

# EXEMPTIONS FROM GST



The section numbers referred to in the Chapter pertain to the CGST Act, 2017, unless otherwise specified. Examples/illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2023.

## LEARNING OUTCOMES

After studying this Chapter, you will be able to –

- describe the power of the Government to grant exemption from CGST/IGST.
- provide an overview of the goods exempt from GST.
- identify and analyse various services exempt from GST.

## CHAPTER OVERVIEW



### Exemption from GST in India

- Power of the Government to grant exemption from tax
- Goods exempt from tax
- Services exempt from tax



## 1. INTRODUCTION

When a supply of goods and/or services falls within the purview of charging section, such supply is chargeable to GST. However, for determining the liability to pay the tax, one needs to further check whether such supply of goods and/or services are exempt from tax.

**Exempt supply** has been defined as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply [Section 2(47)].

**Non-taxable supply** means a supply of goods or services or both which is **not leviable to tax** under CGST Act or under the IGST Act [Section 2(78)]. Thus, under GST, a supply not leviable to tax is also included within the purview of 'exempt supply'.



Supplies not leviable to tax are alcoholic liquor for human consumption, specified petroleum products namely Petroleum Crude, High Speed Diesel, Motor spirit (commonly known Petrol), Natural Gas and Aviation Turbine Fuel.

Power to grant exemption from GST has been granted vide section 11 of the CGST Act and vide section 6 of the IGST Act. State GST laws also contain identical provisions granting power to exempt SGST. Under GST, **essential goods/services, i.e. public consumption products/services, have been exempted.** Items such as unpacked food grains, milk, eggs, curd, lassi and fresh vegetables are among the items exempted from GST. Further, essential services like health care services, education services, etc. have also been exempted.

It is important to note that exemption under GST may be provided in any of the following manner:

(a)

#### **Exemption to specified activities or transactions**

Sometimes, exemption is provided in respect of specified activities or transactions. Consequently, the status of the supplier or recipient becomes immaterial.



(1) Services **by way of** transfer of a going concern, as a whole or an independent part thereof.

(2) Services **by way of** loading, unloading, packing, storage or warehousing of rice.

(b)

#### **Exemption to specified suppliers**

At times, exemption is given to specified suppliers only. Here, the status of recipient becomes immaterial.



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

(4) Services **by** an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 by way of charitable activities.

(c)

#### **Exemption to specified recipients**

In some cases, exemption is given to specified recipient only. Here, the status of supplier becomes immaterial.



**(6)** 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.

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

**(d)**

#### **Exemption to specified suppliers and specified recipients**

Sometimes, exemption is given only when activities or transactions are carried out by specified suppliers for specified recipients only.



**(8)** Services **by** the Employees' State Insurance Corporation **to** persons governed under the Employees' State Insurance Act, 1948.

**(9)** Services by **National Pension System (NPS) Trust** to its members against consideration in the form of administrative fee.

In this chapter, we shall discuss the power to grant exemption from tax under CGST Act/IGST Act, list of services exempt from GST in detail and an overview of the goods exempt from tax.



## **2. POWER TO GRANT EXEMPTION FROM TAX [SECTION 11 OF THE CGST ACT/SECTION 6 OF THE IGST ACT]**



### **STATUTORY PROVISIONS**

<b>Section 11</b>	<b>Power to grant exemption from tax</b>
<b>Sub-section</b>	<b>Particulars</b>
<b>(1)</b>	<i>Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the</i>

	<i>Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification</i>
(2)	<i>Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.</i>
(3)	<i>The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.</i>
<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>	



## ANALYSIS

- (i) **Exemption from payment of tax:** GST law empowers the Central Government or State Government, as the case may be, to grant exemption from tax. The exemption is granted on recommendation of the GST Council.

Exemption can be **from whole** of the tax **or part of the tax**. It should be granted in public interest.

**Exemption can be granted by a notification or by a special order**

Exemption can be granted to goods or services or both of any specified description, **by way of issuance of notification**, either **absolutely** [i.e. unconditional exemption; exemption is not subject to any condition(s)] or **conditionally** [i.e. exemption is subject to specified condition(s)]. Exemption may be granted **by a special order** in case of the circumstances of an **exceptional nature**.

**Exemption can be from whole of tax or part of tax**

The **absolute/ unconditional exemption is mandatory** in nature. Where the supply of the goods or services or both are **unconditionally exempted from whole of the tax**, the registered person doesn't have option to collect and pay tax on such supply of goods or services or both.

**Unconditional exemption is mandatory**

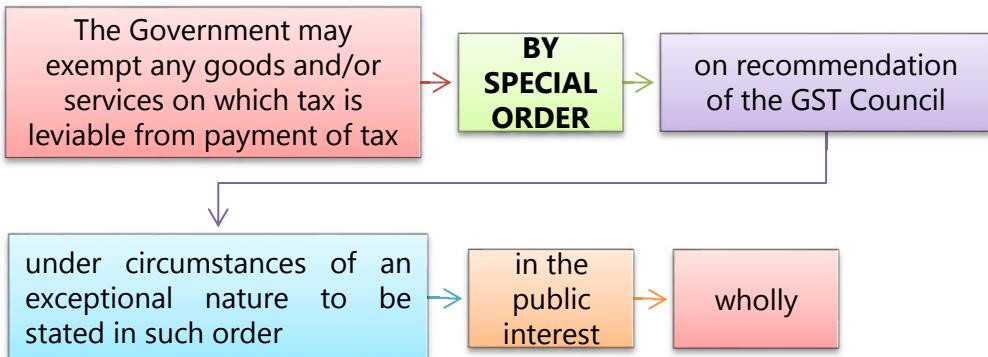
Where the supply of the goods or services or both are **unconditionally exempted from part of the tax**, the registered person doesn't have option to collect and pay the tax, in excess of the effective rate, on such supply of goods or services or both.

However, where the **exemption is conditional**, it is **at the option** of the registered person whether to avail the same or not.

**Conditional exemption is optional**

The above provisions have been explained by way of a diagram as follows:





- (ii) **Explanation inserted within 1 year, for the purpose of clarifying the scope or applicability of any notification/order, to have retrospective effect:** Wherever the Government feels that there is a need to clarify the scope or applicability of any notification/order issued under this section, it can issue an explanation within 1 year of issue of said notification/ order. Such explanation shall have effect as if it was there when first such notification/ order was issued, i.e. explanation so inserted would be effective retrospectively.

It is hereby clarified that the explanation so inserted for a particular entry in the notification, is effective from the inception of the entry in notification and not from the date from which the notification (that inserted said explanation) becomes effective.



**(10)** Principal Notification No. 11/2017 CT (R) dated 28.06.2017<sup>1</sup> came into force with effect from 01.07.2017. Thereafter, a new entry - Entry no. 3(vi) was inserted w.e.f. 21.09.2017. Subsequently, an explanation was also inserted with respect to entry no. 3(vi) by issue of a notification on 26.07.2018 [i.e. within 1 year of the insertion of entry 3(vi)].

Although the effective date mentioned in the notification which inserted said explanation was 27.07.2018, said explanation will be effective from the inception of entry 3(vi) in notification i.e. 21.09.2017 and not 27.07.2018.

[Circular No. 120/39/2019 GST dated 11.10.2019]

<sup>1</sup> This notification notifies the rate of tax applicable on various services.



**Similar provisions granting power to exempt IGST have been provided under section 6 of the IGST Act.**



### 3. GOODS EXEMPT FROM TAX

A list of items has been notified under section 11(1) of the CGST Act, 2017/ section 6(1) of the IGST Act, 2017. These items have been exempted from whole of the tax.

Under GST, everyday items used by the common man have been included in the list of exempted items. Items such as unbranded atta/ maida/ besan, unpacked food grains, milk, eggs, curd, lassi and fresh vegetables are among the items exempted from GST.

Some of the examples of the goods exempted from tax have been provided herein<sup>2</sup>:



Regular public consumption products such as Milk, Salt, Egg, Curd and unpacked foodgrains are exempt from GST



**Live fish (0301)**



**Fresh Milk (0401)**



**Potatoes (0701)**



**Grapes (0806)**



**Indian National Flag (63)**



**Plastic Bangles (3926)**

<sup>2</sup> Students may go through the complete list of goods exempt from GST on CBIC website – [www.cbic.gov.in](http://www.cbic.gov.in), for knowledge purposes.



## 4. LIST OF SERVICES EXEMPT FROM TAX

### I. SPECIFIC SERVICES EXEMPT FROM CGST AND IGST

**Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017<sup>3</sup>** (hereafter referred to as "the Notification") unless otherwise specified, has exempted various services **wholly** from CGST. Each of the entries of the exemption notification have been discussed below:

#### 1. Services related to charitable and religious activities

<b>Entry No.<sup>4</sup></b>	<b>Description of services</b>
<b>1</b>	Services by an entity registered under section 12AA <b>or 12AB</b> of the Income-tax Act, 1961 by way of <b>charitable activities</b> .
<b>13</b>	<p>Services by a person by way of-</p> <ul 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 an entity registered as a charitable or religious trust under section 12AA <b>or 12AB</b> of the Income-tax Act, 1961 or a trust or an institution registered under section 10(23C)(v) of the Income-tax Act or a body or an authority covered under section 10(23BBA) of the said Income-tax Act.</li> </ul> <p>However, nothing contained in entry (b) of this exemption shall apply to-</p> <ul style="list-style-type: none"> <li>(i) <b>renting of rooms</b> where charges are <b>₹ 1,000 or more</b> per</li> </ul>

<sup>3</sup> Exemption from IGST has been granted to various services vide Notification No. 9/2017 Integrated Tax (Rate) dated 28.06.2017. All the services exempted from CGST & SGST/UTGST have also been exempted from IGST. Apart from these, there are few additional services which have been exempted only under IGST law. **Such services will be discussed at the Final Level.**

<sup>4</sup> Entry Nos. mentioned herein correspond to entries in Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017. However, these entry numbers have been given only for reference purposes and are not relevant for examination purpose.

	<p>day;</p> <p>(ii) <b>renting of premises, community halls, kalyanmandapam or open area, and the like</b> where charges are ₹ 10,000 or more per day;</p> <p>(iii) <b>renting of shops or other spaces for business or commerce</b> where charges are ₹ 10,000 or more per month.</p>
<b>60</b>	Services by a specified organisation in respect of a <b>religious pilgrimage</b> facilitated by the Government of India, under bilateral arrangement.
<b>80</b>	<p><b>Services by way of training or coaching in-</b></p> <p>(a) <b>recreational activities relating to arts or culture, by an individual, or</b></p> <p>(b) <b>sports by charitable entities registered under section 12AA or 12AB of the Income-tax Act.</b></p>



## ANALYSIS

### A. SERVICES PROVIDED BY CHARITABLE/RELIGIOUS TRUST

**Entry 1** exempts services supplied by an entity registered under section 12AA **or 12AB** of the Income-tax Act, 1961 by way of charitable activities. Thus, in order to claim exemption under Entry 1, following two conditions must be satisfied:-

- (i) The entity should be **registered under section 12AA or 12AB of the Income-tax Act, 1961**, and
- (ii) The entity must carry out one or more of the specified charitable activities.

Before proceeding further, let us first understand the meaning of term '**charitable activities**'. The term 'charitable activities' mean **activities relating** to-

- (i) **PUBLIC HEALTH** by way of-
  - (A) care or counseling of
    - (I) terminally ill persons or persons with severe physical or mental disability;
    - (II) persons afflicted with HIV or AIDS;



- (III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
  - (B) public awareness of preventive health, family planning or prevention of HIV infection;
- (ii) **ADVANCEMENT OF RELIGION, SPIRITUALITY OR YOGA**;
- (iii) **ADVANCEMENT OF EDUCATIONAL PROGRAMMES/SKILL DEVELOPMENT** relating to,-
- (A) abandoned, orphaned or homeless children;
  - (B) **physically or mentally abused** and traumatized persons;
  - (C) **prisoners**; or
  - (D) persons over the age of **65 years** residing in a **rural area**;
- (iv) **PRESERVATION OF ENVIRONMENT** including watershed, forests & wildlife.

Thus, only those services provided by a charitable and religious trusts [registered under section 12AA **or 12AB** of the Income-tax Act] which fall within the above definition of charitable activities, are eligible for exemption from GST. There could be many other services provided by such charitable and religious trusts which are not covered by the definition of charitable activities and hence, such services would attract GST.

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

In the following paras, we have examined some of the services supplied by the entities registered under section 12AA **or 12AB** of the Income-tax Act:

#### Management of educational institutions by charitable trusts

Activities of schools, colleges or any other educational institutions run by charitable trusts by way of education or skill development of abandoned, orphans, homeless children, physically or mentally abused persons, prisoners, or persons over age of 65 years or above residing in a **rural area**, will be considered as charitable activities and income from such supplies will be wholly exempt from GST.

The term **rural area** means the area comprised in a village as defined in land revenue records, excluding the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or any area that may be notified as an urban area by the Central Government or a State Government.



**(11)** Shiksha Academy, an educational institute run by Sarvsewa Trust, a charitable trust registered under section 12AB of the Income-tax Act, 1961, has organized a Skill Development Programme for the old age people over the age of 65 years residing in Bangalore city (an urban area).

Services provided by Shiksha Academy do not fall within the purview of 'charitable activities'. The activities relating to advancement of skill development relating to persons over the age of 65 years, are covered under the definition of 'charitable activities' only when such persons are residing in rural area.

Activities of a school, college or an institution run by a trust which do not come within the ambit of charitable activities will not be exempt under Entry 1. However, such activities may be exempt under Entry 66 [*discussed later in this chapter*] provided the school, college or institution qualifies as an 'educational institution'.

#### Hostel accommodation provided by trusts

Hostel accommodation services provided by trusts to students do not fall within the ambit of charitable activities as defined above.

#### Religious yatras or pilgrimage

Religious yatras/pilgrimage organised by any charitable or religious trust are not exempt.

Only such services of religious pilgrimage as are provided by **specified organization** in respect of a **religious pilgrimage facilitated by the Government of India** (GoI), under bilateral arrangement, are exempt from GST. [See **Entry 60** in above table]. The term **specified organization** as referred herein means-

- Kumaon Mandal Vikas Nigam Limited (KMVN), a Government of Uttarakhand Undertaking; or
- 'Haj Committee of India' or 'State Haj Committee including Joint State Committee'.



In short, as per **Entry 60**, the services provided by the Haj Committee and KMVN in relation to pilgrimage to Mecca and Kailash - Mansarovar respectively are not liable to GST.



**(12)** KMVN supplies numerous services, namely, medical facilities, catering services, security, accommodation services, etc. to the pilgrims undertaking Kailash-Mansarovar pilgrimage. Such services provided by KMVN in respect of the religious pilgrimage to Kailash-Mansarovar are covered under entry 60 and thus, are exempt.

### Arranging yoga and meditation camp by charitable trusts

As discussed above, services provided by entity registered under section 12AA **or 12AB** of the Income-tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt as such activities are covered in definition of charitable activities.

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



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



However, if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable. Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable<sup>5</sup>.



**(13)** Bhavyajyoti Foundation, a charitable trust registered under section 12AB of the Income-tax Act, 1961, has organized a 'Yoga Meditation Camp' for the old age people. GST would be exempt on the same as services provided by entity registered under section 12AB of the Income-tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt.

<sup>5</sup> Circular No. 66/40/2018 GST dated 26.09.2018

### Hospitals managed by charitable trusts

Exemption available to health care services under Entry 74 [discussed later in this chapter] is also applicable to the health care services provided by a **clinical establishment, an authorised medical practitioner or paramedics of a religious or charitable trust** also.



### Training or coaching in arts, culture or sports

**As per Entry 80, services by way of training or coaching in-**

- (a) **recreational activities relating to arts or culture, by an individual, or**
- (b) **sports by charitable entities registered under section 12AA or 12AB of the Income-tax Act**

**are exempt from GST.**

**It is important to note that the exemption with regard to services provided by way of training or coaching in recreational activities relating to arts or culture is available when the same is provided by an individual. Similarly, services of training or coaching in sports are exempt only when such services are provided by a charitable entity registered under section 12AA or 12AB of Income-tax Act.**



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



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



- (14)** Manavtaa Sansthaan, a charitable trust registered under section 12AB of the Income-tax Act, 1961, has organized a 'Basketball Training Camp' for teenagers. GST would be exempt on the same as services provided by

entity registered under section 12AB of the Income-tax Act, 1961 by way of training or coaching in sports are exempt.

### GST on services provided TO charitable trusts

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

### B. CONDUCT OF ANY RELIGIOUS CEREMONY

**Going through Entry 13(a)**, it can be inferred that the amount charged, by whatever name called, for the conduct of any religious ceremony is exempt from GST. Religious ceremonies are life-cycle rituals including special religious poojas conducted in terms of religious texts by a person so authorized by such religious texts. Occasions like birth, marriage, and death involve elaborate religious ceremonies.



(15) Raamanand Joshi, a priest, charges ₹ 12,000 for conducting a religious ceremony on the birthday of Ghanshyam's son. The amount charged for the conduct of any religious ceremony is exempt from GST.

### C. RENTING OF PRECINCTS OF RELIGIOUS PLACE MEANT FOR GENERAL PUBLIC

- **Entry 13(b)** exempts **renting of precincts of a religious place meant for general public** owned by an entity registered under any of the specified sections of the Income Tax Act provided the consideration charged for such renting does not exceed the prescribed ceiling limits as given in said entry. Thus, this exemption is determined on the basis of amount of consideration charged for such renting. Let us understand the meaning of the terms 'religious place', 'general public' and 'precincts' referred herein.
- **Religious place** means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality.
- **General public** means the body of people at large sufficiently defined by some common quality of public or impersonal nature.
- The word '**precincts**' is not to be interpreted in a restricted manner and **all immovable property of the religious place located within the outer**



**boundary walls** of the complex (of buildings and facilities) in which the religious place is located, is to be considered as being located in the precincts of the religious place. The immovable property located in the immediate vicinity and surrounding of the religious place and owned by the religious place or under the same management as the religious place, may be considered as being located in the precincts of the religious place and extended the benefit of above exemption.

- Activities other than - conduct of religious ceremony and renting of precincts of religious place - will be taxable irrespective of the manner or the name in which the consideration is received.

**For example,** if donation is received with specific instructions/mutual understanding between the donor and the receiver that religious place will host an advertisement promoting business of the donor, such donation will be subject to GST. However, where the donation is received without such instructions or when the name of the donor is displayed in recipient institution's 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). In other words, 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<sup>6</sup>.



**(16)** Durgadevi Trust, a religious trust registered under section 12AB of the Income-tax Act, owns and manages a temple in their locality. It rents the commercial shops located in the precincts of the temple for a rent of ₹ 10,000 per month per shop. The consideration so received is liable to GST as such services are exempt only when the consideration is less than ₹ 10,000 per month.



**(17)** Sarvodaya Trust, a religious trust, registered under section 10(23BBA) of the Income-tax Act, owns and manages a gurudwara. It rents the community hall located in the precincts of the gurudwara for a

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<sup>6</sup> Discussion under this heading is primarily based on CBIC GST Flyer – Chapter 39 - GST on Charitable and Religious Trusts and other clarifications issued by CBIC

rent of ₹ 9,000 per day for a marriage function. The consideration so received is exempt from GST as the consideration is less than ₹ 10,000 per day.

