of the value in case of affordable residential apartments and 2.5 per cent. of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation.</p> <p>The liability to pay central tax on the said proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, calculated as above, shall arise on the date of issue of completion certificate or first occupation of the project, as the case may be.</p>

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
42.	Services provided by <ul style="list-style-type: none"> <li>➤ the Central Government,</li> <li>➤ State Government,</li> <li>➤ Union Territory,</li> <li>➤ a Local Authority,</li> <li>➤ by way of allowing a business entity to operate,</li> <li>➤ as a telecom service provider, or</li> <li>➤ use radio frequency spectrum. during the period prior to 1st April, 2016, on payment of licence fee or spectrum user charges, as the case may be.</li> </ul>
44.	Services provided <b>by</b> an incubatee <b>upto a total turnover of fifty lakh rupees</b> in a financial year subject to the following conditions, namely:- <ul style="list-style-type: none"> <li>(a) the total turnover had not exceeded fifty lakh rupees during the preceding financial year; and</li> <li>(b) a period of three years has not been elapsed from the date of entering into an agreement as an incubatee.</li> </ul>
44A	Research and development services against consideration received in form of grants supplied by <ul style="list-style-type: none"> <li>(a) a Government Entity or</li> <li>(b) a research association, University, college or other institution, notified under clauses (ii) or (iii) of subsection (1) of section 35 of Income Tax Act, 1961 is so notified at the time of supply of the research and development service.</li> </ul>
45.	Services provided <b>by-</b> <ul style="list-style-type: none"> <li>(a) an arbitral tribunal to-               <ul style="list-style-type: none"> <li>(i) any person other than a business entity; or</li> <li>(ii) a business entity with a turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017;</li> <li>(ii) the Central Government, State Government, Union Territory, Local Authority, Governmental Authority or Governmental Entity.</li> </ul> </li> <li>(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-               <ul style="list-style-type: none"> <li>(i) an advocate or partnership firm of advocates providing legal services;</li> <li>(ii) any person other than a business entity; or</li> <li>(iii) a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017; or</li> </ul> </li> </ul>

<b>Sr. No.</b>	<b>Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017</b>
	<p>(iv) the Central Government, State Government, Union Territory, Local Authority, Governmental Authority or Governmental Entity.</p> <p>(c) a senior advocate by way of legal services to-</p> <p>(i) any person other than a business entity;</p> <p>(ii) a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017; or</p> <p>(iii) the Central Government, State Government, Union Territory, Local Authority, Governmental Authority or Governmental Entity.</p>
46.	Services <b>by</b> a veterinary clinic in relation to health care of animals or birds.
47.	<p>Services provided <b>by</b></p> <ul style="list-style-type: none"> <li>➤ the Central Government,</li> <li>➤ State Government,</li> <li>➤ Union Territory, or</li> <li>➤ a Local Authority by way of- <ul style="list-style-type: none"> <li>(a) registration required under any law for the time being in force;</li> <li>(b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force.</li> </ul> </li> </ul>
47A.	Omitted.
48.	<p>Taxable Services, provided or to be provided,</p> <ul style="list-style-type: none"> <li>➤ by a Technology Business Incubator; or</li> </ul>
	<ul style="list-style-type: none"> <li>➤ a Science and Technology Entrepreneurship Park recognized by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India; or</li> <li>➤ bio-incubators recognized by the Biotechnology Industry Research Assistance Council, under Department of Biotechnology, Government of India.</li> </ul>
49.	<p>Services <b>by</b> way of</p> <ul style="list-style-type: none"> <li>➤ collecting or providing news by</li> <li>➤ an independent journalist,</li> <li>➤ Press Trust of India, or</li> <li>➤ United News of India.</li> </ul>

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
50.	Services of public libraries by way of lending of <ul style="list-style-type: none"> <li>➤ books,</li> <li>➤ publications, or</li> <li>➤ any other knowledge-enhancing content or material.</li> </ul>
51.	Omitted.
52.	Services <b>by an organiser</b> <ul style="list-style-type: none"> <li>➤ to any person in respect of a business exhibition,</li> <li>➤ held outside India.</li> </ul>
52A.	<p>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:</p> <p>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:</p> <p>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.</p> <p><i>Explanation.</i> - “foreign tourist” means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate nonimmigrant purposes.</p> <p><i>Illustrations:</i></p> <p><i>A tour operator provides a tour operator service to a foreign tourist as follows:-</i></p> <p>(a) 3 days in India, 2 days in Nepal; Consideration Charged for the entire tour: Rs. 1,00,000/-  <i>Exemption:</i> Rs. 40,000/- (= Rs. 1,00,000/- × 2/5) or, Rs. 50,000/- (= 50% of Rs. 1,00,000/-) whichever is less, i.e., Rs. 40,000/- (i.e., Taxable value: Rs. 60,000/-);</p> <p>(b) 2 days in India, 3 nights in Nepal; Consideration Charged for the entire tour: Rs. 1,00,000/-  <i>Exemption:</i> Rs. 60,000 (= Rs. 1,00,000/- × 3/5) or, Rs. 50,000/- (= 50% of Rs. 1,00,000/-) whichever is less, i.e., Rs. 50,000/- (i.e., Taxable value: Rs. 50,000/-);</p> <p>(c) 2.5 days in India, 3 days in Nepal; Consideration charged for the entire tour: Rs. 1,00,000/-  <i>Exemption:</i> Rs. 54,545 (= Rs. 1,00,000/- × 3/5.5) or, Rs. 50,000/- (= 50% of Rs. 1,00,000/-) whichever is less, i.e., Rs. 50,000/- (i.e., Taxable value: Rs. 50,000/-).</p>

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
53.	Services <b>by</b> way of sponsorship of sporting events organised,- <ul style="list-style-type: none"> <li>(a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any District, State, Zone or Country;</li> <li>(b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympics Committee of India or Special Olympics Bharat;</li> <li>(c) by Central Civil Services Cultural and Sports Board;</li> <li>(d) as part of national games, by Indian Olympic Association; or</li> <li>(e) under Panchayat Yuva Kreedha Aur Khel Abhivaan Scheme.</li> </ul>
53A.	Omitted.
54.	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- <ul style="list-style-type: none"> <li>(i) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; or</li> <li>(ii) supply of farm labour;</li> <li>(iii) processes earned 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;</li> <li>(iv) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;</li> <li>(v) loading, unloading, packing, storage or warehousing of agricultural produce;</li> <li>(vi) agricultural extension services;</li> <li>(vii) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce;</li> </ul>
55.	Carrying out an <b>intermediate production process as job work</b> in relation to <ul style="list-style-type: none"> <li>➤ cultivation of plants,</li> <li>➤ rearing of all life forms of animals, except,</li> <li>➤ the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.</li> </ul>
55A.	Services <b>by</b> way of artificial insemination of livestock (other than horses).
56.	Omitted.

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
57.	Services <b>by</b> way of <ul style="list-style-type: none"> <li>➤ pre-conditioning,</li> <li>➤ pre-cooling,</li> <li>➤ ripening,</li> <li>➤ waxing,</li> <li>➤ retail packing,</li> <li>➤ labeling</li> </ul> of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.
58.	Services provided <b>by</b> <ul style="list-style-type: none"> <li>➤ National Centre for Cold Chain Development under Ministry of Agriculture, Cooperation; and</li> <li>➤ Farmer's Welfare by way of cold chain knowledge dissemination.</li> </ul>
59.	Services <b>by</b> a foreign diplomatic mission located in India.
60.	Services <b>by</b> a specified organization in respect of a <b>religious pilgrimage</b> facilitated by the Government of India, under bilateral arrangement.
61.	Services provided <b>by</b> <ul style="list-style-type: none"> <li>➤ the Central Government,</li> <li>➤ State Government,</li> <li>➤ Union Territory, or</li> <li>➤ a Local Authority</li> </ul> by way of issuance of passport, visa, driving licence, birth certificate or death certificate.
61A	Services <b>by</b> way of granting National Permit to a goods carriage to operate through-out India/ contiguous States.
62.	Services provided <b>by</b> <ul style="list-style-type: none"> <li>➤ the Central Government,</li> </ul>
	<ul style="list-style-type: none"> <li>➤ State Government,</li> <li>➤ Union Territory, or</li> <li>➤ a Local Authority</li> </ul> by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union Territory or Local Authority under such contract.

<b>Sr. No.</b>	<b>Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017</b>
63.	<p>Services provided <b>by</b></p> <ul style="list-style-type: none"> <li>➤ the Central Government,</li> <li>➤ State Government,</li> <li>➤ Union Territory, or</li> <li>➤ a Local Authority</li> </ul> <p>by way of assignment of right to use natural resources to</p> <ul style="list-style-type: none"> <li>➤ an individual farmer for,</li> <li>➤ cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fiber, fuel, raw material or other similar products.</li> </ul>
64.	<p>Services provided <b>by</b></p> <ul style="list-style-type: none"> <li>➤ the Central Government,</li> <li>➤ State Government,</li> <li>➤ Union Territory, or</li> <li>➤ a Local Authority</li> </ul> <p>by way of assignment of right to use any natural resource where such right to use was assigned by the Central Government, State Government, Union Territory or Local Authority before the 1st April, 2016:</p> <p><b>Provided</b> that the exemption shall apply only to service tax payable on one time charge payable, in full upfront or in installments, for assignment of right to use such natural resource.</p>
65.	<p>Services provided <b>by</b></p> <ul style="list-style-type: none"> <li>➤ the Central Government,</li> <li>➤ State Government,</li> <li>➤ Union Territory, or</li> </ul> <p>by way of deputing officers after office hours or on holidays</p> <ul style="list-style-type: none"> <li>➤ for inspection,</li> <li>➤ or container stuffing, or</li> <li>➤ such other duties</li> </ul> <p>in relation to import export cargo on payment of Merchant Overtime charges.</p>
65A.	Services <b>by</b> way of providing information under the Right to Information Act, 2005.

