

## **Afforestation of plants carried out by charitable trust is exempted from the levy of GST**

The AAR, Gujarat in the matter of *M/s Vikas Centre for Development [Advance Ruling No. GUJ/GAAR/R/2022/50 dated December 30, 2022]* has ruled that activity of plantation is to be considered as charitable activity carried on by a Charitable Trust and is exempted from the levy of GST under Sr. No. 1 of *Notification No. 12/2017- Central tax (Rate) dated June 28, 2017* (“**the Services Exemption Notification**”). Further, the activity of the Charitable Trust is not covered under the ambit of ‘supply’, hence, not liable to register under GST.

### **Facts:**

M/s Vikas Centre for Development (“**the Applicant**”) is a charitable trust which undertake, promote and support activities leading to promotion of human development and welfare among general public. The Applicant entered into an agreement with Pilot Project which is designed to explore various plantation densities from 2500 up to 10,000 plants per hectare. The Pilot Project is a socially relevant & environmentally resilient afforestation project along the coast of Gujarat.

The Applicant further submitted that the afforestation activity carried on by them includes plantation of mangroves and is related to "preservation of environment". Therefore, the Applicant submitted that the activity shall be exempted under Sr. No. 1 of the Services Exemption Notification.

### **Issues:**

1. Whether the activity of afforestation, which includes the plantation of mangroves is exempted from GST?
2. Whether the Applicant is required to be get registered under GST?

### **Held:**

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The AAR, Gujarat in **Advance Ruling No. GUJ/GAAR/R/2022/50** held as under:

- Noted that, the activities of plantation of mangroves carried on by the Applicant is covered under definition of 'Charitable Activities' as per Clause 2(r) of the Services Exemption Notification. Further, the afforestation activity carried on by Applicant to protect the environment cannot be considered as a business activity under Section 2(17) of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**")
- Stated that, the Applicant does not have any profit motive and has not earned any income due to Afforestation activity, therefore, it will not be covered under the definition of 'Supply' as per Section 7 of the CGST Act.
- Held that, the service of Applicant is eligible for exemption from the payment of GST and covers under entry No. 1 of the Services Exemption Notification.
- Further held that, the afforestation service of Applicant is not covered under supply as defined under Section 7 of CGST Act, therefore, the Applicant is not liable for registration under the provisions of Section 22(1) of the CGST Act.

**Relevant Provisions:**

**Sr. No. 1 of the Services Exemption Notification:**

<b><i>"Sl. No.</i></b>	<b><i>Chapter, Section, Heading, Group or Service Code (Tariff)</i></b>	<b><i>Description of Services</i></b>	<b><i>Rate (per cent)</i></b>	<b><i>Condition</i></b>
<b><i>1</i></b>	<b><i>Chapter 99</i></b>	<b><i>Services by an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 (43 of</i></b>	<b><i>Nil</i></b>	<b><i>Nil"</i></b>

		1961) by way of charitable activities.		
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**Clause 2(r) of the Services Exemption Notification:**

*“charitable activities means activities relating to -*

*(i) public health by way of-*

*(A) care or counseling of*

*(I) terminally ill persons or persons with severe physical or mental disability;*

*(II) persons afflicted with HIV or AIDS;*

*(III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or*

*(B) public awareness of preventive health, family planning or prevention of HIV infection;*

*(ii) advancement of religion, spirituality or yoga;*

*(iii) advancement of educational programmes or skill development relating to-*

*(A) abandoned, orphaned or homeless children;*

*(B) physically or mentally abused and traumatized persons;*

*(C) prisoners; or*

*(D) persons over the age of 65 years residing in a rural area;*

*(iv) preservation of environment including watershed, forests and wildlife;”*

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