Quiz  
Time

1

ABC Trust, a charitable trust registered under section 12AB of the Income-tax Act, is registered under GST in Rajasthan. It provided coaching for cricket to teenagers, yoga training to middle-aged people and skill development services to persons over the age of 65 years residing in a metro city, in the month of June. ABC Trust is liable to pay GST on:

(a) Skill development services and yoga training

(b) Skill development services

(c) Coaching for cricket, yoga training and skill development services

(d) Coaching for cricket and yoga training

## 2. Agriculture related services

<b>Entry No.</b>	<b>Description of services</b>
<b>24</b>	Services by way of loading, unloading, packing, storage or warehousing of rice.
<b>24A</b>	Services by way of warehousing of minor forest produce.
<b>24B</b>	<b><i>Services by way of storage/ warehousing of cereals, pulses, fruits and vegetables.</i></b>
<b>54</b>	Services relating to cultivation of plants and rearing of all life forms of animals, <u>except the rearing of horses</u> , for food, fibre, fuel, raw material or other similar products or agricultural produce by way of—



	<ul style="list-style-type: none"> <li>(a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;</li> <li>(b) supply of <b>farm labour</b>;</li> <li>(c) <b>processes carried out at an agricultural farm</b> 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>(d) <b>renting or leasing of agro machinery or vacant land</b> with or without a structure incidental to its use;</li> <li>(e) <b>loading, unloading, packing, storage or warehousing</b> of agricultural produce;</li> <li>(f) <b>agricultural extension services</b>;</li> <li>(g) services by any <b>Agricultural Produce Marketing Committee</b> or Board or services provided by a commission agent for sale or purchase of agricultural produce.</li> </ul>
55	Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.
55A	Services by way of artificial insemination of livestock (other than horses).



## ANALYSIS

### ENTRY 54

The words '**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**' used in **Entry 54** include activities like breeding of fish (pisciculture), rearing of silk worms (sericulture), cultivation of ornamental flowers (floriculture) and horticulture, forestry, etc.



Further, the term '**agricultural produce**' means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, **on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics, but makes it marketable for primary market.**



It is important to note that agricultural produce is either subject to no further processing at all or if any processing is undertaken on the agricultural produce it should not alter its



essential characteristics but may make it marketable for primary market. Few instances of such processes are the processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, etc.



Let us examine what is exempt under Entry 54.

Entry 54 exempts the agricultural operations directly related to production of any agricultural produce such as cultivation, harvesting, threshing, plant protection or testing. Further, processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like **operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market** are also exempt. In view of the same, following processes are outside the purview of this entry and thus, are liable to GST:-

- (a) Process which alters the essential characteristics of the agricultural produce:** For instance, potato chips or tomato ketchup, etc. are manufactured through processes which alter the essential characteristic of farm produce (potatoes and tomatoes in this case).
- (b) Process which makes agricultural produce marketable in the retail market:** The processes of grinding, sterilizing, extraction packaging in retail packs of agricultural products, which make the agricultural products

marketable in retail market, would NOT be covered in this entry. Only such processes are covered in this entry which makes agricultural produce marketable in the primary market and not retail market.

Apart from this, supply of farm labour is also exempt from GST.

#### Renting or leasing of agro machinery or vacant land

Item (d) of the entry exempts **renting or leasing of agro machinery or vacant land** with or without a structure incidental to its use.



(18) Moolchand has leased out to a farmer – Tulsidas - a vacant land for agriculture. The land has a greenhouse and a storage shed which are incidental to its use for agriculture. Such service of leasing of vacant land with a greenhouse and a storage shed which is incidental to its use for agriculture is exempt from GST.

#### Agricultural extension services

Item (f) of the entry exempts **Agricultural Extension Services (AES)**. Said services have been defined under the notification to mean the application of scientific research and knowledge to agricultural practices through farmer education or training.

The main objective of AES is to transmit latest technical know-how to farmers. It also focuses on enhancing farmers' knowledge about crop techniques and help them to increase productivity. This is done through training courses, kisan call centres, farm visits, on-farm trials, kisan melas, kisan clubs, advisory bulletins and the like.

#### Agricultural Produce Marketing Committee services

Services by any **Agricultural Produce Marketing Committee** or Board or services provided by a commission agent for sale or purchase of agricultural produce are not liable to GST. Agricultural Produce Marketing Committee or Board means any committee or board set up under a State Law for the time being in force for purpose of regulating the marketing of agricultural produce.



Such marketing committees or boards have been set up in most of the States and provide a variety of support services for facilitating the marketing of agricultural produce by provision of facilities and amenities like, sheds, water, light, electricity, grading facilities etc. They also take measures for prevention of sale or purchase of agricultural produce below the minimum support price. APMCs **collect market fees, license fees, rents** etc.

Services provided by such Agricultural Produce Marketing Committee or Board are covered in item (g) of entry 54. However, any service provided by such bodies **which is not directly related 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, will be liable to tax e.g. renting of shops or other property for commercial purposes.

### Warehousing of agriculture produce

**Item (e) of entry 54** exempts loading, unloading, packing, storage or warehousing of **agricultural produce**. In this regard, following may be noted:

#### **Processed Tea and coffee**



Tea used for making the beverage, such as black tea, green tea, white tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same. Thus, green tea leaves and not tea is the "agricultural produce" eligible for exemption under entry 54 where such exemption is available for loading, unloading, packing, storage or warehousing of agricultural produce. Same is the case with coffee obtained after processing of coffee beans.



#### **Jaggery**



Similarly, processing of sugarcane into jaggery changes its essential characteristics. Thus, jaggery is also not an agricultural produce.



### Pulses

Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of dehusking or splitting is usually not carried out by farmers or at farm level but by the pulse millers. Therefore, pulses (dehusked or split) are also not agricultural produce. However, whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce.



In view of the above, it is inferred that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce and therefore do not fall within item (e) of entry 54<sup>7</sup>.

### ENTRY 55

#### Custom milling of paddy into rice

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



Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested.



Further, processing of paddy into rice is not usually carried out by cultivators, but by rice millers.

Milling of paddy into rice also changes its essential characteristics.

Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce.

<sup>7</sup> Circular No. 16/16/2017 GST dated 15.11.2017

In view of the above, it is clarified that milling of paddy into rice is not eligible for exemption under Entry 55<sup>8</sup>.



**Quiz  
Time!**

2 Which of the following services relating to agriculture are not exempt from GST?

(a) Loading, unloading, packing, storage or warehousing of rice.

(b) Milling of paddy into rice

(c) Agricultural extension services

(d) Renting of agro machinery

### 3. Educational services

<b>Entry No.</b>	<b>Description of services</b>
<b>66</b>	<p>Services provided -</p> <ul style="list-style-type: none"> <li>(a) by an educational institution to its students, faculty and staff;</li> <li>(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;</li> <li>(b) to an educational institution, by way of,- <ul style="list-style-type: none"> <li>(i) transportation of students, faculty and staff;</li> <li>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</li> <li>(iii) security or cleaning or house-keeping services performed in such educational institution;</li> </ul> </li> </ul>

<sup>8</sup> Circular No. 19/19/2017 GST dated 20.11.2017

- (iv) services relating to admission to, or conduct of examination by, such institution;
- (v) supply of online educational journals or periodicals.

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

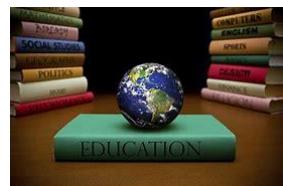
Further, nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,-

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



## ANALYSIS

Education is fundamental to the nation building process. The term "Education" is not defined in the CGST Act, 2017, but as per Apex Court decision in "*Loka Shikshana Trust v. CIT*", education is process of training and developing knowledge, skill and character of students by normal schooling.



Taxing the Education Sector has always been a sensitive issue, as education is seen more as a social activity than a business one. The Government has a constitutional obligation to provide free and compulsory elementary education to every child. Thus, to promote education, it would be beneficial if educational services are exempted from tax.

However, commercialization of education is also a reality. The distinction between core and ancillary education is blurring and education is now an organised industry with huge revenues. The GST law tries to maintain a fine balance whereby core educational services provided and



specified services received by educational institutions are exempt and other services are sought to be taxed.

Exemption from GST granted vide Entry 66 stated above can be discussed under two broad categories – output services and input services of an educational institution. The discussion in succeeding paras fundamentally revolves around these two areas:

### Output services

- Services provided by an educational institution to its students, faculty and staff and by way of conduct of entrance examination against consideration in the form of entrance fee are exempt from GST.



Since exemption with respect to said services is available only when these services are provided BY 'educational institution', it is important to analyse the term EDUCATIONAL INSTITUTION first:

**Educational institution** means an institution providing services by way of,-

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

- It is to be noted that only those institutions, whose operations conform to the specifics given in the definition of the term "educational institution", would be treated as one entitled to avail exemptions provided by the law.



- Sub-clause (ii):** The term 'education as a part of curriculum for obtaining a qualification recognised by any law for the time being in force' means the education delivered as '**a part**' of the curriculum that has been prescribed for obtaining a qualification prescribed by law. Thus, in order to be covered under Entry 66, the education service should be delivered as part of curriculum. In view of same, it can be inferred that:

Education services provided	Covered in sub-clause (ii)	Reasons
Conduct of <b>degree courses by colleges, universities or institutions</b>		These courses lead to grant of qualifications recognized by law
Training given by private coaching institutes		Such training does not lead to grant of a recognized qualification.
Education as a part of a prescribed curriculum for obtaining a qualification recognized by a law of a foreign country		Only a course recognized by an Indian law is covered herein.



**(19)** 'Dharam Institute of Technology' (DIT), a private engineering college in M.P., offers post graduate engineering programmes. All the engineering courses including the distance learning post graduate engineering programme offered by DIT are recognised by the law [The All India Council for Technical Education (AICTE)]. Since DIT imparts education as a part of a curriculum for obtaining a qualification recognised by the Indian law, the same is an educational institution.



**Sub-clause (i):** An institution providing pre-school education and education up to higher secondary school or equivalent qualify as an educational institution.



**(20)** 'Littleways Public School' is a school located in Tamil Nadu. The school has two branches – one is a pre-school and another is a higher secondary school affiliated to CBSE. A pre-school and a higher secondary school are educational institutions. Thus, Littleways Public School qualifies as an educational institution.



**Sub-clause (iii)** covers institutions providing services by way of education as a part of approved vocational education course.

An **approved vocational education course** means, -

- a **course run by an ITI/ ITC<sup>9</sup>** affiliated to the National Council for Vocational Training (NCVT) or State Council for Vocational Training (SCVT) **offering courses in designated trades\*\* notified under the Apprentices Act, 1961** or
- a **Modular Employable Skill Course**, approved by the NCVT, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship.

The Modular Employable Skills is the minimum skill set which is sufficient for gainful employment or self-employment in the world of work. It provides employable skills to early school drop-outs, existing workers seeking skill upgradation, workers seeking certification of their skills acquired informally, etc. to improve their employability and provides certification after completion of the course.

**\*\*Designated trade** means any trade or occupation or any subject field in engineering or non-engineering or technology or any vocational course which the Central Government, after consultation with the Central Apprenticeship Council, may, by notification in the Official Gazette, specify as a designated trade for the purposes of Apprentices Act, 1961<sup>10</sup>.



**(21)** Kaladrishti ITI, Gorakhpur is engaged in providing skill development courses in other than designated trades notified under the Apprentices Act, 1961. Since courses offered by Kaladrishti ITI are not in designated trades notified under the Apprentices Act, 1961, education provided by it is not approved as vocational educational course as defined above. Resultantly, it doesn't qualify as an educational institution.

<sup>9</sup> Industrial Training Institute/ Industrial Training Centre

<sup>10</sup> Some of the designated trades notified under the Apprentices Act, 1961 are electrician, wireman, carpenter, plumber, mason, mechanic, tool and die maker, baker and confectioner, weaver, tailor, footwear maker, photographer, beautician, painter, desk top publishing operator, gardener, cable television operator, library assistant, etc.

In view of the above definition, some of the institutions providing education services have been examined as under:

#### Private ITIs

- **Private ITIs** qualify as an educational institution if the education provided by these ITIs is approved as vocational educational course as defined above.



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



Further, in case of designated trades, **services provided by private ITI** by way of **conduct of entrance examination** against consideration in the form of entrance fee will also be exempt.

Moreover, in respect of such designated trades, **services provided TO private ITIs** relating to admission to or **conduct of examination** by a private ITI will also be exempt.



In case of **other than designated trades** in private ITIs, **GST is payable** on the aforesaid services provided by/to the private ITIs<sup>11</sup>.

#### Government ITIs

As far as **Government ITIs** are concerned, services provided by a Government ITI to individual trainees/ students, are exempt under Entry 6 as these are in the nature of services provided by the Central or State Government to individuals [*Entry 6 is discussed in detail subsequently*].



Such exemption in relation to services provided by Government ITI would cover both - vocational training and examinations conducted by these Government ITIs<sup>12</sup>.

<sup>11</sup> Circular No. 55/29/2018 GST dated 09.08.2018

<sup>12</sup> Circular No. 55/29/2018 GST dated 09.08.2018

**Unrecognized educational institutions**

- Private coaching centres or other unrecognized institutions, though self-styled as educational institutions, would not be treated as educational institutions under GST and thus cannot avail exemptions available to an educational institution.



**22)** 'Super Minds', a coaching institute in Raipur, provides coaching for Institute of Banking Personnel Selection (IBPS) Probationary Officers Exam. Super Minds, being a coaching centre which trains candidates to secure a banking job, is not an educational institution in terms of the exemption notification.

**Educational institutions up to Higher secondary schools**

- By virtue of Entry 66, educational institutions up to Higher Secondary School level do not suffer GST on output services and also on specified input services [*discussed in subsequent paras*]. However, some of the input services like repairs and maintenance etc. provided by private players to educational institutions are subject to GST.
- Output services of lodging/boarding in hostels provided by such educational institutions which are providing pre-school education and education up to higher secondary school or equivalent or education leading to a qualification recognised by law, are fully exempt from GST. Annual subscription/fees charged as lodging/boarding charges by such educational institutions from its students for hostel accommodation shall therefore, not attract GST.
- **Boarding schools** provide service of education coupled with other services like providing dwelling units for residence and food. This may be a case of composite supply if the charges for education and lodging and boarding are inseparable. Their taxability will be determined in terms of the principles laid down in section 2(30) read with section 8<sup>13</sup>.



<sup>13</sup> Section 2(30) provides the definition of composite supply and section 8 contains the provisions relating to tax liability on composite and mixed supplies. The concept of composite and mixed supply has been discussed in detail in Chapter 2 – Supply under GST in this Module of the Study Material.

Such services in the case of boarding schools are naturally bundled and supplied in the ordinary course of business. Therefore, the bundle of services will be treated as consisting entirely of the principal supply, which means the service which forms the predominant element of such a bundle.

In this case since the predominant nature is determined by the service of education, the other service of providing residential dwelling will not be considered for the purpose of determining the tax liability and in this case, the entire consideration for the supply will be exempt.

#### **Educational institutions providing qualification recognized by law**

- We have already seen that the institutions providing services by way of education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force qualify as educational institutions.

However, the question arises that in case where **a course in a college leads to dual qualification only one of which is recognized by law**, would service provided by the college by way of such education be covered by the exemption notification?

- Provision of dual qualifications is in the nature of two separate services as the curriculum and fees for each of such qualifications are prescribed separately. Service in respect of each qualification would, therefore, be assessed separately.

If an artificial bundle of service is created by clubbing two courses together, when only single fee is charged for both, only one of which leads to a qualification recognized by law, then by application of the rule of determination of taxability of a supply which is not bundled in the ordinary course of business, it shall be treated as a mixed supply as per provisions contained in section 2(74)<sup>14</sup> read with section 8.

*Dual  
qualifications  
where only one is  
recognised by law*

The taxability will be determined by the supply which attracts highest rate of GST.

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<sup>14</sup> Section 2(74) provides the definition of mixed supply.

- However, **incidental auxiliary courses provided by way of hobby classes or extra-curricular activities in furtherance of overall well-being** will be an example of naturally bundled course, and therefore treated as composite supply. One relevant consideration in such cases will be the amount of extra billing being done for the unrecognized component viz-a-viz the recognized course.

*Incidental auxiliary courses*

If extra billing is being done, it may be a case of artificial bundling of two different supplies, not supplied together in the ordinary course of business, and therefore will be treated as a mixed supply, attracting the rate of the higher taxed component for the entire consideration<sup>15</sup>.

### IIMs

- Indian Institutes of Management Act, 2017 (IIM Act, 2017) empowers IIMs to (i) grant degrees, diplomas, and other academic distinctions or titles, (ii) specify the criteria and process for admission to courses or programmes of study, and (iii) specify the academic content of programmes.
- Resultantly, all the IIMs fall under purview of "educational institutions" as they provide education as a part of a curriculum for obtaining a qualification recognized by law for the time being in force.
- IIMs provide various **long duration programs (1 year or more)** for which they award **diploma/ degree certificate** duly recommended by Board of Governors as per the power vested in them under the IIM Act, 2017. Services provided by IIMs to their students in all such long duration programs (one year or more), are exempt from levy of GST.



*Long duration programs of IIMs - Exempt*

<sup>15</sup> *The view taken in the preceding paras, that education coupled with other incidental services is a composite supply and is exempt since the principal supply [education service] is exempt, is based on the CBIC Flyer - Chapter 40 – 'GST on Education Services'. However, it is also possible to take a different view since as per the definition of composite supply under section 2(30), composite supply consists of two or more **taxable supplies**.*

- IIMs also provide various **short duration/ short term programs (less than 1 year)** for which they award **participation certificate** to the executives/ professionals as they are considered as "participants" of the said programmes. These participation certificates are not any qualification recognized by law.
- Such participants are also not considered as students of IIM. Services provided by IIMs as an educational institution to such participants is not exempt from GST and GST is payable on the same<sup>16</sup>.

*Short duration programs  
of IIMs – Not exempt*

#### ***Conduct of entrance examination by authority/board/body set up by CG/SG***

***Any authority, board or body set up by the Central Government or State Government (including National Testing Agency) for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.***



#### ***Central and State Education Boards***

It is important to note that the Central and State Educational Boards shall be treated as 'Educational Institution' for the limited purpose of providing services by way of conduct of examination to the students. ***In this regard, following is clarified:***

- ***Various services are supplied by Centre and State Boards such as National Board of Examination (NBE). These services include entrance examination (on charging a fee) for admission to educational institution, input services for conducting such entrance examination for students, accreditation of educational institutions or professional so as to authorise them to provide their respective services.***

<sup>16</sup> Circular No. 82/01/2019 GST dated 01.01.2019

- **For example, NBE provides services of conducting entrance examinations for admission to courses including Diplomat National Board (DNB) and Fellow of National Board (FNB), prescribes courses and curricula for PG medical studies, holds examinations and grant degrees, diplomas and other academic distinctions. It carries out all functions as are normally carried out by central or state educational boards and is thus a central educational board. "Central and State Educational Boards" are treated as educational institutions for the limited purpose of providing services by way of conduct of examination to the students. Therefore, NBE is an 'educational institution' in so far as it provides services by way of conduct of examination, including any entrance examination, to the students.**
  
- **It is clarified that:**
  - (i) **GST is exempt on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution under Entry 66(aa). Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.**
  
  - (ii) **GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc, when provided to such Boards under Entry 66(b)(iv).**
  
  - (iii) **GST is applicable to other services provided by such Boards, namely of providing accreditation to an institution or to a professional [accreditation fee or registration fee such as fee for FMGE (Foreign Medical Graduate Examination) screening test] so as to authorise them to provide their respective services<sup>17</sup>.**



<sup>17</sup> Circular No. 151/07/2021 GST dated 17.06.2021

### Supply of food in a mess or canteen

- Educational institutions generally have mess facility for providing food to their students and staff.  
Such facility is either:
  - (i) run by the institution/ students themselves or
  - (ii) outsourced to a third person.
- **If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered by the definition of 'educational institution' as given above, then the same is exempt [covered under item (a) of entry 66].**
- **If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution,** i.e. the institution outsources the catering activity to an outside contractor, then it is a supply of service to the concerned educational institution by such outside caterer and attracts GST.



However, said services when provided to an educational institution providing pre-school education or education up to higher secondary school or equivalent are exempt from tax [covered under item (b)(ii) of Entry 66].