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
65B.	<p>Services supplied <b>by</b> a State Government to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders.</p> <p><b>Explanation</b> - “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 sub- section (1) of section 15 of the Mines and Minerals (Development and Regulation) Act, 1957.</p> <p>Provided that at the end of the contract period, ERCC shall submit an account to the State Government and certify that the amount of goods and services tax deposited by mining lease holders on royalty is more than the goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of goods and services tax paid by mining lease holders is less than the amount of goods and services tax exempted, the exemption shall be restricted to such amount as is equal to the amount of goods and services tax paid by the mining lease holders and the ERCC shall pay the difference between goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and goods and services tax paid by the mining lease holders on royalty.</p>
66.	<p>Services provided -</p> <p>(a) <b>by</b> an educational institution to its students, faculty and staff;</p> <p>(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee.</p> <p>(b) to an educational institution, by way of,-</p> <p>(i) transportation of students, faculty and staff;</p> <p>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union Territory;</p> <p>(iii) security or cleaning or housekeeping services performed in such educational institution;</p> <p>(iv) services relating to admission to, or conduct of examination by, such institution;</p> <p>(v) supply of online educational journals or periodicals.</p> <p>Provided that nothing contained in sub-items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.</p> <p>Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of, -</p> <p>(i) pre-school education and education up to higher secondary school or equivalent; or</p> <p>(ii) education as a part of an approved vocational education course.</p> <p>Provided that nothing contained in clause (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.</p>
67.	Omitted w.e.f. 01.01.2019.

<b>Sr. No.</b>	<b>Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017</b>
68.	<p>Services provided to a recognized sports body <b>by</b></p> <p>(a) an individual as</p> <ul style="list-style-type: none"> <li>➤ a player,</li> <li>➤ referee,</li> <li>➤ umpire,</li> <li>➤ coach, or</li> <li>➤ team manager.</li> </ul> <p>for participation in a sporting event organized by a recognized sports body;</p> <p>(b) another recognized sports body.</p>
69.	<p>Any services provided <b>by,-</b></p> <p>(i) the National Skill Development Corporation set up by the Government of India;</p> <p>(ii) the National Council for vocational Education and training</p> <p>(iii) an Awarding Body recognized by the national council for vocational education and training</p> <p>(iv) an Assessment Agency recognized by the National Council for Vocational Education And training a training body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and training</p> <p>(v) a Training Body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and Training,</p> <p>(vi) a training partner approved by the National Skill Development Corporation,</p> <p>in relation to</p> <p>(i) the National Skill Development programme or any other scheme implemented by the National Skill Development Corporation or</p> <p>(ii) a Vocational skill development Course under the national skill certification and Monetary Reward Scheme</p> <p>(iii) or any National Skill Qualification Framework aligned qualification or skill in respect of which the National Council for vocational Education and Training has approved a qualification package.</p>
70.	<p>Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under Skill Development Initiative Scheme.</p>
71.	<p>Services provided <b>by</b> training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by National Council for Vocational Training.</p>
72.	<p>Services provided to the Central Government, State Government, Union Territory administration under any training programme for which 75% expenditure is borne by the Central Government, State Government, Union Territory administration.</p>

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
73.	Omitted.
74.	<p>Services <b>by</b> way of-</p> <p>(a) Health care services by a clinical establishment, an authorised medical practitioner or para-medics;</p> <p>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)/Neonatal Intensive Care Unit (NICU)] having room charges exceeding Rs. 5000 per day to a person receiving health care services</p> <p>(b) Services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.</p>
74A.	Services provided <b>by</b> rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 by way of rehabilitation, therapy or counselling and such other activity as covered by the said act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union Territory or an entity registered under section 12AA of the Income-tax Act, 1961.
75.	Omitted.
76.	Services <b>by</b> way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.
77.	<p>Service <b>by</b> 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-</p> <p>(a) as a trade union;</p> <p>(b) for the provision of carrying out any activity which is exempt from the levy of Goods and Services Tax; or</p> <p>(c) up to an amount of seven thousand five hundred rupees (Rs.7500) 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.</p>
77A.	<p>Services provided <b>by</b> an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in, -</p> <p>(i) Activities relating to the welfare of industrial or agricultural labour or farmers; or</p> <p>(ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,</p> <p>to its own members against consideration in the form of membership fee upto an amount of one thousand rupees (Rs 1000/-) per member per year.</p>
78.	<p>Services <b>by</b> an artist by way of a performance in folk or classical art forms of:</p> <p>(i) music, or</p> <p>(ii) dance, or</p> <p>(iii) theatre,</p>

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
	<p>if the consideration charged for such performance is <b>not more than one lakh and fifty thousand rupees (Rs.1,50,000)</b>:</p> <p><b>Provided</b> that the <b>exemption shall not apply</b> to service provided by such artist as a brand ambassador.</p>
79.	<p>Services <b>by</b> way of admission to -</p> <ul style="list-style-type: none"> <li>➤ a museum,</li> <li>➤ national park,</li> <li>➤ wildlife sanctuary,</li> <li>➤ tiger reserve, or</li> <li>➤ zoo.</li> </ul>
79A.	<p>Services <b>by</b> way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or any of the State Acts, for the time being in force.</p>
80.	<p>Services by way of training or coaching in -</p> <ul style="list-style-type: none"> <li>(a) recreational activities relating to arts or culture, by an individual, or</li> <li>(b) sports by charitable entities registered under Section 12AA or 12AB of the Income-tax Act.”;</li> </ul>
81.	<p>Services <b>by</b> way of right to admission to-</p> <ul style="list-style-type: none"> <li>(a) circus, dance, or theatrical performance including drama or ballet;</li> <li>(b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;</li> <li>(c) recognised sporting event;</li> <li>(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 Rs. 500 per person.</li> </ul>
81A.	<p>Services <b>by</b> way of right to admission to the events organised under FIFA U-17 World Cup 2017 (not relevant now).</p>
82.	<p>Services provided to the United Nations or a specified international organization is exempt by way of refund.</p>
82A.	<p>Services by way of right to admission to the events organised under FIFA U-17 Women’s World Cup 2020 [whenever rescheduled).</p>
<b>Description of services which are exempt under IGST only</b>	
83.	<p>Services provided to a foreign diplomatic mission or consular post in India or for personal use or for the use of the family members of diplomatic agents or career consular officers posted therein, is exempt by way of refund.</p>
84.	<p>Services by the Central Government or State Government or any Local Authority by way of any activity in relation to a function entrusted to a Panchayat under Article 243G of the Constitution is neither a supply of goods nor a supply of service.</p>

Sr. No.	Description of Services exempted both under the CGST Act, 2017 and IGST Act, 2017
85.	<p>Services <b>received</b> from a provider of service located in a non-taxable territory by</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(b) an entity registered under section 12AA of the Income-tax Act, 1961 for the purposes of providing charitable activities; or</li> <li>(c) a person located in a non-taxable territory:</li> </ul> <p><b>Provided</b> that the exemption shall not apply to -</p> <ul style="list-style-type: none"> <li>(i) online information and database access or retrieval services received by persons specified in entry (a) or entry (b); or</li> <li>(ii) services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by persons specified in the entry.</li> </ul>
86.	Services received by the Reserve Bank of India, from outside India in relation to management of foreign exchange reserves.
87.	Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.

**Illustration:**

Ashish acts as a team manager for Indian Sports Authority (ISA), a recognised sports body, for a tennis tournament organised by a multinational company and received a remuneration of Rs. 2,00,000. Determine whether GST is payable on the remuneration received by Ashish.

**Solution:** Services provided by a team manager to a recognised sports body for participation in a sporting event are exempt from GST provided said sporting event is organised by a recognized sports body.

In the given case, the services are being provided by a team manager to a recognised sports body, but the sporting event is not organised by a recognised sports body. Therefore, the services provided by Ashish are not exempt from GST.

**Illustration:**

Ramu Transporters, a Goods Transport Agency, transported relief materials meant for victims of Kerala floods, a natural disaster, by road from Delhi to Ernakulam, for a company. Ramu Transporters is of the view that it is not liable to pay GST on the said services provided as said services are exempt. You are required to advise it on the said issue.

**Solution:** Services provided by a goods transport agency, by way of transport in a goods carriage of relief materials meant for victims of, *inter alia*, natural or man-made disasters, calamities, are exempt from GST. Therefore, services provided by Ramu Transporters will be exempt from GST.

**Clarification regarding applicability of GST on facility management services provided to Municipal Corporation of Delhi Headquarters**

**Municipal Corporation of Delhi receiving services such as housekeeping, civil maintenance etc for upkeep of their office. Issue was whether such services received by them are exempt from GST.**

Services of facility management such as housekeeping, civil maintenance, furniture maintenance and horticulture from management agency for the upkeep of office of MCD are not supplies in relation to performing any functions entrusted to a municipality under Article 243W of Constitution of India. Such services are not covered the scope of entry 3A which provides exemption to composite supply of goods and services in which the value of said composite supply provided to the Government or local authority by way of any activity in relation to any function entrusted to a panchayat under Article 243G of the Constitution of India or in relation to any function entrusted to a Municipality under Article 243W of the Constitution of India..

It has been clarified that GST is applicable on the services provided by facility management agency to Municipal Corporation Delhi. Headquarters.

For details : <https://taxinformation.cbic.gov.in/view-pdf/1003261/ENG/Circulars>

**Clarification on applicability of GST on penal charges being levied by the Regulated Entities (REs) in view of RBI instructions dated 18.08.2023 directing such Regulated Entities (REs) to levy penal charges in place of penal interest.**

Regulated Entities (REs) such as banks and non-banking financial companies (NBFCs) have been instructed, vide RBI instructions dated 18.08.2023, to discontinue the use of penal interest for non-compliance with loan terms. As per the instructions, instead of penal interest, REs are to levy penal charges for non-compliance with loan terms. The intent of levying penal charges is essentially to inculcate a sense of credit discipline. These instructions are effective from 01.01.2024, and do not apply to credit cards, external commercial borrowings, trade credits and structured obligations which are covered under product specific directions. Certain field formations that penal charges so levied are in the nature of payment/consideration for tolerating an act or situation. Similar issues were examined in Circular No. 178/10/2022-GST dated 03.08.2022, wherein it has already been clarified that certain payments such as liquidated damages for breach of contract are not a consideration for tolerating an act or situation. They are rather amounts recovered to deter such acts; such amounts are for preventing breach of contract or non-performance and are thus mere 'events' in a contract. It has been further clarified that the 14 essence of a contract is its 'performance' and not its 'breach', meaning thereby that parties enter into a contract for execution and not for its breach. Penal charges levied by REs, in compliance with RBI directions dated 18.08.2023, are essentially in the nature of charges for breach of terms of contract and hence, fall within the ambit of the above clarification. Therefore, no GST is payable on the penal charges levied by Regulated Entities, in compliance with RBI directions dated 18.08.2023, for non-compliance with material terms and conditions of loan contract by the borrower.

**Clarification on whether GST exemption under Sl. No. 34 of notification No. 12/2017-CTR dated 28.06.2017 is available to payment aggregators in relation to settlement of an amount, up to two thousand rupees in a single transaction, transacted through credit card, debit card, charge card or other payment card services?**

Payment Aggregators (PAs) are entities that facilitate ecommerce sites and merchants to accept various payment instruments from their customers without the need for the e-commerce sites and merchants to create a separate payment integration system of their own. In the process, PAs receive payments from customers, pool and transfer them on to the merchants within a specified time period. The exemption under notification No. 12/2017-CT (Rate) dated 28.06.2017 is available to acquiring banks. The term 'acquiring bank' has been explained as under: acquiring bank" means any banking company, financial institution including

nonbanking financial company or any other person, who makes the payment to any person who accepts such card. Regulation of Payment Aggregators and Payment Gateways dated 17.03.2020, pertaining to 'Settlement and Escrow Account Management' makes it clear that the PAs receive payments from customers in an escrow account, and are obligated to do the final settlement with the merchant within time periods specified by RBI. Therefore, the RBI regulated PAs, involved in the settlement process of making payments to the merchant, are covered by the second part of the definition of acquiring bank, i.e. "any other person, who makes the payment to any person who accepts such card" and hence, fall within the definition of acquiring bank, for the purpose of the exemption under Sl. No. 34 of notification No. 12/2017-CTR dated 28.06.2017, as they make the payment to the merchants who accept credit cards, debit cards, charge cards or other payment card services. PAs are defined as entities who receive payments from customers, pool and transfer them on to the merchants within a specified time period. On the other hand, PGs are defined as entities that provide technology infrastructure to route and facilitate processing of an online payment transaction without any involvement in handling of funds. GST exemption under Sl. No. 34 of notification No. 12/2017-CTR dated 28.06.2017 is available to RBI regulated Payment Aggregators (PAs) in relation to settlement of an amount, up to Rs 2000 in a single transaction, transacted through credit card, debit card, charge card or other payment card services, as PAs fall within the definition of 'acquiring bank' given in the Explanation to the said exemption entry. It is also clarified that this exemption is limited to payment settlement function only, which involves handling of money, and does not cover Payment Gateway (PG) services.

For details: <https://taxinformation.cbic.gov.in/view-pdf/1003261/ENG/Circulars>

**Clarification on whether Delhi Development Authority (DDA) is a local authority as per section 2(69) of the CGST Act, 2017?**

As per notification no. 13/2017-Central Tax Rate dated 28.06.2017, services supplied by local authority to a business entity are taxable on Reverse Charge (RCM) basis. Local authority under section 2(69) of the CGST Act, 2017 has been defined as a "Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund".

It means an authority which is similar to the elected self-governing body such as Municipal Committee and which is entrusted with the control and management of municipal or local fund can be termed as local authority.

It is seen that DDA does not meet the requirement of local authority as per section 2(69) of the CGST Act, 2017. It is hereby clarified that DDA cannot be treated as local authority under GST law.

For details: <https://taxinformation.cbic.gov.in/view-pdf/1003261/ENG/Circulars>

**Clarification regarding applicability of GST on supply of food in Anganwadis and Schools [Circular No. 149/05/2021 – GST, dated June 17, 2021]**

Clarification on applicability of GST on the issues as to whether serving of food in schools under Mid-Day Meals Scheme would be exempt if such supplies are funded by government grants and/or corporate donations. The issue was examined by GST Council in its 43rd meeting held on 28th May, 2021.

Entry 66 clause (b)(ii) of notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017, exempts Services provided to an educational institution, by way of catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union Territory. This entry applies to pre-school and schools.

Accordingly, as per said entry 66, any catering service provided to an educational institution is exempt from GST. The entry further mentions that such exempt service includes mid- day meal service as specified in the entry. The scope of this entry is thus wide enough to cover any serving of any food to a school, including pre-school. Further, an Anganwadi interalia provides pre-school non-formal education. Hence, aganwadi is covered by the definition of educational institution (as pre-school).

As per recommendation of the GST Council, it is clarified that services provided to an educational institution by way of serving of food (catering including mid- day meals) is exempt from levy of GST irrespective of its funding from government grants or corporate donations [under said entry 66 (b) (ii)]. Educational institutions as defined in the notification include aganwadi. Hence, serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates.

For further details please visit: [https://www.cbic.gov.in/resources/htdocscbec/gst/Circular\\_Refund\\_149.pdf](https://www.cbic.gov.in/resources/htdocscbec/gst/Circular_Refund_149.pdf)

**Clarification regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment (annuity) [Circular No. 150/06/2021 – GST, dated June 17, 2021]**

GST is exempt on service, falling under heading 9967 (service code), by way of access to a road or a bridge on payment of annuity. Heading 9967 covers “supporting services in transport” under which code 996742 covers “operation services of National Highways, State Highways, Expressways, Roads & Streets; Bridges and Tunnel operation services”. Entry 23 of said notification exempts “service by way of access to a road or a bridge on payment of toll”. Together the entries 23 and 23A exempt access to road or bridge, whether the consideration are in the form of toll or annuity. It is hereby clarified that Entry 23A of notification No. 12/2017-CT(R) does not exempt GST on the annuity (deferred payments) paid for construction of roads.

For further details please visit: [https://www.cbic.gov.in/resources/htdocscbec/gst/Circular\\_Refund\\_150.pdf](https://www.cbic.gov.in/resources/htdocscbec/gst/Circular_Refund_150.pdf)

**Clarification regarding GST on supply of various services by Central and State Board (such as National Board of Examination) [Circular No. 151/07/2021 – GST, dated June 17, 2021]**

GST is exempt on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution. Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations. 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.

For further details please visit: [https://www.cbic.gov.in/resources/htdocscbec/gst/Circular\\_Refund\\_151.pdf](https://www.cbic.gov.in/resources/htdocscbec/gst/Circular_Refund_151.pdf)

**Clarification regarding rate of tax applicable on construction services provided to a Government Entity, in relation to construction such as of a Ropeway on turnkey basis [Circular No. 152/08/2021 – GST, dated June 17, 2021]**

Works contract service provided by way of construction such as of rope way shall fall under entry at Sl. No. 3(xii) of notification 11/2017-(CTR) and attract GST at the rate of 18%.

For further details please visit: [https://www.cbic.gov.in/resources/htdocscbec/gst/Circular\\_Refund\\_152.pdf](https://www.cbic.gov.in/resources/htdocscbec/gst/Circular_Refund_152.pdf)

**GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS [Circular No. 153/09/2021 – GST, dated June 17, 2021]**

In case the supply of service by way of milling of wheat into flour or of paddy into rice, is not eligible for exemption under Sl. No. 3 A of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 for the reason that value of goods supply in such a composite supply exceeds 25%, then the applicable GST rate would be 5% if such composite supply is provided to a registered person, being a job work service (entry No. 26 of notification No. 11/2017- Central Tax (Rate) dated 28.06.2017). Combined reading of the definition of job-work [section 2(68), 2(94), 22, 24, 25 and section 51] makes it clear that a person registered only for the purpose of deduction of tax under section 51 of the CGST Act is also a registered person for the purposes of the said entry No. 26, and thus said supply to such person is also entitled for 5% rate.

For further details please visit: [https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular\\_Refund\\_153.pdf](https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_Refund_153.pdf)

**COMPOSITION SCHEME [SECTION 10 OF CGST ACT, 2017]**

Composition Scheme in GST provides an alternative method of tax payment small and medium taxpayers whose turnover is not exceeding the prescribed threshold. The tax rates under this scheme have been kept at minimal but at the same time a person opting to pay tax under composition levy scheme can neither take Input Tax Credit nor it can collect any tax from the recipient. It is a voluntary and optional scheme.