### Supply of food in anganwadis and schools

- **An anganwadi, inter alia, provides pre-school non-formal education. Hence, anganwadi is covered by the definition of educational institution (as pre-school).**
- **As seen above that as per entry 66(b)(ii), any catering service provided to an educational institution (pre-school and schools) is exempt from GST and it includes mid- day meal service also. The scope of this entry is thus wide enough to cover any serving of any food to a school (including pre-school).**
- **It is further 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.**

- **Hence, serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates<sup>18</sup>.**

**Entrance fee for conduct of entrance examination/ fee for admission/ issuance of migration certificate**

- **As discussed earlier, Entry 66 exempts, inter alia, services provided –**
  - (a) **by an educational institution to its students, faculty and staff;**
  - (aa) **by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee.**
- **Therefore, it can be seen that all services supplied by an 'educational institution' to its students are exempt from GST. Consideration charged by the educational institutes by way of entrance fee for conduct of entrance examination is also exempt.**
- **The exemption is wide enough to cover the amount or fee charged for admission or entrance, or amount charged for application fee for entrance, or the fee charged from prospective students for issuance of eligibility certificate to them in the process of their entrance/admission to the educational institution.**
- **Services supplied by an educational institution by way of issuance of migration certificate to the leaving or ex-students are also covered by the exemption. Accordingly, such activities of educational institutions are also exempt<sup>19</sup>.**

**Fees charged from prospective employers**

Educational institutes such as IITs, IIMs charge a fee from prospective employers like corporate houses/MNCs, who come to the institutes for recruiting candidates through campus interviews in relation to **campus recruitments**. Such services shall also be liable to tax.

<sup>18</sup> Circular No. 149/05/2021 GST dated 17.06.2021

<sup>19</sup> Circular No. 177/09/2022 GST dated 03.08.2022

### Maritime courses approved by DG Shipping

- Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014.
- Therefore, Maritime Training Institutes are educational institutions and the courses conducted by them are exempt subject to fulfilment of other conditions specified herein<sup>20</sup>.

### Input services

- Regarding, input services, it may be noted that where output services are exempted, the educational institutions may not be able to avail credit of tax paid on the input side. The auxiliary education services [*services which educational institutions ordinarily carry out themselves, but may obtain as outsourced services from any other person*] specified in item (b) of entry 66 only have been exempted [Sub-items (i) to (v) of item (b) of Entry 66].
- However, the said exemption comes with a rider. Auxiliary services of (i) transportation of students, faculty, and staff, (ii) catering including any mid-day meals scheme sponsored by Government and (iii) security or cleaning or housekeeping services are exempt only if such auxiliary education services are provided to educational institutions providing services by way of education up to higher secondary or equivalent, (from pre-school to HSC). Thus, if such auxiliary education services are provided to educational institutions providing degree or higher education or institutions providing approved vocational education course, the same would not be exempt.
- Similarly, services of supply of online educational journals/periodicals are exempt only if they are provided to an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force<sup>21</sup>.



<sup>20</sup> Circular No. 117/36/2019 GST dated 11.10.2019

<sup>21</sup> The discussion in the foregoing paras is primarily based on CBIC Flyer - Chapter 40 – 'GST on Education Services' unless otherwise specified.



**(23)** Little Millennium – a pre school in outskirts of Mumbai – has subscribed the online journals on child development and experiential learning. Services of supply of online educational journals or periodicals provided, *inter alia*, to an institution providing services by way of pre-school education are not exempt.



**(24)** SM Transporters has provided services of transportation of students and faculty from their residence to school and back, to Pathwheels School - a higher secondary school. Services of transportation of students, faculty and staff provided, *inter alia*, to an institution providing services by way of education up to higher secondary school or equivalent are exempt.



**(25)** Shiksha College, offering degree courses (recognised by law), has to conduct its half yearly examination in November. For this purpose, it has paid the honorarium to paper setters and examiners (not on the rolls of Shiksha College) for their services. Further, it availed the printing services for printing the question papers (paper and content are provided by Shiksha College) for conducting examination. Services provided to an educational institution relating to admission to, or conduct of examination by, such institution are exempt. Therefore, services of paper setters and examiners and printing services availed by Shiksha College are exempt.



**(26)** Gyaani Public School – a higher secondary school – has hired Suvidha Services Ltd. for security and housekeeping services in the school. Security and housekeeping services provided within the premises of, *inter alia*, a higher secondary school are exempt. Therefore, said services provided by Suvidha Services Ltd. are exempt.

The school subsequently hired Suvidha Services Ltd. for providing the security and housekeeping services at School's Annual Day function organised in an auditorium outside the school campus. Security and housekeeping services provided to Gyaani Public School for School's Annual Day function organised outside the school campus will be taxable as only the security and housekeeping services performed within the premises of the higher secondary school are exempt.

The exemptions available in respect of input and output services of an educational institution have been tabulated as follows:

	<b>Type of educational institution</b>		
	<b>Educational institution providing pre-school education and education up to higher secondary school or equivalent</b>	<b>Educational institution providing education as a part of a curriculum for obtaining a recognised qualification</b>	<b>Educational institution providing education as a part of approved vocational education course</b>
Exempt input services	<ul style="list-style-type: none"> <li>(i) transportation of students, faculty and staff;</li> <li>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</li> <li>(iii) security or cleaning or house-keeping services performed in such educational institution;</li> <li>(iv) services relating to admission to, or conduct of examination by, such institution</li> </ul>	<ul style="list-style-type: none"> <li>(i) services relating to admission to, or conduct of examination by, such institution</li> <li>(ii) supply of online educational journals or periodicals</li> </ul>	Services relating to admission to, or conduct of examination by, such institution.
Exempt output services	<p>Services provided by an educational institution -</p> <ul style="list-style-type: none"> <li>(a) to its students, faculty and staff;</li> <li>(aa) by way of conduct of entrance examination against consideration in the form of entrance fee.</li> </ul>		



Quiz  
Time!

3

Which of the following educational services are not exempt from GST?

(a) JEE Mains entrance exam conducted by National Testing Agency.

(b) Long duration programs (2 years) conducted by Indian Institutes of Management

(c) Coaching for preparation of UPSC entrance examination provided by perfect coaching classes .

(d) Catering services provided to Little Angels Public School

#### 4. Health care services

Entry No.	Description of services
46	Services by a veterinary clinic in relation to health care of animals or birds.
74	<p>Services by way of-</p> <p>(a) health care services by a clinical establishment, an authorised medical practitioner or para-medics;</p> <p><b><i>However, nothing in this entry shall apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding ₹ 5000 per day to a person receiving health care services.</i></b></p> <p>(b) services provided by way of transportation of a patient in an</p> 

	ambulance, other than those specified in (a) above.
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## ANALYSIS

**Entry 74** - Health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST [Entry 74(a)].



***However, services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding ₹ 5000 per day to a person receiving health care services will not be exempt.***

The term '**health care services**' is defined as follows:

### Health care services

- means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in **any recognised system of medicines** in India and
- includes services by way of **transportation of the patient to and from** a clinical establishment, but
- does **not include hair transplant or cosmetic or plastic surgery**, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.
- As it is apparent from the definition of health care services, only services in **recognized systems of medicines in India** are exempt under this entry. Following systems of medicines are the recognized systems of medicines in India<sup>22</sup>:

**Health care services**

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<sup>22</sup> Section 2(h) of the Clinical Establishments (Registration and Regulation) Act, 2010

- Allopathy
- Yoga
- Naturopathy
- Ayurveda
- Homeopathy
- Siddha
- Unani
- Any other system of medicine that may be recognized by Central Government

## Recognized systems of medicines

Let us now understand the meaning of terms - 'clinical establishment', 'authorised medical practitioner' and 'paramedics'.

**Clinical establishment:** means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases.



Thus, diagnostic or investigative services of diseases provided by pathological labs are not liable to GST.

**Authorised medical practitioner:** means a medical practitioner registered with any of the councils of recognised system of medicines established/recognised by law in India & includes a medical professional having requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force.



Further, **Paramedics** are trained health care professionals, for example, nursing staff, physiotherapists, technicians, lab assistants etc. Services by them in a clinical establishment would be in the capacity of employee and not provided in independent capacity and



will thus be considered as services by such clinical establishment. Similar services in independent capacity are also exempted.

#### Rent of rooms provided to in-patients

Rent of the rooms ***having room charges upto ₹ 5000 per day to a person receiving health care services*** in hospitals is exempt<sup>23</sup>.

#### Services provided by senior doctors/ consultants/ technicians

- Hospitals hire senior doctors/ consultants/ technicians independently. Such persons do not have any contract with the patient. Hospitals pay them consultancy charges and there is no employer-employee relationship between them.
- It is clarified by CBIC that services provided by such senior doctors/ consultants/ technicians, whether employees or not, are healthcare services which are exempt from GST [Circular No. 32/06/2018 GST dated 12.02.2018].

#### Amount charged by hospitals from the patients

- In above cases, suppose hospitals charge the patients, say, ₹ 10,000/- and pay to the consultants/technicians only ₹ 7,500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure, etc. Going through the definition of health care services [given above], it can be inferred that hospitals also provide healthcare services.
- The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt [Circular No. 32/06/2018 GST dated 12.02.2018].



<sup>23</sup> Circular No. 27/01/2018 GST dated 04.01.2018 read with proviso to Entry 74(a)

### Food supplied to the patients

- Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the hospitals from outdoor caterers.
- When outsourced, there is no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC.
- Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable.
- Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable [Circular No. 32/06/2018 GST dated 12.02.2018]<sup>24</sup>.



### Services other than health care services in clinical establishment's premises

- Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements etc. will be subject to GST<sup>25</sup>.

### Services by way of Assisted Reproductive Technology (ART) procedures such as In vitro fertilization (IVF)

- As per the definition of health care services given earlier, it means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.***

<sup>24</sup> The view taken in the preceding paras, that health care services coupled with other incidental services is a composite supply and is exempt since the principal supply [health care service] is exempt, is based on Circular No. 32/06/2018 GST dated 12.02.2018. However, it is also possible to take a different view since as per the definition of composite supply under section 2(30) of the CGST Act, composite supply consists of two or more **taxable supplies**.

<sup>25</sup> As clarified by the CBIC GST Flyer – Chapter 39 - GST on Charitable and Religious Trusts

- Since, the abnormality/disease/ailment of infertility is treated using ART procedure such as IVF, it is clarified that services by way of IVF are also covered under the definition of health care services<sup>26</sup>.

### ILLUSTRATION 1

Good Health Medical Centre, a clinical establishment, offers the following services:

- (i) Reiki healing treatments.
- (ii) Plastic surgeries. One such surgery was conducted to repair cleft lip of a new born baby.
- (iii) Air ambulance services to transport critically ill patients from distant locations to the Medical Centre.
- (iv) Palliative care for terminally ill patients. On request, such care is also provided to patients at their homes. (Palliative care is given to improve the quality of life of patients who have a serious or life-threatening disease but the goal of such care is not to cure the disease).
- (v) Alternative medical treatments by way of yoga.

Good Health Medical Centre also operates a cord blood bank which provides services in relation to preservation of stem cells.

Good Health Medical Centre is of the view that since it is a clinical establishment, all the health care services provided by it as well as all the taxable services provided to it are exempt from GST.

You are required to examine the situation in the light of relevant statutory provisions.

### ANSWER

Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST under Entry 74. In light of the same, the eligibility to exemption in respect of each service offered by Good Health Medical Centre is examined below:

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<sup>26</sup> Circular No. 177/09/2022 GST dated 03.08.2022

- (i) **Not Exempt.** Since reiki healing is not a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, it would not be exempt and thus, GST would be payable thereon.
- (ii) **Exempt.** Health care service does not include, inter alia, cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Therefore, plastic surgeries will not be entitled to the said exemption and thus, GST would be payable thereon. However, plastic surgery conducted to repair a cleft lip will be eligible for exemption as it reconstructs anatomy or functions of body affected due to congenital defects (cleft lip).
- (iii) **Exempt.** Health care service includes services by way of transportation of the patient to and from a clinical establishment. Thus, air ambulance service to transport critically ill patients to Good Health Medical Centre would be eligible for exemption under the said notification.
- (iv) **Exempt.** Health care service means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India. It is immaterial whether such service is provided at the clinical establishment or at the home of the patient or at any other place. Thus, palliative care for terminally ill patients is exempt.
- (v) **Exempt.** Since Yoga is a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, the same would be eligible for exemption under the said notification.

Further, services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are not exempt from GST. Therefore, services provided in relation to preservation of stem cells by the cord blood bank operated by Good Health Medical Centre will be liable to GST.

It is important to note that Entry 74 of the exemption notification grants exemption to health care services provided BY a clinical establishment and not to services provided TO a clinical establishment. Therefore, Good Health Medical Centre's contention that since it is a clinical establishment, all the services provided to it are also exempt from GST is not correct in law.



Quiz  
Time!

4

Which of the following services provided by Healthy Wealthy Nursing Home are not exempt from GST?

(a) Renting of rooms with per day charges of ₹ 6,000 to in-patients.

(b) Food supplied to in-patients.

(c) Healing of patients through naturopathy

(d) Services provided in Intensive Care Unit for which ₹12,000 are charged per day.

## 5. Services provided by Government

Entry No.	Description of services
4	Services by governmental authority by way of <b>any activity in relation to any function entrusted to a municipality</b> under article 243W of the Constitution are exempt.
5	Services by a governmental authority by way of any activity in relation to <b>any function entrusted to a Panchayat</b> under article 243G of the Constitution.
6	<p>Services by the Central Government, State Government, Union territory or local authority excluding the following services—</p> <ul style="list-style-type: none"> <li>(a) services by the <b>Department of Posts</b>;</li> <li>(b) services in relation to <b>an aircraft or a vessel</b>, inside or outside the precincts of a port or an airport;</li> <li>(c) <b>transport of goods or passengers</b>; or</li> <li>(d) any service, other than services covered under entries (a) to (c) above, <b>provided to business entities</b>.</li> </ul>

**7**

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

Explanation - For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to following services:-

- (i) item (a), (b) and (c) of Entry 6 above.
- (ii) services by way of **renting of immovable property**.

**8**

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

*However, nothing contained in this entry shall apply to services referred in item (a), (b) and (c) of Entry 6 above.*

**9**

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

*However, nothing contained in this entry shall apply to services referred in item (a), (b) and (c) of Entry 6 above*

Further, in case where **continuous supply of service\*** is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed **₹ 5,000 in a FY**.

*\*as defined in section 2(33)*

**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
- ✓ an entity registered under section 12AA **or 12AB** of the Income-tax Act, 1961



to its residents (aged 60 years or more)

against consideration upto ₹ 25,000 per month per member,

provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.

**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).**

**34A**

Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions<sup>27</sup>.

**47**

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

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

**61**

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

**62**

Services provided by the Central Government, State Government, Union territory or local authority **by way of tolerating non-performance of**

<sup>27</sup> Circular No.154/10/2021 GST dated 17.06.2021 reiterates that guaranteeing of loans by Central or State Government for their undertaking or PSU is specifically exempt under Entry 34A.

	<b>a contract for which consideration in the form of fines or liquidated damages is payable</b> to the Central Government, State Government, Union territory or local authority under such contract.
<b>63</b>	Services provided by the Central Government, State Government, Union territory or local authority by way of <b>assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals</b> , except the rearing of horses, for food, fibre, fuel, raw material or other similar products.
<b>65</b>	Services provided by the Central Government, State Government, Union territory by way of <b>deputing officers after office hours or on holidays for inspection or container stuffing</b> or such other duties in relation to import export cargo on payment of Merchant Overtime charges.
<b>65B</b>	<p>Services supplied by a State Government to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders.</p> <p>However, at the end of the contract period, ERCC shall submit an account to the State Government and certify that the amount of GST deposited by mining lease holders on royalty is more than the GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of GST paid by mining lease holders is less than the amount of GST exempted, <b>the exemption shall be restricted to such amount as is equal to the amount of GST paid by the mining lease holders</b> and the ERCC shall pay the difference between GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and GST paid by the mining lease holders on royalty.</p> <p>Explanation- <b>Mining lease holder</b> means a person who has been granted mining lease, quarry lease or license or other mineral concession under the Mines and Minerals (Development and Regulation) Act, 1957, the rules made thereunder or the rules made by a State Government under section 15(1) of the said Act.</p>
<b>74A</b>	 <p>Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 by</p> <div style="text-align: right;">            भारतीय पुनर्वासन परिषद          Rehabilitation Council of India New Delhi       </div>

way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA **or 12AB** of the Income-tax Act, 1961.



## ANALYSIS

Relevant definitions are as under:

- **Business entity:** means any person carrying out business.
- **Governmental authority:** means an authority or a board or any other body,
  - (i) set up by an Act of Parliament or a State Legislature; or
  - (ii) established by any Government,  
with 90%, or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution.
- **Government Entity:** means an authority or a board or any other body including a society, trust, corporation,
  - (i) set up by an Act of Parliament or State Legislature; or
  - (ii) established by any Government,  
with 90%, or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.
- **Aircraft:** means any machine which can derive support in the atmosphere from reactions of the air, other than reactions of the air against the earth's surface and includes balloons, whether fixed or free, airships, kites, gliders and flying machines [Section 2(1) of the Aircraft Act, 1934].



- **Airport:** means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in section 2(2) of the Aircraft Act, 1934 [section 2(b) of the Airports Authority of India Act, 1994].

#### Exemption to services provided by Government

- Not all services provided by the Government or a local authority are exempt from tax.** As for instance, following services are not exempt:
- services by the Department of Posts;
  - services in relation to an aircraft or a vessel, inside or outside the precincts of an airport or a port;
  - transport of goods or passengers; or
  - any service, **other than** services covered under (a) to (c) above provided to business entities [with aggregate turnover exceeding such amount in the preceding financial year as makes it eligible for exemption from registration under CGST Act].
- 
- 
- 
- 

Services mentioned in clause (a) to (c) above have been referred to as "**specified services**" in discussion hereunder.

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

- Accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are covered by Entry 6 provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority<sup>28</sup>.**

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<sup>28</sup> Circular No. 190/02/2023 GST dated 13.01.2023

Let us first understand what does 'Government' and 'local authority' mean?

#### Meaning of Government

- As per section 2(53), 'Government' means the Central Government.
- Various State/ Union Territories (with Legislatures) GST Acts define 'Government' as Government of respective State Government/ Union Territory. For Union Territories (without State Legislatures), 'Government' means the Administrator or any Authority or officer authorized to act as Administrator by the Central Government.
- Regulatory bodies/agencies, for instance, Competition Commission of India, Press Council of India, Directorate General of Civil Aviation, Forward Market Commission, Inland Water Supply Authority of India, Central Pollution Control Board, Securities and Exchange Board of India, do not fall under the definition of Government.



#### Meaning of local authority

- Local authority is defined in section 2(69) and means the following:
  - ✓ a "**Panchayat**" as defined in clause (d) of article 243 of the Constitution;
  - ✓ a "**Municipality**" as defined in clause (e) of article 243P of the Constitution;
  - ✓ 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;
  - ✓ a **Cantonment Board** as defined in section 3 of the Cantonments Act, 2006;
  - ✓ a **Regional Council or a District Council** constituted under the Sixth Schedule to the Constitution;
  - ✓ a Development Board constituted under article 371 and article 371J of the Constitution;
  - ✓ a **Regional Council** constituted under article 371A of the Constitution.

Thus, 'local authority' includes only those bodies which are listed in the above definition. It would not include other body which is merely described as a 'local body' by virtue of a local law. For example, local developmental authorities - setup by State Governments to undertake developmental works - like Delhi Development Authority, Ahmedabad Development Authority, Bangalore Development Authority, etc. are not qualified as local authorities.