**Who can opt for Composition Scheme**

Notwithstanding anything to the contrary contained in this act but subject to the provisions of sub-sections (3) and (4) of section 9,

- a registered person,
- whose aggregate turnover in the preceding financial year,
- did not exceed One Crore and fifty lakh rupees (Rs.1.5 Crore)\*,
- may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9,
- an amount of tax calculated at the rates as prescribed under Rule 7 of the CGST Rules, 2017.

\* for supply of goods and restaurant services

In case of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Uttarakhand the threshold limit is Rs. 75 lakhs [instead of Rs. 1.5 Crore] (Notification No. 14/2019 Central Tax dated March 07, 2019).

Section 2(6) defines “aggregate turnover” as the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and Inter-State supplies of persons having the same Permanent Account Number, is to be computed on all India basis but excludes Central Tax, State Tax, Union Territory Tax, Integrated Tax and Cess.

**Optees of Composition Scheme allowed to provide limited quantum of service -**

A person who opts to pay tax under composition scheme may supply services (other than restaurant service) of value **not exceeding ten per cent.** of turnover in a State or Union Territory in the preceding financial year.

or

**five lakh rupees (Rs.5,00,000),**

**whichever is higher.**

**Exclusion of interest/discount from the value of turnover in a State/ Union Territory**

For the above purpose, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union Territory.

Presently, following rates have been prescribed under Rule 7 of CGST Act, 2017.

<b>Sl. No.</b>	<b>Category of registered persons</b>	<b>Rate of CGST</b>	<b>Rate of SGST</b>	<b>Total tax</b>
1.	<b>Manufacturers</b> , other than manufacturers of such goods as may be notified by the Government.  Presently, the Government has notified Pan Masala, Ice Cream and other edible ice, whether or not containing cocoa, Tobacco and manufactured tobacco substitutes as the goods not eligible* for composition levy.	0.5% of the turnover in the State or Union Territory	0.5% of the turnover in the State or Union Territory	1% of the turnover in the State or Union Territory
2.	<b>Suppliers</b> making supplies referred to in clause (b) of paragraph 6 of Schedule II [i.e., supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration] [ <b>mainly Restaurant Service</b> ].	2.5% of the turnover in the State or Union Territory	2.5% of the turnover in the State or Union Territory	5% of the turnover in the State or Union Territory
3.	Any other supplier eligible for composition levy under section 10 and the provisions of this Chapter [mainly traders].	0.5% of the turnover of taxable supplies of goods and services in the State or Union Territory	0.5% of the turnover of taxable supplies of goods and services in the State or Union Territory	1% of the turnover of taxable supplies of goods and services in the State or Union Territory

The composition levy under section 10 of the CGST act is mainly available to the manufacturers and traders of goods and to service providers engaged in restaurant business. However, considering that persons engaged in the manufacture and/ or supply of goods may have to engage themselves in the supply of service to some extent as a business necessity, the amendment is carried out in Section 10 w.e.f. 1.2.2019 so as to provide that the suppliers otherwise eligible for composition levy may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II i.e., restaurant service), of value not exceeding ten per cent. of turnover in a State or Union Territory in the preceding financial year **or** five lakh rupees, whichever is higher.

**With effect from April 01, 2022**, Notification No. 14/2019 Central Tax dated 07.03.2019 has been amended to include following items also

- Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks
- Bricks of fossil meals or similar siliceous earths
- Building bricks
- Earthen or roofing tiles.

### Eligibility to Opt Under Composition Scheme Section 10(2)

The registered person shall be eligible to opt under sub-section (1), if: -

- (a) save as provided in sub-section (1) he is not engaged in the supply of services;
- (b) he is not engaged in making any supply of services which are not leviable to tax under this Act;
- (c) he is not engaged in making any Inter-State outward supplies of goods or services;
- (d) he is not engaged in making any supply of goods or services through an ECO who is required to collect tax at source under section 52;
- (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council and.
- (f) he is neither a casual taxable person nor a non-resident taxable person.

Provided that where more than one registered persons are having the same Permanent Account Number (PAN) (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

The list notified by the Government were the concept of the composition scheme cannot be levied is as under:

- 1) The person involved in the manufacturing of Pan masala, Tobacco and Ice Cream.
- 2) The person manufacturing or supplying the aerated water. etc.

### Composition Scheme primarily for supplier of services Section 10(2A) of the CGST Act, 2017

A registered person who is not eligible to opt to pay under Composition Scheme meant primarily for supplier of goods and whose aggregate turnover in the preceding financial year did not exceed Rs. 50 Lacs. The maximum effective rate of tax is 6 % (i.e. 3% CGST and 3% SGST for respective State) of the turnover in state or turnover in Union Territory. All other conditions are same as already covered above in Section 10(2) of CGST Act, 2017.

- (a) engaged in making any supply of goods or services which are not leviable to tax under this Act;
- (b) engaged in making any inter-State outward supplies of goods or services;
- (c) engaged in making any supply of services through an electronic commerce operator who is required to collect tax at source under section 52;
- (d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and
- (e) a casual taxable person or a non-resident taxable person:

**Provided** that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.

#### When option will Lapse [Section 10(3)]

The option availed by a registered person under sub-section (1) or sub section (2A) as the case may be shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1) or sub-section (2A).

#### Restriction on Collection of Tax [Section 10 (4)]

A taxable person to whom the provisions of sub-section (1) or sub section (2A) as the case may be apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

In effect, the taxable person opting composition scheme shall consider tax payable under such scheme as its cost and factor in the price itself. It will not collect such tax as tax separately in the invoices issued to the recipient. Neither, it can avail Input Tax Credit charged by its suppliers.

#### What If a Person not eligible under Composition Scheme makes payment of Tax

According to Such Scheme Section 10 (5) if the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) or sub section (2A) as the case may be despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 or section 74A shall, mutatis mutandis, apply for determination of tax and penalty.

#### **Illustration:**

Mr. A, a retailer, presents the following information for the year -

Purchases of goods: Rs. 30,00,000., out of which goods worth Rs. 2,00,000 purchased from unregistered dealer. Sale of Goods: Rs. 49,00,000. He has opted the composition scheme. Show the treatment in GST, assuming that rate under GST are 0.5% CGST and 0.5% (composition scheme) and 9% CGST and 9% SGST (Regular scheme).

#### **Solution:**

Tax payable under Composition Scheme:

$$\text{CGST payable} = 49,00,000 \times 0.5\% = 24,500$$

$$\text{SGST payable} = 49,00,000 \times 0.5\% = 24,500$$

#### **Illustration:**

A person availing composition scheme during a financial year crosses the turnover of Rs. 150 Lakhs (Rs. 75 lakhs in specified States) during the course of the year, i.e., say he crosses the turnover in December? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e., till 31st March?

#### **Solution:**

No. The option availed shall lapse from the day on which his aggregate turnover during the financial year exceeds Rs. 150 Lacs (Rs. 75 lakhs in specified States).

**Illustration:**

Delite Brothers, engaged in the sale of spare parts of motor vehicles, have opted for composition. During the year, apart from the sale of spare parts for Rs. 1.2 Cr, they also provided maintenance service to their few customers for which they earned revenue of Rs.8 Lakhs. Please advise the eligibility of Delite Brothers of composition levy under Section 10 of the CGST Act.

**Solution:**

Under Section 10 of the CGST Act, the registered person opting to pay tax under composition levy can apart from manufacture / supply of goods, provide service not exceeding 10% of their turnover or Rs. 5 lakhs whichever is higher. In this case, the turnover representing service comes to Rs.8 lakhs which is less than 10% of their total turnover. Thus, Delite brother shall be eligible for composition levy in that financial year.

**PROCEDURAL ASPECTS OF COMPOSITION SCHEME****Intimation for Composition Levy [Rule 3]**

<p><b>Intimation to opt composition levy [Rule 3(1)]</b></p>	<p>Any person who has been <b>granted registration on a provisional basis</b> under clause (b) of sub-rule (1) of rule 24 and who opts to pay tax under section 10, shall electronically file an intimation in <b>FORM GST CMP-01</b>, duly signed, or verified through electronic verification code on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, <b>prior to the appointed day, but not later than thirty days (30 days) after the said day</b>, or such further period as may be extended by the Commissioner in this behalf:</p> <p>Provided that where the intimation in <b>FORM GST CMP-01</b> is filed after the appointed day, the registered person shall <b>not collect any tax from the appointed day</b> but shall <b>issue bill of supply</b> for supplies made after the said day.</p>
<p><b>Mention in registration form [Rule 3(2)]</b></p>	<p>Any person who applies for registration under sub-rule (1) of rule 8 may give an option to pay tax under section 10 in Part B of <b>FORM GST REG-01</b>, which shall be considered as an intimation to pay tax under the said section.</p>
<p><b>Intimation to opt composition levy before commencement of F.Y. [Rule 3(3)]</b></p>	<p>Any registered person who opts to pay tax under section 10 shall electronically file an intimation in <b>FORM GST CMP-02</b>, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre notification by the Commissioner prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised and shall furnish the statement in <b>FORM GST ITC-03 i.e., ITC reversal on stock</b>, in accordance with the provisions of sub-rule (4) of rule 44 <b>within a period of sixty days</b> from the commencement of the relevant financial year.</p>
<p><b>Rule 3(A)</b></p>	<p>As a business facilitation measure, the Government has inserted sub-rule (3A) of Rule 3 to provide that notwithstanding anything contained in sub-rules (1), (2) and (3), a person who has been granted registration on a provisional basis under rule 24 or who has been granted certificate of registration under sub-rule (1) of rule 10 may opt to pay tax under section 10 with effect from the first day of the month immediately succeeding the month in which he files an</p>