In the subsequent paras, we have examined some of the Government services:

#### Services provided to a business entity

- Entry 7 provides that services provided to a business entity are exempt if its aggregate turnover is upto such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act.
- However, this exemption is not applicable to **specified services**, and renting of immovable property. **Renting in relation to immovable property** means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.
- GST on services, other than **specified services**, supplied by the Central Government, State Government, Union territory or local authority to a business entity [whose turnover exceeds such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act] is payable under reverse charge by such business entity.

However, reverse charge provisions are not applicable to renting of immovable property services provided to unregistered persons and where '**specified services**' are being provided to such business entity [*See the reverse charge provisions as discussed in Chapter – 3: Charge of GST in this Module of the Study Material*].

#### Services provided by the Department of Posts

- Department of Posts provide basic mail services known as postal services such as post card, inland letter, book post, registered post provided exclusively by the Department of Posts to meet the universal postal obligations. It also

provides services of transfer of money through money orders, operation of savings accounts, issue of postal orders, pension payments and other such services.



- ❑ Moreover, it provides services like distribution of mutual funds, bonds, passport applications, collection of telephone and electricity bills **on commission basis**. These services are in the nature of intermediary and are generally called **agency services**.
- ❑ Entry 6 stipulates that the services provided by the Central Government, State Government, Union territory or local authority are exempt excluding the services by the Department of Posts. Further, **entry 24C exempts the services provided by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams)**. Thus, on remaining services provided by the **Department of Posts, it is liable to pay tax** without the application of reverse charge.



#### Services provided by one Department of the Government to another Department of the Government

- ❑ Services (except specified services) provided by one Department of the Central Government/ State Government to another Department of the Central Government/ State Government are exempt under Entry 8.

#### Services by governmental authority by way of any activity in relation to any function entrusted to Panchayat/ Municipality



Services provided by governmental authority by way of any activity in relation to any function entrusted to a municipality under Article 243W of the Constitution<sup>29</sup> and



<sup>29</sup> The functions entrusted to municipality under the Twelfth Schedule to Article 243W of the Constitution include urban planning including town planning, roads and bridges, public health, sanitation conservancy and solid waste management, fire services, slum improvement and upgradation, promotion of cultural, educational and aesthetic aspects, provision of urban amenities and facilities such as parks, gardens, playgrounds, public amenities including street lighting, parking lots, bus stops and public conveniences, etc.

services by a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution<sup>30</sup> are exempt vide Entry 4 and Entry 5 respectively.

**Services provided by police/security agencies of Government to PSUs/corporate entities/sports events held by private entities**

- Services provided by Police/security agencies of Government to PSU/private business entities are not exempt from GST.
- Such services are taxable supplies and the recipients are required to pay the tax under reverse charge mechanism on the amount of consideration paid to Government for such supply of services [See the reverse charge provisions as discussed in Chapter – 3: Charge of GST in this Module of the Study Material].



**(28)** The Karnataka Cricket Association, Bangalore requests the Commissioner of Police, Bangalore to provide security in and around the Cricket Stadium for the purpose of conducting the cricket match.

The Commissioner of Police arranges the required security for an agreed consideration. In this case, services of providing security by the police personnel are not exempt.

As the services are provided by Government, Karnataka Cricket Association is liable to pay the tax on the consideration paid, albeit under reverse charge mechanism.

**Services provided by way of tolerating non-performance of a contract**

- Non-performance of a contract or breach of contract is one of the conditions normally stipulated in the Government contracts for supply of goods or

<sup>30</sup> The functions entrusted to Panchayat under the Eleventh Schedule to Article 243G of the Constitution include Agriculture, including agricultural extension, Animal husbandry, dairying and poultry, Fisheries, Small scale industries, including food processing industries, Drinking water, Fuel and fodder, Rural electrification, including distribution of electricity, Health and sanitation, including hospitals, primary health centres and dispensaries, Women and child development, Public distribution system, etc.

services. The agreement entered into between the parties stipulates that both the service provider and service recipient abide by the terms and conditions of the contract.

- In case any of the parties breach the contract for any reason including non-performance of the contract, then such person is liable to pay damages in the form of fines or penalty to the other party. **Tolerating non-performance of a contract is an activity or transaction which is treated as a supply of service [as per Schedule II – as explained in Chapter 2 – Supply under GST in this Module of the Study Material] and the person is deemed to have received the consideration in the form of fines or penalty and is, accordingly, required to pay tax on such amount<sup>31</sup>.**
- However, **in case of supplies made to Government, services [provided by Government] by way of tolerating the non-performance of contract by the supplier of service is covered under the exemption under Entry 62.** Thus, any consideration received by the Government from any person or supplier for non-performance of contract is exempted from tax.



**(29)** Public Works Department of Karnataka entered into an agreement with M/s. ABC, a construction company, for construction of its office complex for an agreed consideration. In the agreement dated 10<sup>th</sup> July, it was agreed by both the parties that M/s. ABC shall complete the construction work and handover the project on or before 31<sup>st</sup> December.

It was further agreed that any breach of the terms of contract by either party would give right to the other party to claim for damages or penalty. M/s. ABC did not complete the construction and did not handover the project by the specified date i.e., on or before 31<sup>st</sup> December.

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<sup>31</sup> As per the clarification of CBIC in Circular No. 178/08/2022.GST dated 03.08.2022, 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 liquidated damages are 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.

As per the contract, the Department asked for damages/penalty from M/s. ABC and threatened to go to the court if not paid. Resultantly, M/s. ABC paid an amount of ₹ 10,00,000/- to the Department for non-performance of contract. Amount paid by M/s. ABC to Department is exempt from payment of tax.

## 6. Construction services

<b>Entry No.</b>	<b>Description of services</b>
<b>10</b>	<p>Services provided by way of <b>pure labour contracts</b> of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the <b>Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana</b>.</p>
<b>10A</b>	<p>Services supplied by <b>Electricity Distribution Utilities</b> 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.</p>
<b>11</b>	<p>Services by way of <b>pure labour contracts</b> of construction, erection, commissioning, or installation of original works pertaining to a <b>single residential unit otherwise than as a part of a residential complex</b>.</p>



## ANALYSIS

**Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana** (hereinafter referred to as PMAY) is a programme launched by the Ministry of Housing and Urban Poverty Alleviation (MoHUPA) which envisions provision of Housing for All by 2022 when the nation completes 75 years of its independence.

The mission seeks to address the housing requirement of urban poor including slum dwellers through following, *inter alia*, programme verticals:

- Slum rehabilitation of Slum Dwellers with participation of private developers using land as a resource.
- Promotion of Affordable Housing for weaker section through credit linked subsidy.
- Affordable Housing in Partnership with Public & Private sectors.
- Subsidy for beneficiary-led individual house construction/enhancement.

Last component of the mission is assistance to individual eligible families belonging to Economically Weaker Section (EWS) categories to either construct new houses or enhance existing houses on their own to cover the beneficiaries who are not able to take advantage of other components of the mission. Such families may avail specified amount of central assistance for construction of new houses or for enhancement of existing users under the mission.

**Entry 10** exempts the services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the PMAY from GST.

The term '**original works**' means-

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



**Entry 11** exempts the services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex from GST.

The term '**residential complex**' means any complex comprising of a building or buildings, having more than one single residential unit. Further, '**singular residential**

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

## 7. Passenger transportation services

<b>Entry No.</b>	<b>Description of services</b>
<b>15</b>	<p>Transport of passengers, with/ without accompanied belongings, by –</p> <ul style="list-style-type: none"> <li>(a) <b><i>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;</i></b></li> <li>(b) <b><i>non-air conditioned contract carriage</i></b> other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or</li> <li>(c) <b><i>stage carriage other than air- conditioned stage carriage.</i></b></li> </ul> <p><b><i>However, 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 CGST, 2017.</i></b></p>
<b>16</b>	<p>Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a <b>RCS (Regional Connectivity Scheme) airport</b>, against consideration in the form of viability gap funding.</p> <p>However, nothing contained in this entry shall apply on or after the expiry of a period of <b>3 years</b> from the date of commencement of operations of the RCS airport as notified by the Ministry of Civil Aviation.</p>
<b>17</b>	<p>Service of transportation of passengers, with or without accompanied belongings, by—</p> <ul style="list-style-type: none"> <li>(a) railways in a class other than— <ul style="list-style-type: none"> <li>(i) first class; or</li> <li>(ii) an air-conditioned coach;</li> </ul> </li> <li>(b) metro, monorail or tramway;</li> </ul>

- (c) inland waterways;
- (d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and
- (e) metered cabs or auto rickshaws (including e-rickshaws).

***However, 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 CGST, 2017.***



## ANALYSIS

Services of transportation of passengers are usually chargeable to GST. Entry 6 [*Services provided by Government - discussed earlier*] specifically excludes the transport of passengers' services provided by the Government or local authority from its purview, which implies that transport of passengers' services provided by the Government or local authority are liable to GST. However, services of transportation of passengers specified in Entries 15, 16 and 17 mentioned above are exempt from GST (whether provided by Government or otherwise) with or without accompanied belongings.

Services provided by way of transportation of passengers have been analysed as follows:

### **Entry 15**

#### **Clause (a)**

- Transport of passengers by air, embarking from or terminating in an airport located in the States of North-East India or at Bagdogra located in West Bengal is exempt from GST provided said transportation is in economy class.



**(30)** Rituraj has booked air tickets in economy class of a flight from Delhi to Guwahati, Assam. Transport of passengers by air terminating in an airport located in Assam is exempt from GST.

#### **Clause (b)**

- Passenger transportation service provided by a non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding

tourism, conducted tour, charter or hire, are exempt from GST. Conducted tour is a short visit to a place in which someone shows you around and tells you information about it<sup>32</sup>.

The term **contract carriage** means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum-

- (a) on a time basis, whether or not with reference to any route or distance; or
- (b) from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes--
  - (i) a maxicab; and
  - (ii) a motor cab notwithstanding that separate fares are charged for its passengers [Section 2(7) of Motor Vehicles Act, 1988].

Further, **radio taxi** means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using the Global Positioning System or General Packet Radio Service.



**(31)** Subroto has hired a non-air conditioned bus from Mohit Travels for organising a recreation tour from Delhi to Jaipur. Transport of passengers by a non-air-conditioned contract carriage are exempt from GST. However, said transportation of passengers for tourism purposes is excluded therefrom. Therefore, in the given case, passenger transportation services are taxable.

<sup>32</sup> [www.macmillandictionary.com](http://www.macmillandictionary.com)

**Hiring of non-air conditioned contract carriages by firms for transportation of their employees to and from work**

**Exemption under this clause would apply to passenger transportation services by non-air conditioned contract carriages where transportation takes place over pre-determined route on a pre-determined schedule. The exemption shall not be applicable where contract carriage is hired for a period of time, during which the contract carriage is at the disposal of the service recipient and the recipient is thus free to decide the manner of usage (route and schedule) subject to conditions of agreement entered into with the service provider<sup>33</sup>.**

**Clause (c)**

- Passenger transportation services provided by a stage carriage other than air conditioned stage carriage are also exempt.

The term **stage carriage** means a motor vehicle constructed or adapted to carry more than 6 passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey [Section 2(40) of the Motor Vehicles Act, 1988].

**(32)** The non-air conditioned buses are being operated by a State Transport Corporation for carrying passengers within the State. The passengers are being picked and dropped from and to various points by issuing individual tickets to the passengers. Such services provided by said State Transport Corporation are exempt from GST.

**Proviso**

***It is important to note that in case where services of transport of passengers, by non-air conditioned contract carriage other than radio taxi excluding tourism, conducted tour, charter or hire or by non-air conditioned stage carriage, are supplied through Electronic Commerce Operator (ECO)<sup>34</sup>, such services are not exempt from GST. Further, tax on such services shall be paid by ECO.***

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<sup>33</sup> Circular No. 177/09/2022 GST dated 03.08.2022

<sup>34</sup> Provisions relating to ECOs have been discussed in detail in Chapter 3 – Charge of GST in this Module of the Study Material.

**Entry 16**

- ❑ Services provided to the Central Government, by way of transport of passengers by air, embarking from or terminating at a RCS airport, against consideration in the form of viability gap funding are exempt.

A **Regional Connectivity Scheme** is introduced to facilitate / stimulate regional air connectivity by making it affordable by supporting airline operators through (1) concessions by Central Government/State Governments and airport operators to reduce the cost of airline operations on regional routes/other support measures and (2) financial (viability gap funding or VGF) support to meet the gap, if any, between the cost of airline operations and expected revenues on such routes.

Under RCS, the underserved airports of India are aimed to be connected to key airports through flights that will cost ₹ 2,500 for per hour flight.

**Entry 17**

- ❑ Transportation of passengers by following specified modes of transport is exempt:
- railways in a class other than—
    - first class; or
    - an air-conditioned coach;
  - metro, monorail or tramway;
  - inland waterways;
  - public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and
  - metered cabs or auto rickshaws (including e-rickshaws).

The term **metered cab** means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment and that is charged accordingly under the conditions of its permit issued under the Motor Vehicles Act, 1988 and the rules made thereunder (but does not include radio taxi).



The term **E-rickshaw** means a special purpose battery powered vehicle of power not exceeding 4000 watts, having three wheels for carrying goods or passengers, as the case may be, for hire or reward, manufactured, constructed or adapted, equipped and maintained in accordance with such specifications, as may be prescribed in this behalf.



***It is important to note that in case where service of transport of passengers by metered cabs or auto rickshaws (including e-rickshaws) are supplied through ECO, such services are not exempt from GST. Further, tax on such services shall be paid by ECO.***



#### **Clause (d) of Entry 17**

As regards transportation of passengers by vessels in clause (d) of Entry 17 [See the table given above], the words '**other than predominantly for tourism purpose**' qualify the preceding words "**public transport**". This implies that to qualify for exemption under this entry, the public transport by a vessel between places located in India should not be predominantly for tourism purposes.

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



**(33)** Services by way of transportation of passengers [not predominantly for tourism purpose] on a vessel, from Kolkata to Port Blair (mainland to island) or Port Blair to Neil Island (inter island) is covered in clause (d) of Entry 17 since such transportation is between two places located in India.

***Where such public transport is owned by private operators. For instance, private ferries are used as means of transport from one island to another in Andaman and Nicobar Islands. Exemption under Entry 17(d) would apply to tickets purchased for transportation from one point to another***

*irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/government.*

*The expression ‘public transport’ used in this Entry only means that the transport should be open to public. It can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc<sup>35</sup>.*



Quiz  
Time!

5

Which of the following services are not exempt from GST?

(a) Services of transportation of employees in air conditioned vans for pick up and drop over predetermined route predetermined schedule.	(b) Transportation of passengers by railways in sleeper class.	(c) Transportation of passengers in autorickshaw.	(d) Transportation of passengers by air, in economy class, from Delhi to Manipur.
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## 8. Goods transportation services

Entry No.	Description of services
18	Services by way of transportation of goods- <ul style="list-style-type: none"> <li>(a) by road except the services of—               <ul style="list-style-type: none"> <li>(i) a goods transportation agency;</li> <li>(ii) a courier agency;</li> </ul> </li> <li>(b) by inland waterways.</li> </ul>

<sup>35</sup> Circular No. 177/09/2022 GST dated 03.08.2022

**20**

- Services by way of **transportation by rail or a vessel** from one place in India to another of the following goods –
- relief materials** meant for victims of natural or man-made disasters, calamities, accidents or mishap;
  - defence or military equipments;**
  - newspaper or magazines** registered with the Registrar of Newspapers;
  - agricultural produce;**
  - milk, salt and food grain** including flours, pulses and rice; and
  - organic manure.**



#### **Goods Transport Agency (GTA) Service**

**21**

- Services provided by a goods transport agency, by way of transport in a goods carriage of –
- agricultural produce;
  - milk, salt and food grain including flour, pulses and rice;
  - organic manure;
  - newspaper or magazines registered with the Registrar of Newspapers;
  - relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
  - defence or military equipments.

**21A**

- Services provided **by a GTA to an unregistered person**, including an unregistered casual taxable person, other than the following recipients, namely: -
- any factory registered under/governed by the Factories Act, 1948; or
  - any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or
  - any Co-operative Society established by or under any law for the time being in force; or
  - any body corporate established, by or under any law for the time being in force; or

	<ul style="list-style-type: none"> <li>(e) any partnership firm whether registered or not under any law including association of persons;</li> <li>(f) any <b>casual taxable person registered</b> 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.</li> </ul>
<b>21B</b>	<p>Services provided <b>by a GTA</b>, 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, 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.</li> </ul>



## ANALYSIS

### Transportation of goods by rail/vessel/GTA in goods carriage

Exemptions granted to transport of specified goods through rail or a vessel or by a GTA in goods carriage\*\* are presented in the following table:

<b>Transportation of the following goods by rail / vessel / GTA in goods carriage is exempt</b>	
<ul style="list-style-type: none"> <li>(a) agricultural produce</li> <li>(b) milk, salt and food grain including flours, pulses and rice</li> <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</li> <li>(f) defence or military equipments</li> </ul>	

**\*\*Goods carriage** means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods.

### Transportation of goods by road

- The services of transportation of goods by road are exempt from GST under **Entry 18**. Services of GTA and courier services are an exception to this exemption. However, GTA services provided to an unregistered person [including unregistered casual taxable person<sup>36</sup>] are exempt from GST by virtue of **Entry 21A**.
- Further, GTA services provided to registered casual taxable person and following persons, even if unregistered under GST law, are liable to tax:
  - (i) factory registered under Factories Act,
  - (ii) society registered under Societies Act,
  - (iii) Co-operative society,
  - (iv) body corporate and
  - (v) partnership firm including AOP.
- In other words, the GTA services provided to only an unregistered individual end consumer, whether being a casual taxable person or not, are exempt from GST.
- Thus, GTA services provided to:
  - ✓ person registered under GST law & registered casual taxable person, and
  - ✓ a factory registered under Factories Act, society registered under Societies Act, Co-operative society, body corporate and partnership firm including AOP – whether or not registered under GST law, are liable to tax.
- Transportation of goods service provided by GTA in a goods carriage, to a Central/State Government (Union Territory) Department or Establishment or local authority or Governmental agencies which has taken registration under

<sup>36</sup> The concept of 'casual taxable person' has been discussed in detail in Chapter 9 – Registration in Module 2 of this Study Material.

GST law only for the purpose of deducting TDS under section 51 and not for making a taxable supply of goods or services are exempt under **Entry 21B**.

Before proceeding further, we shall now understand the meaning of GTA:



#### Who is a GTA – Goods Transport Agency?

Let us understand the meaning of Goods Transport agency (GTA). Goods transport agency has been defined in the Notification to mean any person who:

- ❖ provides service **in relation to transport of goods by road** and
  - ❖ issues **consignment note**, by whatever name called.
- Thus, it can be seen that **issuance of a consignment note is the sine-qua-non for a supplier of service to be considered as a GTA**. If such a consignment note is not issued by the transporter, the service provider will not come within the ambit of GTA.
- If a consignment note is issued, it indicates that the lien on the goods has been transferred** (to the transporter) and the transporter becomes responsible for the goods till its safe delivery to the consignee. It is only the services of such GTA, which assumes agency functions, that has been brought into the GST net.
- Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA.** As a result, the services provided by such individual transporters who do not issue a consignment note will be covered by the entry at Entry 18 of Notification, which are exempt from GST.



**(34)** Hari Prasad owns a truck and operates it himself. He carries the goods booked for his truck without issuance of consignment note. Services provided by Hari Prasad by way of transportation of goods by road are exempt under Entry 18.

- Consignment note** means a document, issued by a GTA against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains:
- ✓ the name of the consignor and consignee,
  - ✓ registration number of the goods carriage in which the goods are transported,
  - ✓ details of the goods transported,
  - ✓ details of the place of origin and destination,
  - ✓ gross weight of the consignment;
  - ✓ GSTIN of the person liable for paying tax whether consignor, consignee or GTA
  - ✓ other particulars as prescribed for a tax invoice<sup>37</sup>.