	<p>intimation in <b>FORM GST CMP-02</b>, on the common portal either directly or through a Facilitation Centre notified by the Commissioner, on or before the 31st day of March, 2018, and shall furnish the statement in <b>FORM GST ITC-03</b> in accordance with the provisions of sub-rule (4) of rule 44 within a period of <b>one hundred and eighty days</b> from the day on which such person commences to pay tax under section 10.</p> <p>Provided that the said persons shall not be allowed to furnish the declaration in <b>FORM GST TRAN-1</b> after the statement in <b>FORM GST ITC-03</b> has been furnished.</p>
<b>Furnish details of stock [Rule 3(4)]</b>	Any person who files an intimation under sub-rule (1) to pay tax under section 10 shall furnish the details of stock, including the inward supply of goods received from unregistered persons, held by him on the day preceding the date from which he opts to pay tax under the said section, electronically, in <b>FORM GST CMP-03</b> , on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, <b>within a period of sixty days from the date on which the option for composition levy is exercised</b> or within such further period as may be extended by the Commissioner in this behalf.
<b>One intimation is deemed intimation for all other places Rule 3(5)]</b>	Any intimation under sub-rule (1) or sub-rule (3) or sub-rule (3A) in respect of any place of business in any State or Union Territory shall be <b>deemed to be an intimation in respect of all other places</b> of business registered on the same Permanent Account Number.

**Effective Date for Composition Levy [Rule 4]**

<b>Effective date for composition levy [Rule4(1)]</b>	The option to pay tax under section 10 shall be effective from the <b>beginning of the financial year</b> , where the intimation is filed under sub-rule (3) of rule 3 and the <b>appointed day</b> where the intimation is filed under sub-rule (1) of the said rule.
<b>Effective date [Rule 4(2)]</b>	The intimation under sub-rule (2) of rule 3 shall be considered only after the grant of registration to the applicant and his option to pay tax under section 10 shall be effective from the date fixed under sub-rule (2) or (3) of rule 10.

**Conditions and Restrictions for Composition Levy [Rule 5]**

<b>Conditions to opt composition levy [Rule5(1)]</b>	<p>The person exercising the option to pay tax under section 10 shall comply with the following conditions, namely: -</p> <ul style="list-style-type: none"> <li>(i) he is neither a casual taxable person nor a non-resident taxable person;</li> <li>(ii) the goods held in stock by him on the appointed day have not been purchased in the course of inter-State trade or commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State, where the option is exercised under sub-rule (1) of rule 3;</li> <li>(iii) the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under sub-section (4) of section 9;</li> </ul>
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	<p>(iv) he shall pay tax under sub-section (3) or sub-section (4) of section 9 on inward supply of goods or services or both;</p> <p>(v) he was not engaged in the manufacture of goods as notified under clause (e) of sub-section (2) of section 10, during the preceding financial year;</p> <p>(vi) he shall mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of the bill of supply issued by him; and;</p> <p>(vii) he shall mention the words “composition taxable person” on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.</p>
<p><b>No requirement to file a fresh intimation every year [Rule 5(2)]</b></p>	<p>The registered person paying tax under section 10 may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the act and these rules.</p>

#### Validity of Composition Levy [Rule 6]

<p><b>Validity of composition scheme [Rule 6(1)]</b></p>	<p>The option exercised by a registered person to pay tax under section 10 shall remain valid so long as <b>he satisfies all the conditions</b> mentioned in the said section and under these rules.</p>
<p><b>Liable to pay tax under regular Scheme [Rule 6(2)]</b></p>	<p>The person referred to in sub-rule (1) shall be liable to pay tax under sub-section (1) of section 9 from the day <b>he ceases to satisfy any of the conditions</b> mentioned in section 10 or the provision of this chapter and shall issue tax invoice for every taxable supply made thereafter and he shall also file an <b>intimation</b> for withdrawal from the scheme in <b>FORM GST CMP-04</b> within <b>seven days</b> of the occurrence of such event.</p>
<p><b>File application for withdrawal of scheme [Rule 6(3)]</b></p>	<p>The registered person who <b>intends to withdraw from the composition scheme</b> shall, before the date of such withdrawal, file an application in <b>FORM GST CMP-04</b>, duly signed or verified through electronic verification code, electronically on the common portal.</p>
<p><b>Issue show cause notice for contravention of provision [Rule 6(4)]</b></p>	<p>Where the proper officer has reasons to believe that the registered person was <b>not eligible</b> to pay tax under section 10 or has contravened the provisions of the act or provision of this chapter, he may issue a notice to such person in <b>FORM GST CMP-05</b> to show cause <b>within fifteen days</b> of the receipt of such notice as to why option to pay tax under section 10 shall not be denied.</p>
<p><b>Reply of show cause notice and order by proper officer [Rule 6(5)]</b></p>	<p>Upon receipt of the reply to the show-cause notice issued under sub-rule (4) from the registered person in <b>FORM GST CMP-06</b>, the proper officer shall issue an order in <b>FORM GST CMP-07</b> within a period of <b>thirty days</b> of the receipt of such reply, <b>either accepting the reply, or denying</b> the option to pay tax under section 10 from the date of the option or from the date of the event concerning such contravention, as the case may be.</p>

<p><b>Furnish detail of stock [Rule 6(6)]</b></p>	<p>Every person who has furnished an intimation under sub-rule (2) or filed an application for withdrawal under sub-rule (3) or a person in respect of whom an order of withdrawal of option has been passed in <b>FORM GST CMP-07</b> under sub-rule (5), may electronically furnish at the common portal, either directly or through a Facilitation Centre notified by the Commissioner, a statement in <b>FORM GST ITC- 01 containing details of the stock</b> of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn or denied, <b>within a period of thirty days, from the date from which the option is withdrawn</b> or from the date of the order passed in <b>FORM GST CMP-07</b>, as the case may be.</p>
<p><b>Any intimation applicable to all other places also [Rule 6(7)]</b></p>	<p>Any intimation or application for withdrawal under sub-rule (2) or (3) or denial of the option to pay tax u/s 10 in accordance with sub-rule (5) in respect of any place of business in any State or Union Territory, <b>shall be deemed to be an intimation in respect of all other places</b> of business registered on the same Permanent Account Number.</p>

#### Important Clarification by CBIC

##### Subject: Denial of Composition option by tax authorities and effective date thereof.

1. Rule 6 of the CGST Rules, 2017 deals with the validity of the composition levy. As per the said rule, the option exercised by a registered person to pay tax under the composition scheme shall remain valid so long as he satisfies the conditions mentioned in section 10 of the CGST Act, 2017 and the CGST Rules. The rule lays down the procedure for withdrawal from the composition scheme by a taxpayer who intends to withdraw from the said scheme and also the procedure for denial of option to the taxpayer to pay tax under the said scheme where he has contravened the provisions of the CGST Act or the CGST Rules.
2. In this connection, doubts have been raised as to the date from which withdrawal from the composition scheme shall take effect in a case where the composition taxpayer has exercised such option to withdraw. Doubts have also been raised regarding the effective date of denial of the option to pay tax under the composition scheme where action has been initiated by the tax authorities to deny such option to the composition taxpayer. Further, clarification has been sought regarding the follow up action to be taken by the tax authorities when the composition option is denied to the taxpayer retrospectively. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the CGST Act, hereby clarifies the issues raised as below.
3. Sub-rule (2) of rule 6 of the CGST Rules provides that the composition taxpayer shall pay tax under sub-section (1) of section 9 of the CGST Act as a normal taxpayer from the day he ceases to satisfy any of the conditions of the composition scheme and shall issue tax invoice for every taxable supply made thereafter. Sub-rule (3) of rule 6 of the CGST Rules provides that the registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in **FORM GST CMP-04** on the common portal. He shall file intimation for withdrawal from the scheme in **FORM GST CMP-04** within seven days of the occurrence of such event.

4. As per sub-rule (4) of rule 6 of the CGST Rules, where the proper officer has reasons to believe that the registered person was not eligible to pay tax under section 10 of the CGST Act or has contravened the provisions of the CGST Act or the CGST Rules, he may issue a notice to such person in **FORM GST CMP-05** to show cause as to why the option to pay tax under section 10 of the CGST Act shall not be denied. Upon receipt of the reply to the show cause notice from the registered person in **FORM GST CMP-06**, the proper officer shall, in accordance with the provisions of sub-rule (5) of rule 6 of the CGST Rules, issue an order in **FORM GST CMP-07** within a period of thirty days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under section 10 of the CGST Act from the date of the option or from the date of the event concerning such contravention, as the case may be.
5. It is clarified that in a case where the taxpayer has sought withdrawal from the composition scheme, the effective date shall be the date indicated by him in his intimation/application filed in **FORM GST CMP-04** but such date may not be prior to the commencement of the financial year in which such intimation/application for withdrawal is being filed. If at any stage it is found that he has contravened any of the provisions of the CGST Act or the CGST Rules, action may be initiated for recovery of tax, interest and penalty. In case of denial of option by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date as may be determined by tax authorities, but shall not be prior to the date of contravention of the provisions of the CGST Act or the CGST Rules. In such cases, as provided under sub-section (5) of section 10 of the CGST Act, the proceedings would have to be initiated under the provisions of section 73 or section 74 of the CGST Act for determination of tax, interest and penalty for the period starting from the date of contravention of provisions till the date of issue of order in **FORM GST CMP-07**. It is also clarified that the registered person shall be liable to pay tax under section 9 of the CGST Act from the date of issue of the order in **FORM GST CMP-07**. Provisions of section 18(1)(c) of the CGST Act shall apply for claiming credit on inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the date immediately preceding the date of issue of the order.

[Circular No. 77/51/2018-GST, dated 31-12-2018]

#### Analysis of Composition Scheme as prescribed under Section 10(1) CGST Act:

- The composition scheme **is optional**.
- However, the supplier of goods shall be allowed to make supply of services [other than restaurant service] not exceeding 10% of their turnover within the State or Union Territory or Rs. 5 lakhs whichever is higher.
- Taxable person whose all supplies of goods and services are within the state only are eligible.
- Taxable person who opts for this scheme will not be allowed to charge GST in their invoice. They will issue a bill of supply instead of Tax invoice. They are also **not** entitled to take Input Tax Credit.
- The scheme lapses on the day his aggregate turnover exceeds the specified aggregate turnover limit.
- A registered taxable person having same PAN and multiple registrations in different states have to opt for the composition scheme for all states. If one registered person opts for normal scheme, others become ineligible for composition scheme.

- Composition scheme is not applicable for tax payment under reverse charge mechanism.
- Customer **cannot** claim ITC in respect of purchases from person covered by composition scheme.
- A customer who buys goods from registered person who is under composition scheme will not be able to avail Input Tax Credit because a composition scheme supplier cannot issue a tax invoice.
- A manufacturer can opt for composition scheme generally. However, a manufacturer of goods, which would be notified on the recommendations of the GST Council, cannot opt for this scheme. This scheme is not available for services sector, except restaurants. However, the goods manufacturers/suppliers can provide services other than restaurant service to the extent of 10% of their turnover.
- Composition tax payers do not need to file any statement of outward or inward supplies. They have to file a quarterly return in **Form GSTR-4** after the end of the quarter. Since they are not eligible for any Input Tax Credit, there is no relevance of **GSTR-2** for them and since the credit of tax paid under Composition Levy is not eligible, there is no relevance of **GSTR-1** for them. In their return, they have to declare summary details of their outward supplies along with the details of tax payment. They also have to give details of their purchases in their quarterly return itself, most of which will be auto populated.

### List of Forms

<i>Form No.</i>	<i>Description</i>
<b>GST CMP-01</b>	Intimation to pay tax under section 10 (composition levy) (Only for persons registered under the existing law migrating on the appointed day)
<b>GST CMP-02</b>	Intimation to pay tax under section 10 (composition levy) (For persons registered under the Act)
<b>GST CMP-03</b>	Intimation of details of stock on date of opting for composition levy (Only for persons registered under the existing law migrating on the appointed day)
<b>GST CMP-04</b>	Intimation / Application for withdrawal from composition Levy
<b>GST CMP-05</b>	Notice for denial of option to pay tax under section 10
<b>GST CMP-06</b>	Reply to the notice to show cause
<b>GST CMP-07</b>	Order for acceptance/rejection of reply to show cause notice.

#### **Illustration:**

XYZ Ltd., a manufacturing concern had effected Intra-State taxable supply of Rs. 20,00,000 and inter-State taxable supply of Rs. 25,00,000 in Financial year 2022-23. The company wants to opt for composition scheme under Section 10 of CGST Act, 2017. As a GST consultant advise XYZ Ltd. whether it can opt for composition scheme.

#### **Solution:**

As per provisions of Section 10 of CGST Act, 2017, a manufacturer can opt for composition scheme if he is

not engaged in making any Inter-State outward supplies of goods. In this case since XYZ Ltd. has effected inter-State taxable supply of goods, hence it cannot opt for composition scheme.

**Illustration:**

A, a retailer who keeps no inventories, presents the following expected information for the year -

- (1) Purchases of goods: Rs. 50 lakhs (GST @5% extra).
- (2) Sales (at fixed selling price inclusive of all taxes): Rs. 60 lakhs (GST rate on such goods as per Customs Tariff is @5%).

Discuss whether he should opt for composition scheme if composite tax is 1% of turnover. Expenses of keeping detailed statutory records required under the GST Laws will be Rs. 1,20,000 p.a., which shall get reduced to Rs. 50,000 if composition scheme is opted for. Other expenses are Rs. 3,00,000 p.a.

**Solution:**

The cost to the ultimate consumer under two schemes is as under -

<i>Particulars</i>	<i>Normal GST scheme</i>	<i>Composition Scheme</i>
Cost of goods sold (*No credit under composition scheme, hence, cost of goods sold will be higher)	50,00,000	52,50,000
Add: Costs of maintaining records	1,20,000	50,000
Add: Normal Expenses	3,00,000	3,00,000
Total Costs	54,20,000	56,00,000
Sales (inclusive of all taxes)	60,00,000	60,00,000
Less: Tax (GST = Rs. 60 lakh × 5 / 105); (Composite Tax = Rs. 60 lakh × 1%)	2,85,714	60,000
Sales (net of taxes)	57,14,286	59,40,000
Profit of the dealer (Sales, (net of taxes - Total Costs)	2,94,286	3,40,000

**Conclusion:** It is apparent that while cost to ultimate consumer, in both the cases remains same, the profit of the dealer is higher if the dealer opts for composition scheme. Hence, composition scheme should be opted.

**Illustration:**

**Applicability of composition scheme:** XYZ Ltd. is having two factories. One factory is located in Rajasthan is manufacturing readymade garments and another factory located in Gujarat is engaged in manufacture of auto components. The turnover details of Financial Year 2024-25 are as under:

	<i>Particulars</i>	<i>Rs.</i>
(1)	Intra-State supply of readymade garments in Rajasthan	28,00,000

(2)	Intra-State supply of auto- components in Gujarat	18,00,000
	Total Value of taxable supplies	46,00,000

The company wants to opt for composition scheme for factory in Rajasthan and tax at normal rates in Gujarat. Advise.

**Solution:**

According to Section 10(2) of CGST Act, 2017, All Registered person having same PAN have to opt for Composition Scheme. If one opts for regular levy for one registered place, others become ineligible for composition levy. Thus, XYZ Ltd. cannot opt for composition scheme in Rajasthan and pay normal tax in Gujarat.

**Illustration:**

Determine whether the suppliers in the following cases are eligible for composition levy, under section 10(1) & 10(2), provided their turnover in preceding year does not exceed Rs.1.5 crore:

- (i) Ram Enterprises is engaged in trading of pan masala in Rajasthan and is registered in the same State.
- (ii) Shyam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.

**Solution:**

- (i) A supplier engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY is not eligible for composition scheme under section 10(1) and 10(2). Ice cream and other edible ice, whether or not containing cocoa, Pan masala, Tobacco and manufactured tobacco substitutes and aerated waters are notified under this category. However, in the given case, since Ram Enterprises is engaged in trading of pan masala and not manufacture and his turnover does not exceed Rs.1.5 crore, he is eligible for composition scheme subject to fulfilment of specified conditions.
- (ii) Since supplier of inter-State outward supplies of goods or services is not eligible for composition levy, Shyam Manufacturers is not eligible for composition levy.

## LIABILITY TO PAY GST

The liability to pay GST would depend on the mechanism the transaction aligns to, as under:

**a) Forward Charge Mechanism**

Forward charge or direct charge is the mechanism where the supplier of goods/services is liable to pay tax. For instance, if a Company Secretary provided a service to his client, the service tax will be payable by the Company Secretary. Here the supplier is registered under GST, he issues a tax invoice, collects the GST and pays it to the Government.

**b) Reverse Charge Mechanism**

Generally, the supplier of goods or services is liable to pay GST. However, in specific cases like imports and other notified supplies, the liability may be cast on the recipient under the reverse charge mechanism. Reverse Charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply. Here the supplier is not registered under GST, hence, he cannot issue a tax invoice, and therefore the recipient pays the GST on the supply on behalf of the supplier, directly to the Government.

It must be noted although, that Input Tax Credit can be availed in both the above scenarios, subject to the fulfilment of conditions for availing Input Tax Credit.

In case of E-commerce, the E-commerce operators, who are mandatorily required to register with GST, collect tax at source at a specified percentage and pay the same to the Government.

**Situations under which RCM becomes applicable:**

- I. Central Board of Indirect Taxes and Customs (CBIC) has notified a list of goods or services on which RCM is applicable.
- II. Supply by Unregistered Dealer to Registered Dealer.
- III. In case of services provided by E-commerce operators, liability to pay tax lies on the recipient of services.

As per Section 24 of the CGST Act, 2017 persons who are required to pay tax under reverse charge should register themselves compulsorily irrespective of the turnover limit.