The use of the phrase '**in relation to**' has extended the scope of the definition of GTA. It includes not only the actual transportation of goods, but also various intermediary and ancillary services, such as, loading/ unloading, packing/ unpacking, transshipment and temporary warehousing, which are provided in the course of transport of goods by road. These services are not provided as independent services but as ancillary to the principal service, namely, transportation of goods by road. The invoice issued by the GTA for providing the said service includes the value of intermediary and ancillary services.



In view of this, if any intermediary and ancillary service is provided in relation to transportation of goods by road, and charges, if any, for such services are included in the invoice issued by the GTA, such service would form part of the GTA service,

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<sup>37</sup> Meaning of GTA and consignment note elaborated in foregoing paras is primarily based on CBIC GST flyer - Chapter 38 – Goods Transport Agency in GST.

being a composite supply, and would not be treated as a separate supply. However, if such incidental services are provided as separate services and charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies<sup>38</sup>.

### What is courier agency?



Courier agency has been defined in the Notification to mean any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles.

**Express cargo service:** Some transporters undertake door-to-door transportation of goods or articles and they have made special arrangements for speedy transportation and timely delivery of such goods or articles.

Such services are known as 'Express Cargo Service' with assurance of timely delivery. The nature of service provided by 'Express Cargo Service' falls within the scope and definition of the courier agency. Hence, the said service relating to transportation of goods by road is not exempt.

### Transport of minerals within a mining area by vehicles deployed with driver for a specific duration of time

*The issue which arose for consideration was whether transport of minerals within a mining area, say from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time would be covered under Entry 18 which exempts transport of goods by road except by a GTA.*

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

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<sup>38</sup> As clarified in answer to question no. 6 of CBIC FAQs on Transport & Logistics.

**Such services are nothing but “rental services of transport vehicles with operator”. The person who takes the vehicle on rent defines how and when the vehicles will be operated, determines schedules, routes and other operational considerations.**

**The person who gives the vehicles on rent with operator cannot be said to be supplying the service by way of transport of goods.**

**Accordingly, it is clarified that such renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles with operator and not service of transportation of goods by road. Consequently, it is not eligible for exemption under Entry 18<sup>39</sup>.**


Quiz Time!

**6** Which of the following services provided by Sundar Transporters, a GTA, are not exempt from GST?

(a) Transport of organic manure to Agro Brothers Ltd.	(b) Transportation of household items provided to Mrs. Riddhima (unregistered).	(c) Transportation of goods provided to Malhotra & Malhotra Co. – a unregistered partnership firm.	(d) Transportation of goods provided to Municipal Corporation of Delhi.
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## 9. Banking and financial services

Entry No.	Description of services
27	Services by way of—

<sup>39</sup> Circular No. 177/09/2022 GST dated 03.08.2022

	<ul style="list-style-type: none"> <li>(a) <b>extending deposits, loans or advances</b> in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);</li> <li>(b) <i>inter se sale or purchase of foreign currency</i> amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.</li> </ul>
<b>27A</b>	Services provided by a <b>banking company to Basic Saving Bank Deposit (BSBD) account holders</b> under Pradhan Mantri Jan Dhan Yojana (PMJDY).
<b>34</b>	<p>Services by an acquiring bank, to any person in relation to settlement of an amount upto ₹ 2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service.</p> <p><i>Explanation.—</i> For the purposes of this entry, "<b>acquiring bank</b>" 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>
<b>39A</b>	<p>Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).</p> <p><i>Explanation.-</i> For the purposes of this entry, the intermediary of financial services in IFSC is a person,-</p> <ul style="list-style-type: none"> <li>(i) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or</li> <li>(ii) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or</li> <li>(iii) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or</li> <li>(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.</li> </ul>



## ANALYSIS

Banks and financial institutions provide a bouquet of financial services relating to lending or borrowing of money or investments in money.

Specified banking services exempt from GST vide Entry 27 have been discussed below:



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

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



**Interest:** means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized.



**Illustrations of services exempt under Entry 27 are -**

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



- ✓ Corporate deposits to the extent that the consideration for advancing such loans or advances are represented by way of interest or discount.
- Service charges/ fees, documentation fees, broking charges, administrative charges, entry charges or such like fees or charges collected over and above interest** on loan, advance or a deposit are not exempt and thus, represent taxable consideration.
- Invoice discounting/ cheque discounting or any other similar form of discounting** is covered only to the extent consideration is represented by way of discount as such discounting is a manner of extending a credit facility or a loan.
- Any interest/ delayed payment charges charged to clients for delay in payment of brokerage amount/ settlement obligations/ margin trading facility:** is exempt from GST since settlement obligations/ margin trading facilities are transactions which are in the nature of extending loans or advances and are covered by Entry 27<sup>40</sup>.
- Charges for late payment of outstanding dues on credit card:** Interest charged on outstanding credit card balances has been specifically excluded from Entry 27. Hence, the same is liable to GST.
- Additional/ penal interest on the overdue loan:** In cases where the Equated Monthly Instalment (EMI)<sup>41</sup> is not paid at the scheduled time, there is a levy of additional/ penal interest on account of delay in payment of EMI.

There may arise a doubt as to whether this additional / penal interest on the overdue loan is exempt under Entry 27 or such penal interest is to be treated as consideration for liquidated damages [amounting to a separate taxable supply of services under GST covered under entry 5(e) of Schedule II i.e. "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act"]

There are two transaction options involving EMI that are prevalent in the trade. These two options, alongwith the GST applicability

<sup>40</sup> As clarified vide FAQs on Banking, Insurance and Stock Brokers Sector issued by CBIC.

<sup>41</sup> An Equated Monthly Instalments (EMI) is a fixed amount paid by a borrower to a lender at a specified date every calendar month. EMIs are used to pay off both interest and principal every month, so that over a specified period, the loan is fully paid off along with interest.

on them, have been explained with the help of illustrations as under –



**(35)** X sells a mobile phone to Y. The cost of mobile phone is ₹ 40,000. However, X gives Y an option to pay in installments, ₹ 11,000 every month before 10<sup>th</sup> day of the following month, over next four months ( $\text{₹ } 11,000/- \times 4 = \text{₹ } 44,000/-$ ). As per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional/ penal interest amounting to ₹ 500/- per month for the delay.

In some instances, X is charging Y ₹ 40,000/- for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional/ penal interest amounting to ₹ 500/- per month for each delay in payment.

In this case, the amount of penal interest is to be included in the value of supply<sup>42</sup>. The transaction between X and Y is for supply of taxable goods i.e. mobile phone. Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.

**(36)** X sells a mobile phone to Y. The cost of mobile phone is ₹ 40,000/. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s. ABC Ltd. The terms of the loan from M/s. ABC Ltd. allows Y a period of four months to repay the loan and an additional/ penal interest @ 1.25% per month for any delay in payment.

Here, the additional/ penal interest is charged for a transaction between Y and M/s. ABC Ltd., and the same is getting covered under exemption Entry 27. Consequently, in this case the 'penal interest' charged thereon on a transaction between Y and M/s. ABC Ltd. would not be subject to GST as the same would be covered under said exemption entry. However, any service fee/ charge or any other charges, if any, are levied by M/s. ABC Ltd. in respect of the transaction related to extending

<sup>42</sup> Here, the amount of penal interest is to be included in the value of supply in terms of the provisions of section 15(2)(d). Section 15(2)(d) provides that the value of supply shall include interest or late fee or penalty for delayed payment of any consideration for any supply. The provisions of section 15 have been discussed in detail in Chapter 7: Value of Supply in this Module of the Study Material.

deposits, loans or advances does not qualify to be interest as defined in exemption notification, and accordingly will not be exempt.

Moreover, the value of supply of mobile by X to Y would be ₹ 40,000/- for the purpose of levy of GST.

Since this levy of additional/ penal interest satisfies the definition of "interest" as contained in Entry 27 above, the same cannot be treated as consideration for liquidated damages. Consequently, transaction of levy of additional/ penal interest does not fall within the ambit of Schedule II i.e. "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act"<sup>43</sup> [Circular No. 102/21/2019-GST dated 28.06.2019].

#### **(B) Services provided by banks or authorized dealers of foreign exchange by way of sale of foreign exchange:**

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



It is important to note that such services provided to general public will not be covered in this entry as this entry only covers sale or purchase of foreign exchange:-



- (i) amongst banks or
- (ii) amongst authorized dealers of foreign exchange or
- (iii) amongst banks and such dealers.

Services provided by commercial banks to RBI would be taxable as these are not covered by any of the exemptions/exclusions under the GST law.

#### **ILLUSTRATION 2**

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

<sup>43</sup> Schedule II has been discussed in detail in Chapter 2 – Supply under GST in this Module of the Study Material.

<i>Particulars</i>	<i>Amount [₹ in crores] (excluding GST)</i>
<i>Extended housing loan to its customers</i>	100
<i>Processing fees collected from its customers on sanction of loan</i>	20
<i>Commission collected from its customers on bank guarantee</i>	30
<i>Interest income on credit card issued by the bank</i>	40
<i>Interest received on housing loan extended by the bank</i>	25
<i>Minimum balance charges collected from current account and saving account holder</i>	01

*Compute the value of taxable outward supply.*

### ANSWER

#### **Computation of value of taxable outward supply of M/s. Apna Bank Limited for the month of August:**

<b>Particulars</b>	<b>Amount in crores (₹)</b>
Housing loan extended to customers [Since money does not constitute goods, extending housing loan is not a supply.]	Nil
Processing fee collected on sanction of loan [Interest does not include processing fee on sanction of the loan. Hence, the same is taxable.]	20
Commission collected on bank guarantee [Any commission collected over and above interest on loan, advance or deposit are not exempt.]	30

Interest income on credit card issued by the bank [Services by way of extending loans in so far as the consideration is represented by way of interest are exempt from tax. However, interest involved in credit card services is specifically excluded from this exemption entry.]	40
Interest received on housing loan [Services by way of extending loans in so far as the consideration is represented by way of interest are exempt from tax.]	Nil
Minimum balance charges collected from current account and saving account holder [Any charges collected over and above interest on loan, advance or deposit are not exempt.]	01
Value of taxable outward supply	91

**Quiz Time!**

7 Which of the following amounts received by Sindhbad Bank are not exempt from GST?

(a) Cheque discounting charges received      (b) Interest on overdraft facility      (c) Charges for late payment of outstanding dues on credit card      (d) Interest received on housing loan

## 10. Life insurance business services

Entry No.	Description of services
28	Services of life insurance business provided by way of annuity under the <b>National Pension System</b> 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 <b>Army, Naval and Air Force Group Insurance Funds</b> 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 <b>Naval Group Insurance Fund</b> to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.
29B	Services of life insurance provided/agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) <b>Group Insurance Funds</b> to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.
36	<p>Services of life insurance business provided under following schemes-</p> <ul style="list-style-type: none"> <li>(a) Janashree Bima Yojana;</li> <li>(b) Aam Aadmi Bima Yojana;</li> <li>(c) Life micro-insurance product** as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of ₹ 2,00,000;</li> <li>(d) Varishtha Pension Bima Yojana;</li> <li>(e) Pradhan Mantri Jeevan Jyoti Bima Yojana;</li> <li>(f) Pradhan Mantri Jan Dhan Yojana;</li> <li>(g) Pradhan Mantri Vaya Vandan Yojana.</li> </ul> <p><b>**Life micro-insurance product</b> means any term insurance contract with/without return of premium, any endowment insurance contract or health insurance contract, with/without an accident benefit rider, either on individual/group basis, as per terms stated in Schedule-II appended to the regulations [Regulation 2(e) of the Insurance Regulatory and Development Authority (Micro-insurance) Regulations, 2005].</p>

## 11. Services provided by specified bodies

<b>Entry No.</b>	<b>Description of services</b>
<b>30</b>	Services by the <b>Employees' State Insurance Corporation</b> to persons governed under the Employees' State Insurance Act, 1948. 
<b>31</b>	Services provided by the <b>Employees Provident Fund Organisation</b> to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952. 
<b>31A</b>	Services by <b>Coal Mines Provident Fund Organisation</b> to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.
<b>31B</b>	Services by <b>National Pension System (NPS) Trust</b> to its members against consideration in the form of administrative fee. 

## 12. General insurance business services

<b>Entry No.</b>	<b>Description of services</b>
<b>35</b>	Services of <b>general insurance business</b> provided under following schemes – (a) Hut Insurance Scheme; (b) Cattle Insurance under Swarnajayanti Gram Swarozgar Yojna <sup>44</sup> ; (c) Scheme for Insurance of Tribals; (d) Janata Personal Accident Policy and Gramin Accident Policy; (e) Group Personal Accident Policy for Self-Employed Women; (f) Agricultural Pumpset and Failed Well Insurance;

<sup>44</sup> earlier known as Integrated Rural Development Programme

- (g) premia collected on export credit insurance;
- (h) Restructured Weather Based Crop Insurance Scheme (RWCIS), approved by the Government of India and implemented by the Ministry of Agriculture;
- (i) Jan Arogya Bima Policy;
- (j) Pradhan Mantri Fasal Bima Yojana (PMFBY);
- (k) Pilot Scheme on Seed Crop Insurance;
- (l) Central Sector Scheme on Cattle Insurance;
- (m) Universal Health Insurance Scheme;
- (n) Rashtriya Swasthya Bima Yojana;
- (o) Coconut Palm Insurance Scheme;
- (p) Pradhan Mantri Suraksha Bima Yojna;
- (q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.
- (r) Bangla Shasya Bima

**36A**

Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 or 40<sup>45</sup>.

### 13. Pension schemes

<b>Entry No.</b>	<b>Description of services</b>
<b>37</b>	Services by way of collection of contribution under the Atal Pension Yojana.
<b>38</b>	Services by way of collection of contribution under any pension scheme of the State Governments.

<sup>45</sup> Entry 40 is discussed subsequently under heading 15. 'Services provided to Government'.

#### 14. Business facilitator/ correspondent

**Entry 39:** Services by the following persons in respective capacities –

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



#### ANALYSIS

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

BCs/BFs help villagers to open bank accounts and provide other banking services to them. They act as an intermediary between the bank and its customers. Banks, in turn, pay commission/ fee to the BCs/BFs.

According to the RBI guidelines, while the BCs are permitted to carry out transactions on behalf of the bank as agents, the BFs can refer clients, pursue the clients' proposal and facilitate the bank to carry out its transactions, but cannot transact on behalf of the bank<sup>46</sup>.

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<sup>46</sup> BFs provide a wide range of services including identification of borrowers and fitment of activities, collection and preliminary processing of loan applications, processing and submission of applications to banks, follow-up for recovery, etc. BCs, in addition to these activities, also undertake disbursal of small value credit, recovery of principal / collection of interest, collection of small value deposits, sale of micro insurance/ mutual fund products/ pension products/ other third party products, receipt and delivery of small value remittances/ other payment instruments, etc.

Similarly, insurance companies engage the BCs/BFs to provide the insurance services in remote areas.

Entry 39 exempts the services provided by BF/BC to a banking company with respect to accounts in its rural area branch and services provided by any person as an intermediary to a BF/BC with respect to said services are exempt from GST. Further, the services provided by BF/BC to an insurance company in a rural area are also exempt.

It is important to note that for the purpose of availing exemption from GST under this Entry, services provided by a BF/BC to a banking company in their respective individual capacities should be with respect to accounts in a branch located in the **rural area** of the banking company.

Wherever the services provided by BF/BC to banking company and services provided by intermediary of BF/BC to BF/BC do not fall within the scope of this entry, GST is payable on such services.

However, the banking company is the person liable to pay GST under reverse charge in respect of commission/fees charged for the taxable services provided by BF to a banking company. Similarly, GST on taxable services provided by an agent of BC to BC is payable under reverse charge by the BC.

Further, as seen above, as per RBI's guidelines, banks may pay reasonable commission/fee to the BC. The agreement of banks with the BC specifically prohibits them from directly charging any fee to the customers for services rendered by them on behalf of the bank. On the other hand, banks (and not BCs) are permitted to collect reasonable service charges from the customers for such service in a transparent manner.

The arrangements of banks with the BCs specify the requirement that the transactions are accounted for and reflected in the bank's books by end of the day or the next working day, and all agreements/contracts with the customer shall clearly specify that the bank is responsible to the customer for acts of omission and commission of the BF/BC.

Hence, banking company is the service provider to the ultimate customer in the BF model/BC model. The banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via BF/BC<sup>47</sup>.

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<sup>47</sup> Circular No. 86/05/2019 GST dated 01.01.2018

Other relevant definitions under this entry are as follows:

- **Insurance company:** means a company carrying on life insurance business or general insurance business.
- **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 [Section 2(13) of the IGST Act, 2017].
- **Rural area:** means the area comprised in a village as defined in land revenue records, excluding the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or any area that may be notified as an urban area by the Central Government or a State Government.
- Exemption Notification defines BF/BC as an intermediary appointed under the BF model or BC model by a banking company or an insurance company under the guidelines issued by the RBI.

## 15. Services provided to Government

<b>Entry No.</b>	<b>Description of services</b>
<b>3</b>	<p><b>Pure services provided TO Government:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Pure services (excluding works contract service or other composite supplies involving supply of any goods)</li> <li><input type="checkbox"/> provided to the Central Government, State Government or Union territory or local authority</li> <li><input type="checkbox"/> by way of any activity:           <ul style="list-style-type: none"> <li>✓ in relation to any function entrusted to a Panchayat under article 243G of the Constitution or</li> <li>✓ in relation to any function entrusted to a Municipality under article 243W of the Constitution.</li> </ul> </li> </ul>
<b>3A</b>	<p><b>Composite supply of goods and services TO Government:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of</li> </ul>

	<p>the said composite supply</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> provided to the Central Government, State Government or Union territory or local authority</li> <li><input type="checkbox"/> by way of any activity:           <ul style="list-style-type: none"> <li>✓ in relation to any function entrusted to a Panchayat under article 243G of the Constitution or</li> <li>✓ in relation to any function entrusted to a Municipality under article 243W of the Constitution.</li> </ul> </li> </ul>
11A	<p>Service provided <b>by Fair Price Shops</b> 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.</p> 
40	<p>Services provided to the Central Government, State Government, Union territory <b>under any insurance scheme</b> for which total premium is paid by the Central Government, State Government, Union territory.</p>
72	<p>Services provided to the Central Government, State Government, Union territory administration <b>under any training programme</b> for which <b>75% or more of the</b> total expenditure is borne by the Central Government, State Government, Union territory administration.</p> <p><b><i>It is clarified<sup>48</sup> that free coaching services provided by coaching institutions and NGOs under the central scheme of "Scholarships for students with Disabilities" where 75% or more of the expenditure<sup>49</sup> is borne by the Government to coaching institutions</i></b></p>

<sup>48</sup> vide Circular No. 164/20/2021 GST dated 06.10.2021

<sup>49</sup> This circular was issued prior to amendment in Entry 72 when the exemption was available only when **total expenditure** under the training programme was borne by the Central Government, State Government, Union territory administration.

However, as seen earlier in this chapter, Entry 72 has subsequently been amended and now exemption is available even when **75% or more of the total expenditure** under the training programme is borne by the Central Government, State Government, Union territory administration.

Hence, the words "total expenditure" have been substituted with "75% or more of the total expenditure" in the above discussion pertaining to circular.

**by way of grant in aid is covered under this entry and hence is exempt from GST.**



## ANALYSIS

**Entry 3** exempts the **supply of 'pure services'** to Government. Supply of '**pure services**' means supply of services without involving any supply of goods.

Further, '**composite supply of goods and services**'\* to Government is exempted vide **Entry 3A**.

\**in which value of supply of goods constitutes not more than 25% of value of such composite supply.*

Let us understand the concept of supply of 'pure services' and 'composite supply of goods and services' to Government by following examples:



**(37)** Supply of manpower for cleanliness of roads, public places, architect services, consulting engineer services, advisory services, and like services provided by business entities not involving any supply of goods would be treated as supply of pure services.