**Goods Notified under Reverse Charge under Section 9(3) by Notification No. 4/2017-Central Tax (Rate)**

<i>Sl. No.</i>	<i>Description of supply of Goods</i>	<i>Supplier of goods</i>	<i>Recipient of supply</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
1.	Cashewnuts, not shelled or peeled	Agriculturist	Any registered person
2.	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3.	Tobacco leaves	Agriculturist	Any registered person
3A	Following essential oils other than those of citrus fruit namely: - (a) Of peppermint ( <i>Mentha piperita</i> ); (b) Of other mints: Spearmint oil (ex- <i>mentha spicata</i> ), Water mint-oil (ex- <i>mentha aquatic</i> ), Horsemint oil (ex- <i>mentha sylvestries</i> ), Bergament oil (ex- <i>mentha citrate</i> ), <i>Mentha arvensis</i>	Any unregistered person	Any registered person

<b>Sl. No.</b>	<b>Description of supply of Goods</b>	<b>Supplier of goods</b>	<b>Recipient of supply</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
4.	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
4A.	Raw cotton	Agriculturist	Any registered person".
5.	Supply of lottery	State Government, Union Territory or any Local Authority	Lottery distributor or selling agent. <i>Explanation-</i> For the purposes of this entry, lottery distributor or selling agent has the same meaning as assigned to it in clause (c) of Rule 2 of the Lotteries (Regulation) Rules, 2010, made under the provisions of sub-section 1 of section 11 of the Lotteries (Regulations) Act, 1998 (17 of 1998).
6.	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government [excluding Ministry of Railways (Indian Railways)], State Government, Union territory or a local authority	Any registered person
7.	Priority Sector Lending Certificate	Any registered person	Any registered person

**Explanation:-**

- (1) In this Table, "tariff item", "sub-heading", "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading or chapter, as specified in the First Schedule to the Customs Tariff Act, 1975.
- (2) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

**Service notified under reverse charge as per Notification No. 13/2017 Central Tax (Rate) dated 28.6.2017, as amended from time to time**

- (i) **CGST and SGST/IGST payable under reverse charge basis by the recipient of such services- Services under reverse charge is covered under section 9(3) of the CGST Act, 2017 and Section 5(3) of the IGST Act, 2017**

<i>Sl. No.</i>	<i>Category of Supply of Services</i>	<i>Supplier of service</i>	<i>Recipient of Service</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
1.	<p>Supply of Services by a Goods Transport Agency (GTA) in respect of transportation of goods by road to -</p> <p>(a) any factory registered under or governed by the factories Act, 1948 (63 of 1948); or</p> <p>(b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or</p> <p>(e) anybody corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons.</p>	Goods Transport Agency (GTA)	<p>(a) Any factory registered under or governed by the factories Act, 1948; or</p> <p>(b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or</p> <p>(e) anybody corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person; located in the taxable territory.</p>

<b>Sl. No.</b>	<b>Category of Supply of Services</b>	<b>Supplier of service</b>	<b>Recipient of Service</b>
	<p>Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, -</p> <ul style="list-style-type: none"> <li>(a) a Department or Establishment of the Central Government or State Government or Union territory; or</li> <li>(b) local authority; or</li> <li>(c) Governmental agencies,</li> </ul> <p>which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.”;</p> <p>Provided further that nothing contained in this entry shall apply where, -</p> <ul style="list-style-type: none"> <li>i. the supplier has taken registration under the CGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge; and</li> <li>ii. the supplier has issued a tax invoice to the recipient charging Central Tax at the applicable rates and has made a declaration as prescribed in Annexure III on such invoice issued by him.”;</li> </ul>		

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
2	<p>“Services provided by an individual <b>Advocate</b> including a senior advocate or firm of advocates by way of legal services, directly or indirectly.</p> <p><i>Explanation.</i> - “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”.</p>	An individual advocate including a senior advocate or Firm of advocates.	Any business entity located in the taxable territory.
3	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4	Services provided by way of sponsorship to any body corporate or partnership firm.	Any person other than body corporate	Any body corporate or partnership firm located in the taxable territory.
5	<p>Services supplied by the Central Government, State Government, Union Territory or Local Authority to a business entity excluding-</p> <p>(1) renting of immovable property, and</p> <p>(2) services specified below -</p> <p>(i) services by the Department of Posts and the Ministry of Railways (Indian Railways);</p> <p>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; transport of goods or passengers.</p>	Central Government, State Government, Union Territory or Local Authority	Any business entity located in the taxable territory.

<b>Sl. No.</b>	<b>Category of Supply of Services</b>	<b>Supplier of service</b>	<b>Recipient of Service</b>
5A	Services supplied by the Central Government, State Government, Union Territory or Local Authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017.	Central Government, State Government, Union Territory or Local Authority	Any person registered under the Central Goods and Services Tax Act, 2017 read with clause (v) of section 20 of Integrated Goods and Services Tax Act, 2017.
5AA	Service by way of renting of residential dwelling to a registered person.	Any person	Any registered person.
5AB	Services by way renting of immoveable property other than residential dwelling	Any registered person	Any registered person other than who has opted to pay tax under composition levy.
5B	Services supplied by any person by way of Transfer of Development Rights (TDR) or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter.
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter.
6	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
7	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.

<b>Sl. No.</b>	<b>Category of Supply of Services</b>	<b>Supplier of service</b>	<b>Recipient of Service</b>
8	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory.
9A	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher.	Author	<p>Publisher located in the taxable territory:</p> <p>Provided that nothing contained in this entry shall apply where, -</p> <p>(i) the author has taken registration under the Central Goods and Services Tax Act, 2017, and filed a declaration, in the form at Annexure I, within the time limit prescribed therein, with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay integrated tax on the service specified in column (2), under forward charge in accordance with Section 5(1) of the Integrated Goods and Service Tax Act, 2017 under forward charge, and to comply with all the provisions of Integrated Goods and Service Tax Act, 2017 as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;</p> <p>(ii) the author makes a declaration, as prescribed in Annexure II on the invoice issued by him in Form GST Inv-I to the publisher.</p>

<b>Sl. No.</b>	<b>Category of Supply of Services</b>	<b>Supplier of service</b>	<b>Recipient of Service</b>
10	Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India.
11	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs)	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm	A banking company or a non-banking financial company, located in the taxable territory.
12.	Services provided by <b>Business Facilitator (BF)</b> to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory.
13.	Services provided by an agent of Business Correspondent (BC) to Business Correspondent (BC)	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory.
14.	<p>Security services (services provided by way of supply of security personnel) provided to a registered person</p> <p>Provided that nothing contained in this entry shall apply to, -</p> <p>i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>b) local authority; or</p> <p>c) Governmental agencies;</p> <p>which has taken registration under the Central Goods and</p>	Any person other than a body corporate	A registered person, located in the taxable territory.

<b>Sl. No.</b>	<b>Category of Supply of Services</b>	<b>Supplier of service</b>	<b>Recipient of Service</b>
	<p>Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or</p> <p>ii) a registered person paying tax under section 10 of the said Act.</p>		
15.	<p>Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate</p>	<p>Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging integrated tax at the rate of 12 per cent. to the service recipient</p>	<p>Any body corporate located in the taxable territory.</p>
16.	<p>Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), as amended</p>	<p>Lender, i.e., a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI</p>	<p>Borrower, i.e., a person who borrows the securities under the Scheme through an approved intermediary of SEBI".</p>

**(ii) Services under reverse charge is covered under IGST Act, 2017 only - Section 5(3) of the IGST Act, 2017**

<b>Sl. No.</b>	<b>Category of Supply of Services</b>	<b>Supplier of service</b>	<b>Recipient of Service</b>
1.	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in a non-taxable territory	Any person located in the taxable territory other than non-taxable online recipient.
2.	Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.	A person located in non-taxable territory	Importer, located in the taxable territory.

**Explanation-** For purpose of this notification-

- (a) The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.
- (b) “Body Corporate” has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.
- (c) The business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.
- (d) The words and expressions used and not defined in this notification but defined in the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act, and the Union Territory Goods and Services Tax Act shall have the same meanings as assigned to them in those Acts.
- (e) A “Limited Liability Partnership” formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.
- (h) Provisions of this notification, in so far as they apply to the Central Government and State Governments, shall also apply to the Parliament and State Legislatures.
- (i) The term “apartment” shall have the same meaning as assigned to it in clause (e) under section 2 of the Real Estate (Regulation and Development) Act, 2016.
- (j) The term “promoter” shall have the same meaning as assigned to it in clause (zk) under section 2 of the Real Estate (Regulation and Development) Act, 2016.
- (k) The term “project” shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP).
- (l) “The term “Real Estate Project (REP)” shall have the same meaning as assigned to it in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016.
- (m) The term “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.
- (n) “Floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.”

**Goods and Services falling under Reverse Charge if supplies are made to a registered person by unregistered person in terms of Section 9(4) CGST Act, 2017/ Section 5(4) IGST Act, 2017**

The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both. Similar are the provisions under IGST Act and UTGST Act/SGST Act.

<i>Category of supply of goods and services</i>		<i>Recipient of goods and services</i>														
<p>Notification No. 07/2019- Central Tax (Rate) w.e.f. April 01, 2019 80% of the value of inputs and input services must be purchased by a promoter from a registered supplier only. Thus in respect of supply of such goods and services or both <b>which constitute the shortfall from the minimum 80% value of goods (input) or services (input services) or both required to be purchased by a promoter for construction of project</b>, in a financial year or part of the financial year till the date of issuance of completion certificate or final occupation, whichever is earlier tax shall be paid by the promoter under reverse charge.</p> <p>However, following goods or services or both are not required to be purchased from the registered supplier by a promoter:</p> <table border="1"> <tbody> <tr> <td>(a)</td> <td>Services by way of grant of development rights</td> </tr> <tr> <td>(b)</td> <td>Services by way of long term lease of land (against upfront payment in the form of premium, salami, development charges etc.)</td> </tr> <tr> <td>(c)</td> <td>FSI (including additional FSI)</td> </tr> <tr> <td>(d)</td> <td>Electricity</td> </tr> <tr> <td>(e)</td> <td>High Speed Diesel</td> </tr> <tr> <td>(f)</td> <td>Motor Spirit</td> </tr> <tr> <td>(g)</td> <td>Natural Gas</td> </tr> </tbody> </table>		(a)	Services by way of grant of development rights	(b)	Services by way of long term lease of land (against upfront payment in the form of premium, salami, development charges etc.)	(c)	FSI (including additional FSI)	(d)	Electricity	(e)	High Speed Diesel	(f)	Motor Spirit	(g)	Natural Gas	Promoter
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(f)	Motor Spirit															
(g)	Natural Gas															

**Explanation.** - For the purpose of this notification, -

- (i) the term “promoter” shall have the same meaning as assigned to it in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016;
- (ii) “project” shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP);
- (iii) the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016;
- (iv) “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP;
- (v) the term “floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.

**CASE LAWS****1. In re: Acharya Shree Mahashraman Chaturmas Pravas Vyavastha Samiti Trust, 2020 (37) G.S.T.L. 83 (App. A.A.R. - GST - Kar.)**

Whether the renting of temporary units of accommodation by the applicant is under clause 13(b) of Exemption under Notification No. 12/2017-C.T. (Rate).

Religious functions conducted by appellants for the propagation of Jain Dharma and temporary accommodation facilities erected for the use of devotees during the period of religious function.

AAR Karnataka held that Appellant not renting out 'rooms' but rather renting out units of accommodation comprising of 2 bedrooms, hall, kitchen, restroom, toilet with facilities like water, electricity, cot, bed, pillow, bedspread and air-conditioner given out on rent. Cooking facility also given in this unit. Therefore, unit of accommodation of this kind termed by Appellant as a 2 BHK Category I type of accommodation cannot be considered as renting of rooms and not covered in Entry Sl. No. 13 ibid. Similarly, renting out of beds in a dormitory also not akin to renting of rooms and hence it will not qualify for exemption under clause 13(b) of Exemption under Notification No. 12/2017-C.T. (Rate)

**2. IN RE: CMC Vellore Association, 2020 (39) G.S.T.L. 330 (A.A.R. - GST - A.P.)**

**Facts of the Case:** M/s. CMC Vellore Association have a multi-specialty tertiary care hospital providing health care services and categorized the patients as out-patients and in-patients for the administrative convenience. CMC is rendering medical services with professionals like doctors, nursing staff, lab technicians etc.

Medicines, Drugs, Stents, Implants etc. are supplied through pharmacy to in-patients under the prescription of the doctors which are incidental to the health care services rendered in the hospital. The out-patients are those who visit the hospital for routine check-ups clinical visits whereas the in-patients are those who are admitted into the hospital for the required treatment. The in-patients are provided with stay facilities, medicines, consumables, implants, dietary food and other surgeries/procedures required for the treatment.

The Central store of the hospital procures stocks of medicines, implants, consumable etc. from various suppliers and distribute to its outlets such as in-patient pharmacy, operation theatre pharmacy and out-patient pharmacy based on the indent issued. The in-patient pharmacy and operation theatre pharmacy supply medicines, implants and consumables only to in-patients. Whereas the out-patient pharmacy attached to the hospital entertains the medical prescription of out-patients.

Questions raised by the applicant:

- (1) Tax liability on the medicines supplied to in-patients through pharmacy.
- (2) Tax liability on the medicines, drugs, stents, implants etc. administered to in-patients during the medical treatment or procedure.

**Held:** The applicant as stated in the application renders health care services to in-patients in the form of supply of medicines, drugs, stents, implants etc. being administered during the medical treatment or procedure. The issue at hand, i.e., whether the above-mentioned supplies to in-patients through pharmacy is liable to tax or not.

Primarily the health care services provided by the applicant are exempt under Sl. No. 74 Heading 9993 vide Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017.

The health care services as explained in (zg) of para 2 of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017, defines service by way of diagnosis, or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India. In common parlance, when one looks into the definition, 'the treatment or care' extended by hospital can be thought of devoid of medicines, relevant consumable, or implants, by no stretch of imagination. The supply of medicines and the consumables are

integral part of the treatment extended to the in-patients by the hospital. Hence, the services rendered by the applicant is a composite supply as defined under Section 2(30) of CGST Act, 2017 in which the principal supply is health care, being predominant and the supply of medicines, drugs, implants, stents, and other consumables, come under ancillary supplies and accordingly tax liability has to be determined under Section 8 of CGST Act, 2017. Since the entry of “*Services by way of - (a) health care services by a clinical establishment, and authorised medical practitioner or para medics;*” at Sl. No. 74 Heading 9993 vide Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017 is nil rated, the supply of medicines, drugs, implants, stents, and other consumables are exempted from liability under GST.

#### LESSON ROUND-UP

- The taxable event is supply of goods / services for a consideration, during the course of business / for furtherance of business by a taxable person, and exceptions to this have been set out in the separate schedules.
- Key differences between a composite & mixed supply are that the supplies within a composite supply are naturally bundled whereas within a mixed supply are deliberately bundled and that in the composite supply, the principal supply is discernible, whereas that isn't the case in a mixed supply.
- The exemptions from GST are those that have been kept out of scope and have been notified separately.
- Composition scheme in GST provides an alternative method of tax payment small and medium taxpayers whose turnover is not exceeding the prescribed threshold. The tax rates under this scheme have been kept at minimal but at the same time a person opting to pay tax under composition levy scheme can neither take Input Tax Credit nor it can collect any tax from the recipient. It is a voluntary and optional scheme.
- Reverse Charge Mechanism is the process of payment of GST by the receiver instead of the supplier. In this case, the liability of tax payment is transferred to the recipient/receiver instead of the supplier.

#### GLOSSARY

**Taxable Event:** The taxable event under GST shall be the supply of goods or services or both made for consideration in the course or furtherance of business. The taxable events under the existing indirect tax laws such as manufacture, sale, or provision of services shall stand subsumed in the taxable event known as 'supply'.

**Composite supply** is a supply consisting of two or more taxable supplies of goods or services or both or any combination thereof, which are bundled in natural course and are supplied in conjunction with each other in the ordinary course of business and where one of which is a principal supply. For example, when a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance service are ancillary.

**Mixed Supply** means two or more individual supplies of goods or services or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply. For example, a supply of package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juice when supplied for a single price is a mixed supply. Each of these items can be supplied separately and it is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

**TEST YOURSELF**

*(These are meant for re-capitulation only. Answers to these questions are not to be submitted for evaluation.)*

**Multiple Choice Questions (MCQs)**

1. Activities which are to be treated as “supply” even if made without consideration are specified in
  - a) Schedule III of Central Goods and Services Tax Act, 2017.
  - b) Schedule II of Central Goods and Services Tax Act, 2017.
  - c) Schedule I of Central Goods and Services Tax Act, 2017.
  - d) None of the Above
2. Licence to occupy land is treated as
  - a) Supply of Services
  - b) Supply of Goods
  - c) Neither supply of goods nor supply of services
  - d) None of the Above
3. The \_\_\_\_\_ supply will be charged at the rate applicable to the supply that attracts the highest rate of tax from within the consolidated package
  - a) Mixed
  - b) Composite
  - c) Principal
  - d) None of the Above
4. Which of the following supplies of goods is subject to reverse charge?
  - a) cotton yarn
  - b) silk yarn
  - c) nylon
  - d) books
5. For which of the following goods, the manufacturer is not allowed to opt for composition scheme
  - a) ice-cream and other edible ice, whether or not containing cocoa;
  - b) pan masala;
  - c) tobacco and manufactured tobacco substitutes;
  - d) all of the Above

**Answers:** 1 (c), 2 (a), 3 (a), 4 (b), 5 (d)

**Descriptive Questions**

1. Discuss whether the following transactions will be considered as supply or not under GST laws.
  - a. An individual buys a car for personal use and after a year sells it to a car dealer.
  - b. A dealer of air-conditioners permanently transfers an air conditioner from his stock in trade, for personal use at his residence.
  - c. Provision of service or goods by a club or association or society to its members.
2. Discuss whether the following transactions/activities will be treated as supply of goods or supply of service
  - a. Transfer of right to use goods.
  - b. Works contracts and Catering services.
  - c. Supply of software.
  - d. Goods supplied on hire purchase basis.
3. State which of the following is composite supply or mixed supply under the GST law:
  - a. Sale of car with warranty coverage.
  - b. Gift pack with chocolates and books.
  - c. Sale of Refrigerator with power stabilizer.
  - d. Hotel Sanyasi providing accommodation with complimentary breakfast.
4. Define the Scope of supply provided under section 7 of CGST Act, 2017.
5. What are the activities which are treated as supply of goods or services as per schedule II of the CGST Act, 2017?
6. Which are the commodities which have been kept outside the purview of GST?
7. Who is the person eligible to opt for Composition Scheme?
8. What are the provisions relating to tax payable on reverse charge basis under section 9(3)? Which are the categories of supply of services on which recipient has to pay tax on reverse charge basis?
9. The aggregate turnover of Sona & Sons, a registered firm during the financial year 2023-24 is Rs. 66,00,000. During the financial year 2023-24 the aggregate turnover for the firm till 12.10.2023 is Rs. 1,49,00,000. On 13.10.2023 it issues three invoices of Rs. 1,50,000, Rs. 80,000 and Rs. 90,000. Will the firm be liable to pay GST under normal Scheme and if so on what amount?
10. What is the meaning of exempt supply? Give some examples of goods which are exempt from GST?

**LIST OF FURTHER READINGS**

- Goods & Services Tax, Laws, Concepts and Impact Analysis- Bloomsbury – Dr. Sanjiv Agarwal & Sanjeev Malhotra
- GST Ready Reckoner- Taxmann – V.S. Datey
- A complete guide to Goods & Services Tax Ready Reckoner in Q & A Format- Bloomsbury – Dr. Sanjiv Agarwal & Sanjeev Malhotra
- Students may also visit “<http://cbic.gov.in/>” for regular updates on GST law.