**(38)** A local authority awards the work of maintenance of street-lights in a Municipal area to an agency which involves apart from maintenance, replacement of defunct lights and other spares. In this case, the scope of the service involves maintenance work and supply of goods, i.e. composite supply of goods and services.

***It is clarified that if such services are procured by Indian Army or any other Government Ministry/Department which does not perform any functions listed in the 11<sup>th</sup> and 12<sup>th</sup> Schedule, in the manner as a local authority does for the general public, the same are not eligible for exemption under Entries 3 and 3A<sup>50</sup>.***

### 16. Leasing services

Entry No.	Description of services
41	Upfront amount (called as premium, salami, cost, price, development

<sup>50</sup> Circular No. 177/09/2022 GST dated 03.08.2022

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

#### **Upfront amount paid in instalments**

Aforesaid exemption is admissible irrespective of whether such upfront amount is payable/paid in one/more instalments, provided the amount is determined upfront<sup>51</sup>.

#### ***Location charges or preferential location charges (PLC) collected in addition to the lease premium for long term lease***

***Upfront amount is exempt from GST. Allowing choice of location of plot is integral part of supply of long-term lease of plot and therefore, location charge is nothing, but part of consideration charged for long term lease of plot. Being charged upfront along with the upfront amount for the lease, the same is exempt.***

***Accordingly, it is clarified that location charges or preferential location charges (PLC) paid upfront in addition to the lease premium for long term lease of land constitute part of upfront amount charged for long term lease of land and are eligible for the same tax treatment, and thus eligible for exemption under Entry 41<sup>52</sup>.***

Explanation - For the purpose of this exemption, the Central Government, State Government or Union territory shall have **20%** or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory.

#### **Conditions:**

1. The leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial

<sup>51</sup> As clarified vide Circular No. 101/20/2019 GST dated 30.04.2019

<sup>52</sup> As clarified vide Circular No. 177/09/2022 GST dated 03.08.2022

- or financial business area.
2. State Government concerned shall monitor and enforce the above condition as per the order issued by the State Government in this regard.
  3. 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/ buyer/ 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.
  4. 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/ 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.

## 17. Legal services

**Entry 45:** Services provided by-

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

- (ii) any person other than a business entity; or
  - (iii) a business entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017;
  - (iv) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.
- (c) a senior advocate by way of legal services to-
- (i) any person other than a business entity; or
  - (ii) a business entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.
  - (iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.



## ANALYSIS

Relevant definitions are as under:

- **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.
- **Advocate:** means an advocate entered in any roll under the provisions of the Advocates Act, 1961 [Section 2(1)(a) of the Advocates Act, 1961].
- **Arbitral tribunal:** means a sole arbitrator or a panel of arbitrators [Section 2(d) of the Arbitration and Conciliation Act, 1996].
- **Senior advocate:** An advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability standing at the Bar or special knowledge or experience in law he is deserving of such distinction. Senior advocates shall, in the matter of their practice, be subject to such restrictions as the Bar Council of India may, in the interest of the legal profession, prescribe.

**Under Entry 45, following services are exempt from GST****Legal services provided by**

- Arbitral tribunal
- Partnership firm of advocates or an individual as an advocate other than a senior advocate by way of legal services
- Senior advocate by way of legal services

**provided to**

- any person other than BE
- Business Entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017
- CG/SG/UT/LA/GA/GE

Legal services provided by a partnership firm of advocates/ individual as an advocate other than a senior advocate to another advocate/ partnership firm of advocates providing legal services.

Thus, legal services provided to a business entity with an aggregate turnover exceeding such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017 are liable to GST. Further, tax is payable by the business entity on such services under reverse charge.



**(39)** Pyarelal & Co. has obtained registration under GST in the preceding financial year as its aggregate turnover exceeded the threshold exemption limit. In the current FY, it sought legal consultancy services for its business from Nyay Advocates – a partnership firm of advocates. The legal services so received by Pyarelal & Co. are not exempt because its aggregate turnover exceeds the threshold exemption limit of registration in the preceding financial year. Further, the tax on the said legal services is payable by Pyarelal & Co. under reverse charge.



**Quiz  
Time!**

**8**

Which of the following services are liable to GST?

(a) Services provided by business correspondent to a banking company with respect to accounts in its urban area branch.

(c) Legal services provided by senior advocate to an unregistered business entity.

(c) Services provided by a banking company to Basic Saving Bank A/c under PM Jan Dhan Yojana.

(d) Services by way of collection of contribution under Atal Pension Yojana.

## 18. Sponsorship of sports events

**Entry 53:** Services by way of sponsorship of sporting events organised -

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

## 19. Skill Development services

<b>Entry No.</b>	<b>Description of services</b>
<b>69</b>	Any services provided by, –

	<ul style="list-style-type: none"> <li>(a) the National Skill Development Corporation set up by the Government of India;</li> <li>(b) a Sector Skill Council approved by the National Skill Development Corporation;</li> <li>(c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;</li> <li>(d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council,</li> </ul> <p>in relation to-</p> <ul style="list-style-type: none"> <li>(i) the National Skill Development Programme implemented by the National Skill Development Corporation; or</li> <li>(ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or</li> <li>(iii) any other Scheme implemented by the National Skill Development Corporation.</li> </ul>
<b>70</b>	Services of <b>assessing bodies empanelled centrally</b> by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.
<b>71</b>	Services provided by training providers (Project implementation agencies) under <b>Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDUGKY)</b> implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training.

## 20. Performance by an artist

**Entry 78:** Services by an artist by way of a performance in folk or classical art forms of-

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

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

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

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

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

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

### ILLUSTRATION 3

*Determine the GST payable, if any, in each of the following independent cases, assuming that the rate of GST is 18% and that the service providers are registered:*

- (a) *Bollywood dance performance by a film actor in a film and consideration charged is ₹ 1,45,000.*
- (b) *Carnatic music performance by a classical singer to promote a brand of readymade garments and consideration charged is ₹ 1,30,000.*
- (c) *Carnatic music performance by a classical singer in a music concert and consideration charged is ₹ 1,55,000.*
- (d) *Kathak dance performance by a classical dancer in a cultural programme and consideration charged is ₹ 1,45,000.*

### ANSWER

- (a) Bollywood Dance performance by a film actor in a film is not exempt from GST even though the consideration charged is less than threshold limit of ₹ 1,50,000. The reason for the same is that the dance performance by an artist is exempt only if it is a performance in folk or classical art forms of dance.

- (b) Carnatic music performance by a classical singer to promote a brand of readymade garments is not exempt from GST even though, the consideration charged is less than threshold limit of ₹ 1,50,000 and it is a performance in classical art forms of music. The reason for the same is that the said exemption is not applicable to service provided by such artist as a brand ambassador.
- (c) Carnatic music performance by a classical singer in a music concert is not exempt from GST even though it is a performance in classical art forms of music. The reason for the same is the consideration charged for the service exceeds ₹ 1,50,000. Consequently, entire consideration charged is subject to GST as follows:  

$$= ₹ 1,55,000 \times 18\% = ₹ 27,900$$
- (d) Kathak dance performance by a classical dancer in a cultural programme is exempt from GST as it is a performance in classical art forms of dance and consideration charged does not exceed ₹ 1,50,000 [i.e. ₹ 1,45,000].

## 21. Right to admission to various events

Entry No.	Description of services
79	<p>Services by way of admission to a <b>museum, national park, wildlife sanctuary, tiger reserve or zoo**</b>.</p> <p>**Zoo means an establishment, whether stationary or mobile, where captive animals are kept for exhibition to the public and includes a circus and rescue centres but does not include an establishment of a licensed dealer in captive animals. [Section 2(39) of the Wild Life (Protection) Act, 1972].</p>
79A	<p>Services by way of admission to a <b>protected monument</b> so declared under the Ancient Monuments and Archaeological Sites &amp; Remains Act 1958 or any of the State Acts, for the time being in force.</p>
81	<p>Services by way of right to admission to-</p> <p>(a) circus, dance, or theatrical performance including drama or ballet;</p>

- (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event①;
- (c) recognised sporting event;
- (d) planetarium,

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

① **Recognised sporting event** means any sporting event,-

- (i) organised by a **recognised sports body**●● where the participating team or individual represent any district, state, zone or country;
- (ii) organized
  - (A) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State or zone;
  - (B) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
  - (C) by Central Civil Services Cultural and Sports Board;
  - (D) as part of national games, by Indian Olympic Association; or
  - (E) under Panchayat Yuva Kreeda Aur Khel Abhiyaan (PYKKA) Scheme.

●● **Recognised sports body** means –

- (i) the Indian Olympic Association;
- (ii) Sports Authority of India;
- (iii) a national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations;
- (iv) national sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government;
- (v) the International Olympic Association or a federation recognised by the International Olympic Association; or

- (vi) a federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India.

## 22. Services by an unincorporated body or a non- profit entity

<b>Entry No.</b>	<b>Description of services</b>
<b>77</b>	<p>Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution –</p> <ul style="list-style-type: none"> <li>(a) as a trade union</li> <li>(b) for the provision of carrying out any activity which is exempt from the levy of Goods and Services Tax; or</li> <li>(c) up to an amount of <b>₹ 7,500</b> 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.</li> </ul>
<b>77A</b>	<p>Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,-</p> <ul style="list-style-type: none"> <li>(i) activities relating to the welfare of industrial or agricultural labour or farmers; or</li> <li>(ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,</li> </ul> <p>to its own members against consideration in the form of membership fee upto an amount of ₹ 1000/- per member per year.</p>



## ANALYSIS

### Co-operative Housing Society

Co-operative Housing Societies are entities registered under the co-operative laws of the respective States. A Co-operative Housing Society is a collective body of persons, who stay in a residential society and as a collective body, they supply certain services to its



members, like collecting statutory dues from its members and remitting to statutory authorities, maintenance of the building, security etc.

A Co-operative Housing Society is akin to a club, which is composed of its members. Service provided by a Housing Society [Resident Welfare Association (RWA)] to its members is treated as service provided by one person to another. The activities of the housing society/RWA would attract the levy of GST and the housing society would be required to register if its aggregate turnover exceeds the threshold limit and comply with the GST Law, unless specifically exempted.

#### **GST exemption on services provided by a Co-operative Housing Society**

If the aggregate turnover of housing society/RWA providing services to its members is above the applicable threshold limit for registration<sup>53</sup>, it needs to take registration under GST in terms of section 22 [*Refer Chapter-9: Registration in Module 2 of this Study Material for detailed discussion on registration*].

However, taking registration does not mean that the housing society has to compulsorily charge GST in the monthly maintenance bills raised on its members. If the services provided by it are exempt under an exemption notification, then it is not required to charge GST on the said services, even if it is registered under GST.

For instance, in view of entry 77(c) above, supply of service by a RWA (unincorporated body or a non- profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of ₹ 7500 per month per member for providing services and goods for the common use of its members in a housing society/a residential complex are exempt from GST.

So, there can be case where a society is registered under GST, but the monthly contribution received from all the members is less than ₹ 7,500/- per member (and the amount is for the purpose of sourcing of goods and services from a third person for the common use of its members). In such a case, no GST is to be charged by the housing society on the monthly bill raised by the society.

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<sup>53</sup> Threshold limit is ₹ 10 lakh for specified Special Category States, namely, Manipur, Mizoram, Nagaland and Tripura and ₹ 20 lakh for all other States.



**(40)** RWA of Chulbul Housing Society, registered under GST, collected the maintenance charges of ₹ 6,000 per month per member. In this case, no GST is to be charged by the RWA.

However, in above case, if the monthly contribution exceeds ₹ 7,500/- per member, entire contribution is taxable.



**(41)** If, in above example, other things remaining the same, the RWA of Chulbul Housing Society collected the maintenance charges of ₹ 9,000 per month per member, GST @18% shall be payable on the entire amount of ₹ 9,000 and not on [₹ 9,000 - ₹ 7,500] = ₹ 1,500.

There can also be a case where the aggregate turnover of the society/RWA is less than the applicable threshold limit for registration and the monthly contribution of all the individual members towards maintenance is less than ₹ 7,500/- (such services being exempt). Further, the society is providing no other taxable service to its members or outsiders. In this case, the society (essentially exclusively providing wholly exempt services) need not take registration under GST.



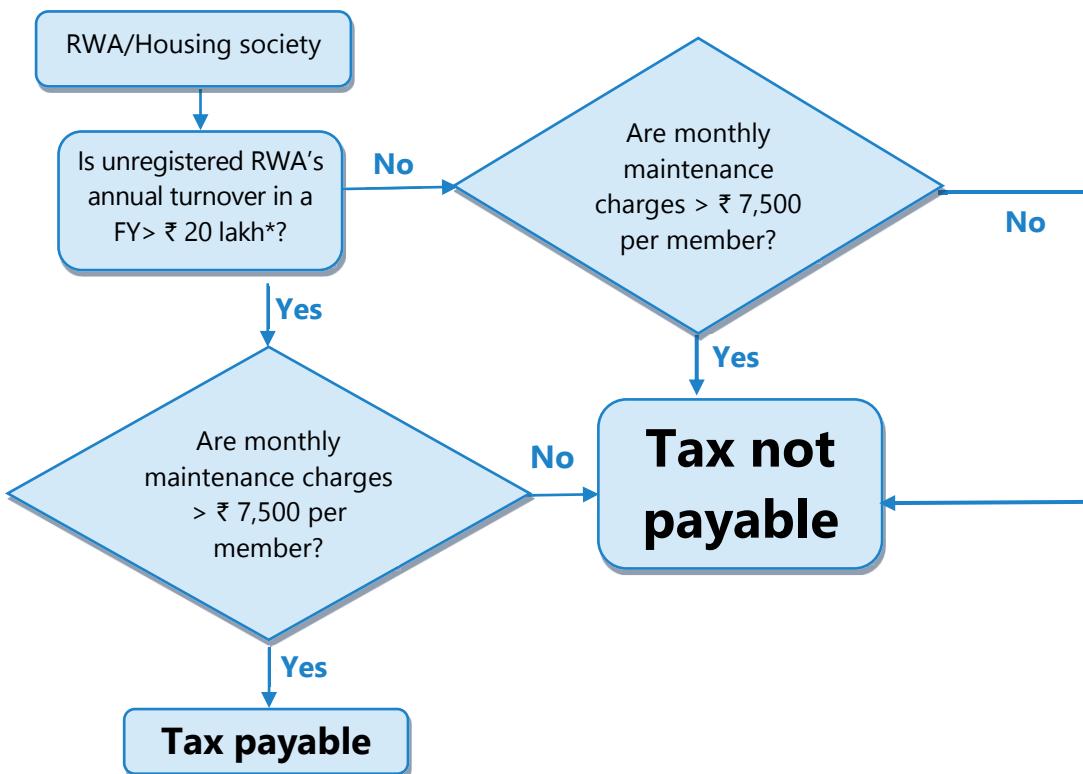
**(42)** The turnover of RWA of Bulbul Housing Society located in New Delhi in a financial year is ₹ 15 lakh. It has collected the maintenance charges of ₹ 6,000 per month per member. RWA is not providing any other taxable service to its members. In this case, RWA is not required to take registration under GST since its aggregate turnover is less than the applicable threshold limit of ₹ 20 lakh.

However, an RWA is not required to obtain registration even though the amount of maintenance charges exceeds ₹ 7500 per month per member but aggregate turnover of the RWA in a financial year does not exceed the threshold limit for registration.



**(43)** In the above example, other things remaining the same, if the maintenance charges collected by the RWA are ₹ 8,000 per month per member, RWA is still not required to take registration under GST since its aggregate turnover is less than the applicable threshold limit of ₹ 20 lakh.

The above discussion has been summarized as under:



\* ₹ 10 lakh in case of Special Category States of Manipur, Mizoram, Nagaland and Tripura

Thus, RWA shall be required to pay GST on monthly subscription/ contribution charged from its members, only if such subscription is more than ₹ 7500/- per month per member and the annual aggregate turnover of RWA by way of supplying of services or goods or both is also more than ₹ 20 lakh.

In other words,

Annual turnover of RWA	Monthly maintenance charge	Whether exempt?
More than ₹ 20 lakh*	More than ₹ 7500/-	No
	₹ 7500/- or less	Yes

₹ 20 lakh or less	More than ₹ 7500/-	Yes
	₹ 7500/- or less	Yes

\* ₹ 10 lakh in case of Special Category States of Manipur, Mizoram, Nagaland and Tripura

There may also be cases where a person owns 2 or more flats in the housing society/residential complex. The question arises whether the ceiling of ₹ 7500/- per month per member on the maintenance for the exemption to be available shall be applied per residential apartment or per person.

As per general business sense, a person who owns 2 or more residential apartments in a housing society or a residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. Consequently, the ceiling of ₹ 7500/- per month per member shall be applied separately for each residential apartment owned by him.



**(44)** Gareeb Chand owns two residential apartments in a residential complex and pays ₹ 15,000/- per month as maintenance charges towards maintenance of these two apartments to the RWA (₹ 7,500/- per month in respect of each residential apartment). In this case, the exemption from GST shall be available with respect to maintenance charges paid for each apartment.

It is important to note that RWA is entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services, used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than ₹ 7,500 per month per member. [Refer Chapter-8: Input Tax Credit in Module 2 of this Study Material for detailed discussion on ITC provisions]



**(45)** RWA of Tintin Housing Society, registered under GST, has collected the maintenance charges of ₹ 9,000 per month per member from 1,000 members of the society in the month of May. For paying the GST of ₹ 16,20,000 [payable @ 18% on the amount of ₹ 90,00,000], RWA can utilise the ITC of GST of ₹ 1,00,000 paid by it on purchase of swings for garden, ITC of ₹ 20,000

on electric cables and ITC of ₹ 15,000 on plumbing services, which were made/availed during the month of May.

★ Statutory dues such as property tax, electricity charges etc. forming part of the monthly maintenance bill raised by the society on its members would be excluded while computing the aforesaid monthly limit of ₹ 7,500<sup>54</sup>.


Quiz Time!

Which of the following services are not exempt from GST?

9

(a) Services by way of admission to a museum.

(b) Right to admission to a circus where the ticket cost is ₹550 per person.

(c) Classical music performance by a singer where consideration charged is ₹1,45,000.

(d) Sponsorship of sporting events organized under Panchayat Yuva Kreedaa Aur Khel Abhiyaan Scheme

### 23. Other exempt services

<b>Entry No.</b>	<b>Description of services</b>
2	<p>Services by way of <b>transfer of a going concern</b>, as a whole or an independent part thereof.</p> <p><b>Transfer of a going concern</b> means transfer of a running business which is capable of being carried on by the purchaser as an independent business, but shall not cover mere or predominant transfer of an activity comprising a service. Transfer of business for a lump sum consideration commonly referred to as slump sale is covered under this entry.</p>

<sup>54</sup> Discussion under this entry in forgoing paras is primarily based on Circular No. 109/28/2019 GST dated 22.07.2019, CBIC GST Flyer 'GST on Co-Operative Housing Societies' and CBIC FAQs on levy of GST on Supply of Services to Co-operative Society.

Such sale of business as a whole will comprise comprehensive sale of immovable property, goods and transfer of unexecuted orders, employees, goodwill etc. Since the transfer in title is not merely a transfer in title of either the immovable property or goods or even both it may amount to service and has thus been exempted.



**(46)** Royal Hotel Group is in the business of running a chain of restaurants. It intends to sell its business as a going concern. It would not be required to pay GST on such sale of its business.

12

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

**Explanation — For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, –**

**(i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and**

**(ii) such renting is on his own account and not that of the proprietorship concern.**

**Thus, renting of residential dwelling either by a registered person or an unregistered person for use as residence to UNREGISTERED PERSON is exempt from GST.**

**Renting of residential dwelling for use as residence to a registered person (other than proprietor covered in explanation above) as well as renting of residential dwelling for commercial use to registered or unregistered person is liable to GST.**

**Further, tax on renting of residential dwelling to a registered person is payable by the registered person under reverse charge<sup>55</sup>**

<sup>55</sup> Provisions relating to reverse charge mechanism are contained in Notification No. 13/2017 CT (R) dated 28.06.2017 which has been discussed in detail in Chapter 3 – Charge of GST in this Module of Study Material.

***whether such residential dwelling is being used for commercial purposes or residential purposes.***

**19C**

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

**22**

Services by way of **giving on hire** –

- (a) to a **State Transport Undertaking (STU)**, a motor vehicle meant to carry more than 12 passengers\*\*; or

**State Transport Undertaking:** means any undertaking providing road transport service, where such undertaking is carried on by-

- i. the Central Government or a State Government;
- ii. any Road Transport Corporation established under section 3 of the Road Transport Corporations Act, 1950.
- iii. any municipality or any corporation or company owned or controlled by the Central Government or one or more State Governments, or by the Central Government and one or more State Governments.

Explanation - For the purposes of this clause, **road transport service** means a service of motor vehicles carrying passengers or goods or both by road for hire or reward [Section 2(42) of the Motor Vehicles Act, 1988].

Generally, such STUs/ Corporations are established with a view to providing public transport facility to the commuters. If transport undertakings hire the buses on lease basis from private persons on payment of consideration, the services by way of supply of motor vehicles to such STU are exempt from payment of tax. However, supplies of motor vehicles to Government Departments other than the STUs are taxable<sup>56</sup>.

- (aa) to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers;

<sup>56</sup> As clarified vide question 26 of CBIC FAQs on Government Services

EOV 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/more electrical batteries fitted to such road vehicle.

**The expression “giving on hire” in this entry includes renting of vehicles. Accordingly, where the said vehicles are rented or given on hire to STUs or Local Authorities, said services are eligible for above exemption irrespective of whether such vehicles are run on routes, timings as decided by the STUs or Local Authorities and under effective control of STUs or Local Authorities which determines the rules of operation or plying of vehicles<sup>57</sup>.**

- (b) to a goods transport agency, a means of transportation of goods.



**(47)** Nishant owns a truck which he has rented to Sindhu and Bansal Transport Agency - a GTA. Services by way of giving on hire a means of transportation of goods [truck in the given case] to a GTA [Sindhu and Bansal Transport Agency], are exempt from tax. However, if Nishant had rented a vehicle designed to carry passengers to such GTA, said activity is not exempt under this entry.

- (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 by way of access to a road or a bridge on payment of toll charges.

**With regard to said entry, following issues have been clarified:**

- (i) Ministry of Road Transport and Highways (MORTH) permitted the overloaded vehicles to ply on the national highways after payment of higher toll charges. It has been



<sup>57</sup> Circular No. 164/20/2021 GST dated 06.10.2021

**clarified<sup>58</sup> that overloading charges at toll plazas would get the same treatment as given to toll charges.**

- (ii) **MORTH<sup>59</sup> has directed to collect additional amount from the users of the road to the extent of two times of the fees applicable to that category of vehicle which is not having a valid functional Fastag.**

**Essentially, the additional amount collected from the users of the road not having a functional Fastag, is in the nature of toll charges and should be treated as additional toll charges. Therefore, it is clarified<sup>60</sup> that additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and may be given the same treatment as given to toll charges.**

**25**

Transmission/distribution of electricity by an electricity transmission / distribution utility.



However, in this regard CBIC has clarified that the other services provided by DISCOMS (distribution companies) to consumer against charges are liable to GST such as,-

- i. Application fee for releasing connection of electricity;
- ii. Rental Charges against metering equipment;
- iii. Testing fee for meters/transformers, capacitors etc.;
- iv. Labour charges from customers for shifting of meters or shifting of service lines;
- v. charges for duplicate bill<sup>61</sup>.

**44**

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

<sup>58</sup> vide Circular No. 164/20/2021 GST dated 06.10.2021

<sup>59</sup> vide circular dated 16.02.2021

<sup>60</sup> vide Circular No. 177/09/2022 GST dated 03.08.2022

<sup>61</sup> Circular No. 34/8/2018 GST dated 01.03.2018

	<ul style="list-style-type: none"> <li>(a) the total turnover had not exceeded ₹ 50 lakh during the preceding financial year; and</li> <li>(b) a period of 3 years has not elapsed from the date of entering into an agreement as an incubatee.</li> </ul> <p><b>Incubatee:</b> means an entrepreneur located within the premises of a Technology Business Incubator (TBI)/ Science and Technology Entrepreneurship Park (STEP) recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India (NSTEDB) and who has entered into an agreement with the TBI/STEP to enable himself to develop and produce hi-tech and innovative products.</p>
48	Taxable services, provided or to be provided, by a TBI/STEP recognised by NSTEDB or bio- incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India (BIRAC).
49	Services by way of <b>collecting or providing news</b> by an independent journalist, Press Trust of India or United News of India.
50	Services of <b>public libraries</b> by way of lending of books, publications or any other knowledge-enhancing content or material.
52	Services by an organiser to any person in respect of a <b>business exhibition held outside India</b> .
57	Services by way of <b>pre-conditioning, pre- cooling, ripening, waxing, retail packing, labelling</b> of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.
58	Services provided by the <b>National Centre for Cold Chain Development</b> under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of <b>cold chain knowledge dissemination</b> .
59	Services by a <b>foreign diplomatic mission</b> located in India.
61A	<b>Services by way of granting National Permit to a goods carriage to operate through-out India/ contiguous States</b>

**65A**

Services by way of **providing information under the RTI Act** (Right to Information Act, 2005).

**68**

Services provided to a recognised sports body by-

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

However, services by individuals such as selectors, commentators, curators, technical experts are taxable. The service of a player to a franchisee which is not a recognized sports body is also taxable. *The term '**recognised sports body**' has been defined earlier in this chapter.*

**76**

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

**Note:** For the purpose of this exemption notification, 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.



Quiz  
Time!



10

Which of the following services are exempt from GST?

(a) Services to a foreign diplomatic mission located in India.

(b) Services by an organiser to any person in respect of a business exhibition held in India.

(c) Services by way of transfer of a going concern.

(d) Services provided by RBI.

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

**Circular No. 177/09/2022 GST dated 03.08.2022 clarifies the applicability of GST on honorarium paid to Guest Anchors. Sansad TV and other TV channels invite guest anchors to participate in their shows and pay remuneration to them in the form of honorarium.**

**It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability.**

**However, guest anchors whose aggregate turnover in a financial year does not exceed ₹20 lakh (₹10 lakh in case of specified Special Category States) shall not be liable to take registration and pay GST.**

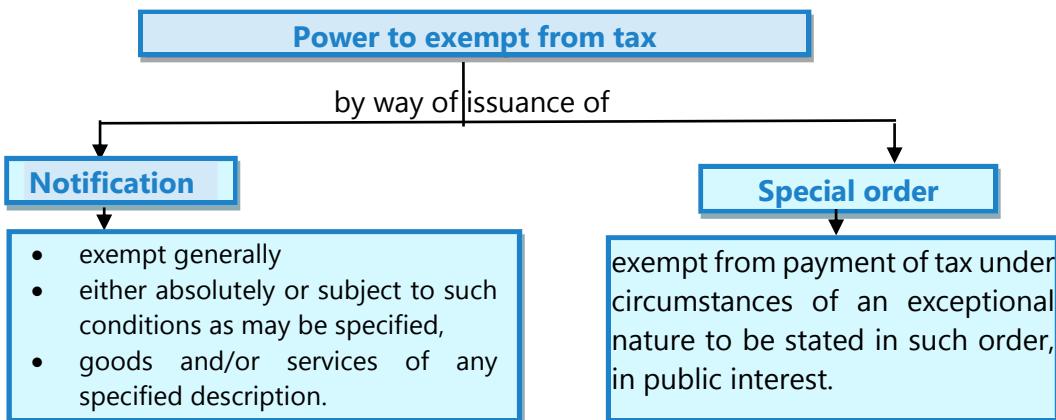
Students may note that some of the entries granting exemption from GST are similar to the negative list entry/entry granting exemption under the erstwhile service tax law.

Therefore, clarifications pertaining to said negative list entry/exemption provided under the erstwhile service tax law, wherever it seems relevant under the GST law, have been incorporated at relevant places.



## LET US RECAPITULATE

### 1. Power to exempt from tax [Section 11 of the CGST Act/ section 6 of IGST Act]



### 2. List of services exempt from GST

Services	Exempt Services
Services related to charitable and religious activities	<p><b>Charitable activities</b> BY an entity registered under section <b>12AA or 12AB</b> of Income-tax Act.</p> <p>Services by a person by way of-</p> <p>(a) conduct of any religious ceremony;</p> <p>(b) renting of precincts of a religious place meant for general public, owned/managed by institutions/entities/trusts, registered under section <b>12AA/12AB/10(23C)(v)</b> of the Income tax Act or body/authority covered under section 10(23BBA) of the said Act, except where-</p> <p>(i) charges for <b>renting of rooms ≥ ₹ 1,000</b> per day;</p>

	<p>(ii) charges for <b>renting of premises</b>, community halls, kalyanmandapam, open area, etc. are <math>\geq</math> ₹ 10,000 per day;</p> <p>(iii) charges for <b>renting of shops/spaces</b> for business/commerce are <math>\geq</math> ₹ 10,000 per month.</p>
	<p>Services by a specified organisation [KMVN/Haj Committee] <b>in respect of a religious pilgrimage</b> [Haj and Kailash Mansarovar Yatra].</p>
	<p><b>Training/coaching in</b></p> <p>(a) <b>recreational activities relating to arts/culture, by an individual or</b></p> <p>(b) <b>sports by charitable entities registered under section 12AA or 12AB of the Income-tax Act.</b></p>
Agriculture related services	<p>Loading, unloading, packing, storage or warehousing of rice.</p> <p>Warehousing of minor forest produce.</p> <p><b>Services by way of storage/ warehousing of cereals, pulses, fruits &amp; vegetables.</b></p> <p>Artificial insemination of livestock (other than horses).</p> <p>Carrying out an <b>intermediate production process as job work</b> in relation to cultivation of plants &amp; rearing of animals [except horses], for food, fibre, fuel, raw material or other similar products or agricultural produce.</p> <p>Services relating to cultivation of plants &amp; rearing of animals [except horses], for food, fibre, fuel, raw material or other similar products or agricultural produce by way of –</p> <p>(a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;</p> <p>(b) supply of <b>farm labour</b>;</p>

	<p>(c) <b>processes carried out at an agricultural farm</b> including tending, pruning, etc. and such like operations <b>which do not alter the essential characteristics of agricultural produce</b> but make it only marketable for the primary market;</p> <p>(d) <b>renting or leasing of agro machinery or vacant land</b> with/without a structure incidental to its use;</p> <p>(e) <b>loading, unloading, packing, storage or warehousing</b> of agricultural produce;</p> <p>(f) <b>agricultural extension services</b>;</p> <p>(g) services by any <b>Agricultural Produce Marketing Committee</b> or Board or services provided by a commission agent for sale/purchase of agricultural produce.</p>
Education services	<p>Services provided <b>BY an educational institution</b> (EI):</p> <ul style="list-style-type: none"> <li>• to its students, faculty and staff;</li> <li>• by way of conduct of entrance examination against consideration in form of entrance fee</li> </ul>
	<p>Services provided <b>TO an EI</b>, 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 (CG), State Government (SG) or Union Territory (UT);</p> <p>(iii) security/cleaning/housekeeping services performed in such EI;</p> <p>These exemptions are only applicable to an institution providing services by way of pre-school education &amp; education up to higher secondary school or equivalent.</p>

	<p>(iv) services relating to admission to, or conduct of examination by, such EI;</p> <p>(v) supply of online educational journals or periodicals. This exemption is <b>only applicable to an institution</b> providing services by way of education as part of a curriculum for obtaining qualification recognised by any law for time being in force.</p>
Health care services	<ul style="list-style-type: none"> <li>• <b>Health care services</b> BY a clinical establishment/ authorized medical practitioner/ para-medics. <i>However, nothing in this entry shall apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding ₹ 5000 per day to a person receiving health care services.</i></li> <li>• <b>Transportation of a patient in an ambulance</b> BY any person other than specified above.</li> </ul> <p>Service BY a veterinary clinic in relation to <b>Health care of animals/birds</b></p>
Services provided by Government	<p>Services by Governmental Authority (GA) by way of <b>any activity in relation to any function entrusted to a Municipality /Panchayat</b> under article <b>243W/ 243G</b> of Constitution.</p> <p>Services by the CG/SG/UT/Local Authority (LA) excluding following services—</p> <p class="list-item-l1">(a) services by <b>Department of Posts</b>;</p> <p class="list-item-l1">(b) services in relation to an <b>aircraft/a vessel</b>, inside/outside precincts of a port/airport;</p> <p class="list-item-l1">(c) <b>transport of goods/passengers</b>; or</p> <p class="list-item-l1">(d) any service, other than 'specified services' above, <b>provided to business entities</b>.</p>

(a) to (c) hereinafter referred as  
'specified services'

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

Services provided by CG/SG/UT/LA **to a business entity (BE) with an aggregate turnover of up to such amount in the preceding FY as makes it eligible for exemption** from registration under the CGST Act, 2017. This exemption is not applicable to **specified services**, and **renting of immovable property service**.

Services provided by CG/SG/UT/LA **to another CG/SG/UT/LA**. This exemption is not applicable to **specified services**.

Services provided by CG/SG/UT/LA\*\* **where consideration for such services does not exceed ₹ 5,000**. This exemption is not applicable to **specified services**.

\*\*In case of **continuous supply of service\***, the exemption shall apply only where the consideration charged for such service does not exceed **₹ 5,000 in a FY**.

Supply of service by a Government Entity (GE) to CG/SG/UT/LA/any person specified by CG/SG/UT/LA against consideration received from CG/SG/UT/LA, in the form of grants.

Services by an old age home run by CG/SG/an entity registered under section 12AA **or 12AB** of Income-tax Act to its residents (aged  $\geq 60$  years) against consideration upto ₹ 25,000 per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.

Services supplied by CG/SG/UT to their undertakings or PSUs by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions.

Services provided by CG/SG/UT/LA by way of-

- registration required under any law for the time being in force;
- 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.
	Services provided by CG/SG/UT/LA <b>by way of issuance of passport, visa, driving license, birth certificate or death certificate.</b>
	Services provided by CG/SG/UT/LA <b>by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable</b> to CG/SG/UT/LA under such contract.
	Services provided by CG/SG/UT/LA by way of <b>assignment of right to use natural resources to an individual farmer for cultivation of plants &amp; rearing of all life forms of animals</b> [except horses], for food, fibre, fuel, raw material or other similar products.
	Services provided by CG/SG/UT by way of <b>deputing officers after office hours or on holidays for inspection or container stuffing</b> or such other duties in relation to import export cargo on payment of Merchant Overtime charges.
	Services supplied by a SG to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of SG on the mineral dispatched by the mining lease holders subject to specified conditions.
	Services provided by rehabilitation professionals recognised under the RCI 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 CG/SG/UT/an entity registered under section 12AA <b>or 12AB</b> of the Income-tax Act, 1961.
Construction services	<b>Pure labour contracts</b> of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led

	<p>individual house construction or enhancement under the <b>Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana.</b></p>
	<p>Services supplied by <b>Electricity Distribution Utilities</b> by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer/agriculturalist for agricultural use.</p>
	<p><b>Pure labour contracts</b> of construction, erection, commissioning, or installation of original works pertaining to a <b>single residential unit otherwise than as a part of a residential complex.</b></p>
Services of transport of passengers (with/ without accompanied belongings)	<p>Such services provided by –</p> <ul style="list-style-type: none"> <li>(a) <b><i>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;</i></b></li> <li>(b) <b>non-air conditioned contract carriage</b> other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or</li> <li>(c) <b>stage carriage other than air- conditioned stage carriage.</b></li> </ul> <p><b>However, nothing contained in items (b) and (c) above shall apply to services supplied through an ECO, and notified under section 9(5) of the CGST Act.</b></p>
	<p>Such services provided to CG by air, embarking from or terminating at a Regional Connectivity Scheme (<b>RCS</b>) airport, against consideration in the form of viability gap funding. This exemption shall apply only till expiry of a period of <b>3 years</b> from date of commencement of operations of the RCS airport as notified by the Ministry of Civil Aviation.</p>
	<p>Such services provided by—</p> <ul style="list-style-type: none"> <li>(a) railways in a class other than first class/an air-conditioned coach;</li> </ul>

	<p>(b) metro, monorail or tramway;</p> <p>(c) inland waterways;</p> <p>(d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and</p> <p>(e) metered cabs or auto rickshaws (including e-rickshaws).</p> <p><b><i>However, nothing contained in item (e) above shall apply to services supplied through an ECO, and notified under section 9(5) of the CGST Act.</i></b></p>
Goods transportation services	<p>Services by way of transportation of goods-</p> <p>(a) by road except the services of—</p> <ul style="list-style-type: none"> <li>(i) a goods transportation agency (GTA);</li> <li>(ii) a courier agency;</li> </ul> <p>(b) by inland waterways.</p>
	<p>Exempt transportation of goods by <b>rail/ vessel/ by GTA in a goods carriage</b></p> <ul style="list-style-type: none"> <li>• Agricultural produce</li> <li>• milk, salt and food grain including flours, pulses and rice</li> <li>• organic manure</li> <li>• newspaper or magazines registered with the Registrar of Newspapers</li> <li>• Defence/ military equipments</li> <li>• relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap</li> </ul>
	<p>Services provided <b>by a GTA to an unregistered person</b>, including an unregistered casual taxable person, except following recipients, namely: -</p> <p>(a) a factory registered under Factories Act,</p> <p>(b) society registered under Societies Act,</p> <p>(c) Co-operative society,</p> <p>(d) body corporate and</p> <p>(e) partnership firm including AOP;</p> <p>(f) registered casual taxable person.</p>

	<p>Services provided <u>by a GTA</u>, 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 CG/SG/UT; or</li> <li>(b) local authority; or</li> <li>(c) Governmental agencies, which has taken registration only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.</li> </ul>
Banking and financial	<p>Services by way of—</p> <ul style="list-style-type: none"> <li>(a) <b>extending deposits, loans or advances</b> in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);</li> <li>(b) inter se <b>sale or purchase of foreign currency</b> amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.</li> </ul>
	<p>Services provided by a <b>banking company to Basic Saving Bank Deposit (BSBD) account holders</b> under Pradhan Mantri Jan Dhan Yojana (PMJDY).</p>
	<p>Services by an acquiring bank, to any person in relation to settlement of an amount upto ₹ 2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service.</p>
	<p>Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees.</p>
Services of Life insurance business	<p>Such services by way of annuity under the <b>National Pension System</b> by Pension Fund Regulatory and Development Authority of India (PFRDAI) under PFRDA Act, 2013.</p>
	<p>Such services by the <b>Army, Naval and Air Force Group Insurance Funds</b> to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of CG.</p>

	<p>Services of life insurance provided/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.</p>
	<p>Such services by the <b>Naval Group Insurance Fund</b> to the personnel of Coast Guard under the Group Insurance Schemes of CG.</p>
	<p>Such services under following schemes-</p> <ul style="list-style-type: none"> <li>(a) Janashree Bima Yojana;</li> <li>(b) Aam Aadmi Bima Yojana;</li> <li>(c) Life micro-insurance product** as approved by the Insurance Regulatory and Development Authority (IRDA), having maximum amount of cover of <b>₹ 2,00,000</b>;</li> <li>(d) Varishtha Pension BimaYojana; <span style="color: red; border-radius: 50%; padding: 2px 5px; margin-left: 10px;">(A)</span></li> <li>(e) Pradhan Mantri Jeevan Jyoti BimaYojana;</li> <li>(f) Pradhan Mantri Jan DhanYogana;</li> <li>(g) Pradhan Mantri Vaya Vandan Yojana.</li> </ul>
General insurance business	<p>Such services under following schemes –</p> <ul style="list-style-type: none"> <li>(a) Hut Insurance Scheme;</li> <li>(b) Cattle Insurance under Swarnajayanti Gram Swarozgar Yojna<sup>62</sup>;</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</li> </ul>

<sup>62</sup> earlier known as Integrated Rural Development Programme

	<p>implemented by the Ministry of Agriculture;</p> <p>(i) Jan Arogya Bima Policy;</p> <p>(j) Pradhan Mantri Fasal Bima Yojana (PMFBY);</p> <p>(k) Pilot Scheme on Seed Crop Insurance; <span style="color: purple;">(B)</span></p> <p>(l) Central Sector Scheme on Cattle Insurance;</p> <p>(m) Universal Health Insurance Scheme;</p> <p>(n) Rashtriya Swasthya Bima Yojana;</p> <p>(o) Coconut Palm Insurance Scheme;</p> <p>(p) Pradhan Mantri Suraksha Bima Yojna;</p> <p>(q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;</p> <p>(r) Bangla Shasya Bima.</p>
	<p>Services provided to CG/SG/UT <b>under any insurance scheme</b> for which total premium is paid by CG/SG/UT. <span style="color: green;">(C)</span></p>
	<p>Services by way of reinsurance of the insurance schemes specified in <span style="color: red;">(A)</span> or <span style="color: purple;">(B)</span> or <span style="color: green;">(C)</span> above.</p>
Services provided by specified bodies	<p>Services by the <b>Employees' State Insurance (ESI) Corporation</b> to persons governed under the ESI Act, 1948.</p>
	<p>Services provided by the <b>EPFO</b> to the persons governed under the Employees Provident Funds (EPF) &amp; Miscellaneous Provisions Act, 1952.</p>
	<p>Services by <b>CMPFO</b> to persons governed by Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.</p>
	<p>Services by <b>NPS Trust</b> to its members against consideration in the form of administrative fee.</p>

Pension schemes	Services by way of collection of contribution under: <ul style="list-style-type: none"> <li>• Atal Pension Yojana</li> <li>• any pension scheme of SG</li> </ul>
Business facilitator/correspondent	Services by the following persons in respective capacities – <ol style="list-style-type: none"> <li>(a) business facilitator/business correspondent to a Banking Co. with respect to accounts in its rural area branch;</li> <li>(b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or</li> <li>(c) business facilitator/business correspondent to an insurance company in rural area.</li> </ol>
Services provided to Government	Following services provided to the CG/SG/UT/LA by way of any activity in relation to any function entrusted to a Panchayat/Municipality under articles 243G/243W of the Constitution: <ul style="list-style-type: none"> <li><input type="checkbox"/> Pure services</li> <li><input type="checkbox"/> Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply.</li> </ul>
	Service provided <b>by Fair Price Shops</b> to CG/SG/UT by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System (PDS) against commission/margin.
	Services provided to CG/SG/UT <b>under any insurance scheme</b> for which total premium is paid by CG/SG/UT.
	Services provided to CG/SG/UT administration <b>under any training programme</b> for which <b>75% or more of the</b> total expenditure is borne by CG/SG/UT administration.
Leasing services	Upfront amount payable in respect of service by way of granting of long term lease of 30 years, or more of industrial plots/plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other

	entity having 20% or more ownership of CGS/SG/UT to the industrial units/developers in any industrial/financial business area, subject to specified conditions.	
Legal services	<p><b>Service provided by</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Arbitral tribunal</li> <li><input type="checkbox"/> Partnership firm of advocates or an individual as an advocate other than a senior advocate by way of legal services</li> <li><input type="checkbox"/> Senior advocate by way of legal services</li> </ul>	<p><b>To</b></p> <p>any person other than BE</p> <p>BE with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act</p> <p>CG/SG/UT/LA/GA/GE</p>
	Legal services provided by a partnership firm of advocates/ individual as an advocate other than a senior advocate to another advocate/ partnership firm of advocates providing legal services	
Sponsorship of sports events	<p>Sponsorship of sporting events organised -</p> <p>(a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;</p> <p>(b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;</p> <p>(c) by the Central Civil Services Cultural and Sports Board;</p> <p>(d) as part of national games, by the Indian Olympic Association; or</p> <p>(e) under Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme.</p>	

Skill Development services	<p>Services provided by, –</p> <ul style="list-style-type: none"> <li>(a) National Skill Development Corporation (NSDC) set up by GoI;</li> <li>(b) Sector Skill Council (SSC) approved by NSDC;</li> <li>(c) assessment agency approved by SSC/NSDC</li> <li>(d) a training partner approved by SSC/NSDC</li> </ul> <p>in relation to–</p> <ul style="list-style-type: none"> <li>(i) the National Skill Development Programme implemented by NSDC; or</li> <li>(ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or</li> <li>(iii) any other Scheme implemented by NSDC.</li> </ul>
	<p>Services of <b>assessing bodies empanelled centrally</b> by DGT, Ministry of Skill Development and Entrepreneurship by way of assessments under the SDI Scheme.</p>
	<p>Services provided by training providers (Project implementation agencies) under <b>DDUGKY</b> implemented by Ministry of Rural Development, GoI by way of offering skill or vocational training courses certified by the National Council for Vocational Training (NCVT).</p>
Performance by an artist	<p>Services by an artist by way of a performance in folk or classical art forms of music/ dance/ theatre, if the consideration charged for such performance is not more than <b>₹ 1,50,000</b>. This exemption shall not apply to service provided by such artists as a brand ambassador.</p>
Right to admission to various events	<p>Services by way of admission to:</p> <ul style="list-style-type: none"> <li>(i) museum, national park, wildlife sanctuary, tiger reserve or zoo</li> <li>(ii) protected monument declared under the Ancient Monuments and Archaeological Sites &amp; Remains Act 1958/any of the State Acts, for the time being in force.</li> <li>(iii) following events/places where the consideration for right to admission is not more than ₹ 500 per person:</li> </ul>

	<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.</li> </ul>
Services by an unincorporated body or a non-profit entity registered under any law for the time being in force	<p>Services by <b>unincorporated body/ non- profit entity to its own members</b> as reimbursement/share of contribution:</p> <p>(i) As a <b>trade union</b>      (ii) for providing <b>exempt activity</b></p> <p>(iii) <b>up to an amount of ₹ 7,500 per month per member for sourcing of goods/services</b> from a third person for the common use of its members in a housing society/residential complex</p> <p>Services provided by such entity/body engaged in-</p> <p>(i) activities relating to the welfare of industrial/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, to its own members against membership fee upto <b>₹ 1000/- per member per year.</b></p>
Other exempt services	<p><b>Transfer of a going concern</b>, as a whole or an independent part thereof.</p> <p>Services by way of renting of residential dwelling for use as residence <b>except where the residential dwelling is rented to a registered person.</b></p> <p><b>Explanation — For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, –</b></p> <p><b>(i) the registered person is proprietor of a proprietorship concern and rents the residential</b></p>

***dwelling in his personal capacity for use as his own residence; and***

- (ii) such renting is on his own account and not that of the proprietorship concern.***

Services by way of giving on hire –

- (a) to a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers;
- (aa) to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers; or
- (b) to a GTA, 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.

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

Transmission/distribution of electricity by an electricity transmission/ distribution utility.

Services provided by an incubatee up to a total turnover of ₹ 50 lakh in a FY provided:-

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

Taxable services, provided or to be provided, by a Technology Business Incubator/ Science and Technology Entrepreneurship Par (TBI/STEP) recognised by NSTEDB or bio- incubators recognised by BIRAC.

Services by way of **collecting or providing news** by an independent journalist, PTI or United News of India.

	Services of <b>public libraries</b> by way of lending of books, publications or any other knowledge-enhancing content or material.
	Services by an organiser to any person in respect of a <b>business exhibition</b> held outside India.
	Services by way of <b>pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling</b> of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.
	Services provided by the <b>National Centre for Cold Chain Development</b> under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of <b>cold chain knowledge dissemination</b> .
	Services by a <b>foreign diplomatic mission</b> located in India.
	<b>Services by way of granting National Permit to a goods carriage to operate through-out India/ contiguous States</b>
	Services by way of <b>providing information under the RTI Act.</b>
	Services provided to a recognised sports body (RSB) by- <ul style="list-style-type: none"> <li>(a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a RSB;</li> <li>(b) another RSB.</li> </ul>
	Services by way of <b>public conveniences</b> such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.



## TEST YOUR KNOWLEDGE

1. *Exempt supply means supply of any goods or services or both which attracts nil rate of tax and which may be wholly exempt from tax, but excludes non-taxable supply. Discuss the validity of the statement.*

2. Services provided by an entity registered under section 12AB of the Income-tax Act, 1961 are exempt from GST if such services are provided by way of charitable activities. Elaborate the term 'charitable activities'.
3. Examine which of the following independent services are exempt from GST:
  - (a) Food supplied by the canteen run by a hospital to the in-patients as advised by the doctors.
  - (b) An RWA in a housing society, registered under GST, collects the maintenance charges of ₹6,500 per month per member.
4. An individual acts as a referee in a football match organized by Sports Authority of India. He has also acted as a referee in another charity football match organized by a local sports club, in lieu of a lump sum payment. Discuss whether any GST is payable on the activities undertaken by him.
5. RXL Pvt. Ltd. manufactures a beauty soap with the brand name 'Forever Young'. RXL Pvt. Ltd. has organized a concert to promote its brand. Ms. Ahana Kapoor, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert as a part of her services as a brand ambassador of the company. The proceeds of the concert worth ₹1,20,000 will be donated to a charitable organization by Ms. Ahana.

Examine whether Ms. Ahana Kapoor will be required to pay any GST for classical dance performance given in the said concert.

6. Examine whether GST is exempted on the following independent supplies of services:
  - (i) Service provided by a private transport operator to Scholar Boys Higher Secondary School by way of transportation of students to and from the school.
  - (ii) Services provided by way of vehicle parking to general public in a shopping mall.
7. A State Transport Undertaking has hired motor vehicles meant to carry 8 - 10 passengers from Fast Cab Renting, a motor vehicle renting company. Give your comments as to whether any GST is payable in this case.
8. Indiana Engineering College, an educational institution, has conducted an entrance test examination for various courses run by it (for obtaining qualification(s) recognised by law for the time being in force) and charged

*entrance fees from the applicants. Determine whether Indiana Engineering College is liable to pay GST on the same.*

9. *Babloo Transporters, a Goods Transport Agency, transported relief materials in a goods carriage meant for victims of Kerala floods, a natural disaster, by road from Delhi to Ernakulam, for a company. Babloo 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 advice it on the said issue.*
10. *Keyan Enterprises, an event organizer, provided services to Breathing Wall Ltd. by way of organizing business exhibition in New Delhi as part of Make in India initiative. Keyan Enterprises claims that it is not required to pay GST as the services provided by way of organizing business exhibition are exempt from GST. Examine the technical veracity of the claim of Keyan Enterprises, in the given case.*
11. *ST Ltd. has given on hire 5 trucks to Titu Transporters of Delhi (a goods transport agency) for transporting goods in Central and West Delhi. The hiring charges for the trucks are ₹ 7,500 per truck per day. Examine whether GST is payable in the given case.*



## ANSWERS/HINTS

1. The statement is not fully valid in law. Exempt supply has been defined as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply [Section 2(47)].
2. The term 'charitable activities' mean activities relating to-
  - (i) public health by way of-
    - (A) care or counseling of
      - (I) terminally ill persons or persons with severe physical or mental disability;
      - (II) persons afflicted with HIV or AIDS;
      - (III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

- (B) public awareness of preventive health, family planning or prevention of HIV infection;
- (ii) advancement of religion, spirituality or yoga;
- (iii) advancement of educational programmes/skill development relating to,-
- (A) abandoned, orphaned or homeless children;
  - (B) physically or mentally abused and traumatized persons;
  - (C) prisoners; or
  - (D) persons over the age of 65 years residing in a rural area;
- (iv) preservation of environment including watershed, forests & wildlife.
3. (a) Services by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST. Food supplied to the in-patients by a canteen run by the hospital, as advised by the doctor/nutritionists, is a part of composite supply of healthcare and not separately taxable. Thus, said services are exempt from GST.
- (b) Supply of service by a RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of ₹ 7500 per month per member for providing services and goods for the common use of its members in a housing society/a residential complex are exempt from GST. Hence, in the given case, services provided by the RWA are exempt from GST since the maintenance charges collected per month per member do not exceed ₹ 7500.
4. Services provided to a recognized sports body by an individual, *inter alia*, as a referee in a sporting event organized by a recognized sports body is exempt from GST.

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

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

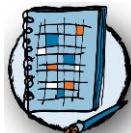
5. Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, are exempt from GST, if the consideration charged for such performance is not more than ₹ 1,50,000. However, such exemption is not available in respect of service provided by such artist as a brand ambassador.

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

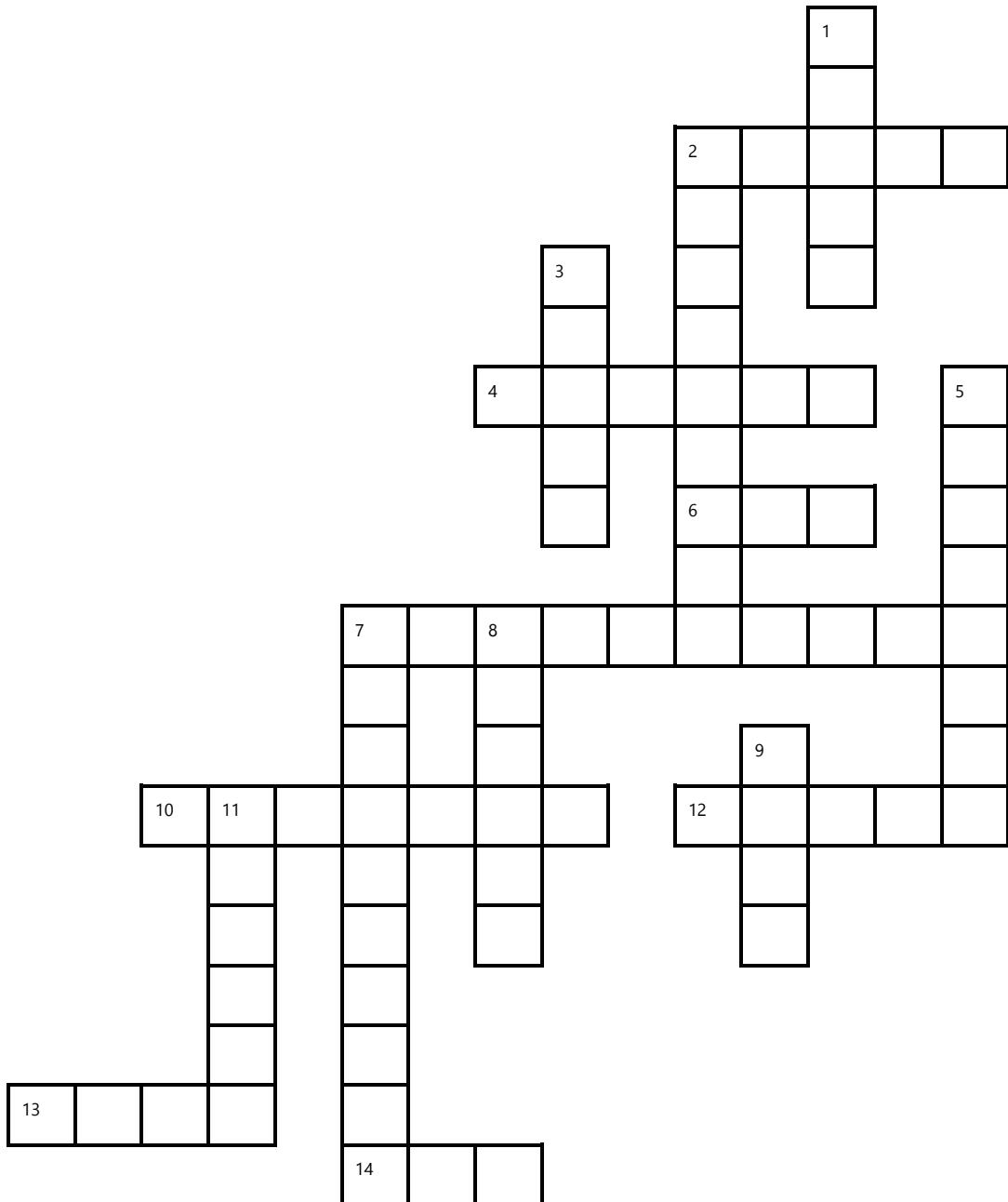
6. (i) Yes. Services provided TO an educational institution by way of transportation of students are exempted from GST.  
(ii) No. Services provided by way of vehicle parking to general public are not exempted from GST. Therefore, GST is payable on the same.
7. Services by way of giving on hire, *inter alia*, to a State Transport Undertaking, a motor vehicle meant to carry more than 12 passengers is exempt from GST.  
Since the motor vehicles given on hire by Fast Cab Renting to the State Transport Undertaking are meant to carry 8-10 passengers, the same would not be eligible for exemption and would thus, be liable to GST.
8. Services provided by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee are exempt from GST.

Since in the given case, services provided by Indiana Engineering College -an educational institution - are by way of conduct of entrance examination against entrance fee, the same is exempt and thus, GST is not payable in this case.

9. 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 Babloo Transporters will be exempt from GST.
10. No, the claim made by Keyan Enterprises that it is not required to pay GST is not correct. Services provided by an organiser to any person in respect of a business exhibition are exempt from GST only when such business exhibition is held outside India. However, since in the given case, the exhibition is being organized in India, the services of organization of event by Keyan Enterprises will not be exempt from GST.
11. GST is not payable in case of hiring of trucks to Titu Transporters since services by way of giving on hire, *inter alia*, to a goods transport agency, a means of transportation of goods are exempt.



## CROSSWORD PUZZLE



**ACROSS**

2. Services by business facilitator to an insurance company in a \_\_\_\_\_ area is exempt from GST.
4. Services by way of pure labour construction contracts of original works pertaining to a \_\_\_\_\_ residential unit otherwise than as a part of a residential complex are exempt from GST.
6. Explanation inserted within \_\_\_\_ year, for the purpose of clarifying the scope or applicability of any notification/order, to have retrospective effect.
7. Any \_\_\_\_\_ collected by bank over and above interest on loan, advance or deposit are not exempt from GST.
10. Services of a \_\_\_\_\_ agency by way of transportation of goods by is liable to GST.
12. Services by the Department of \_\_\_\_\_ by way of post card, inland letter, book post and ordinary post are exempt from GST.
13. Rent of the rooms with room charges upto \_\_\_\_\_ thousand rupees per day to a person receiving health care services in hospitals is exempt from GST.
14. Services by way of giving on hire to a local authority, an \_\_\_\_\_ meant to carry more than 12 passengers is exempt from GST. (acronym)

**DOWNTWARDS**

1. Transport of passengers by railways in \_\_\_\_\_ class is liable to GST.
2. Services by a person by way of conduct of any \_\_\_\_\_ ceremony are exempt from GST.
3. Services by way of transfer of a \_\_\_\_\_ concern is exempt from GST.
5. Transport of passengers by air, in \_\_\_\_\_ class, from Assam to Manipur is liable to GST.
7. Services by an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 by way of \_\_\_\_\_ activities are exempt from GST.

8. Services by way of admission to a \_\_\_\_\_ is exempt from GST.
9. \_\_\_\_\_ is a recognized systems of medicines in India.
11. Supply of \_\_\_\_\_ educational journals or periodicals to a to higher secondary school is not exempt from GST.

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**Scan the following QR code for accessing the answers to MCQs in Quiz Time and Cross word puzzle of this chapter.**



*Scan the code*

# NOTES

