

GST Implication on Educational & Charitable Institutions

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Meaning of Educational Institution



Play Schools ?

Institutes giving Foreign Degrees ?



Schools up to 5th Std.
without affiliation ?

IIM's, IIT's, ICAI, ICSI ?

Coaching Institutes ?

School Canteens?

Hostel ?

Sale of Books?

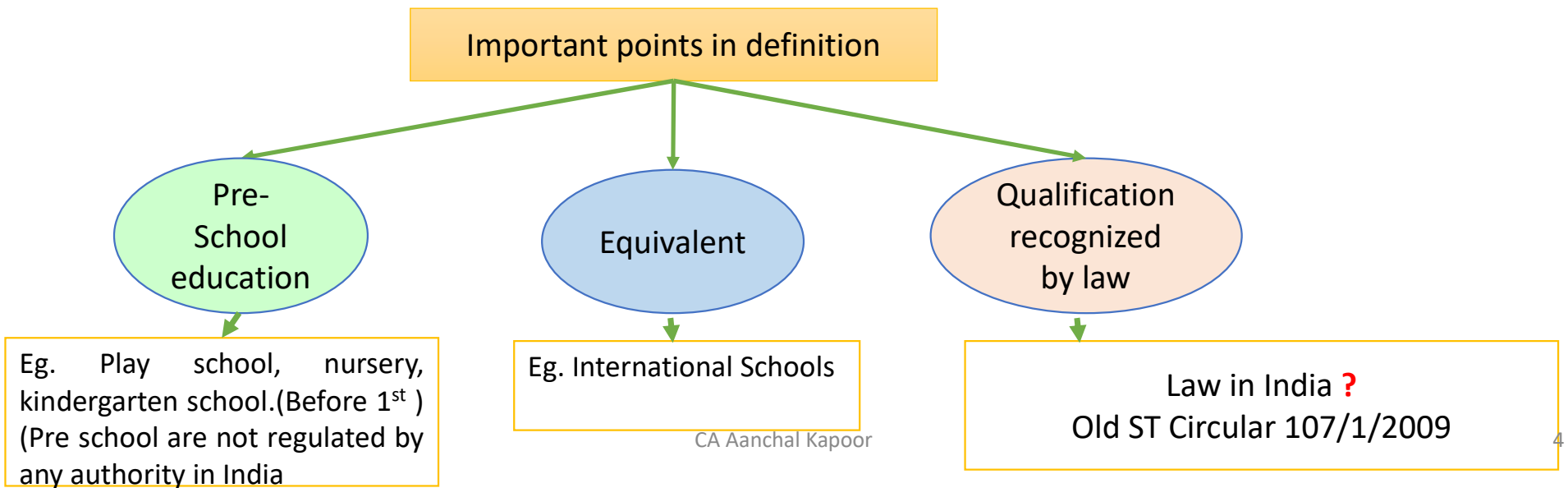
lets Centres?

Educational Institution

As per [Definition 2\(y\) mentioned in notification 12/2017-CT Rate](#)

“Educational institution” means an institution providing services by way of,-

- i. pre-school education and education upto higher secondary school or equivalent; Schools Colleges, Institutes like ICAI, IIT's
 - ii. education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force,
 - iii. education as a part of an approved vocational education course ; Industrial Training Institutes
- Defined in law



Circular 107/1/2009 ST

Institute recognized by UGC(University Grant Commission), AICTE(All India Council for Technical Education), Institutions through Union Acts

i. **Indian Institute of Aircraft Engineering v. Union of India*** [\[\[2013\] 34 taxmann.com 191 \(Delhi\)\]](#)

The expression "**recognized by law**" is a very wide one. The legislature **has not used** the expression "**conferred by law**" or "**conferred by statute**". Thus, even if the **certificate/degree/diploma/qualification is not the product of a statute but has approval of some kind in 'law', would be exempt.**

- **Training given by private coaching institutes although imparting Coaching related to Degree Courses would not be covered as such training does not lead to grant of a recognized qualification/degree themselves.**
- **IELTS Institutes---Not covered by Exemption.**
- **Only Pre-schools are also covered by Exemption("and" word in 2(y)(i) is wrongly used and to meet intent should be read as "OR").**
- **Day Care is covered under SAC 999351 @ 18%. Hence, Taxable. But if provided by Educational Institute to its students then Exempt.**

Approved vocational education course

As per [Definition 2\(h\) mentioned in notification 12/2017-CT Rate](#)

“Approved vocational education course” means, -

- i. a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961 (52 of 1961); or
- ii. a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship;

Meaning of Education

The word “ Education” has not been defined in GST Law. However Apex Court in case of **OLE TRUSTEE, LOKA SHIKSHANA TRUST VERSUS COMMISSIONER OF INCOME-TAX, MYSORE (1975 (8) TMI 1 – SC)** held that

- Education connotes in that clause is the process of training and developing the knowledge, skill, mind and character of students by normal schooling.



Relevant entries of notification
12/2017-CT(Rate)

Entry No. 66 of Notification No. 12/2017 CT Rate

Services provided –

Any Service

a) **by** an educational institution to its students, faculty and staff;

aa) **by** an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee.

b) **to** an educational institution, by way of,-

- i. transportation of students, faculty and staff;
- ii. catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
- iii. security or cleaning or house-keeping services performed in such educational institution;
- iv. services relating to admission to, or conduct of examination by, such institution;
- v. supply of online educational journals or periodicals;

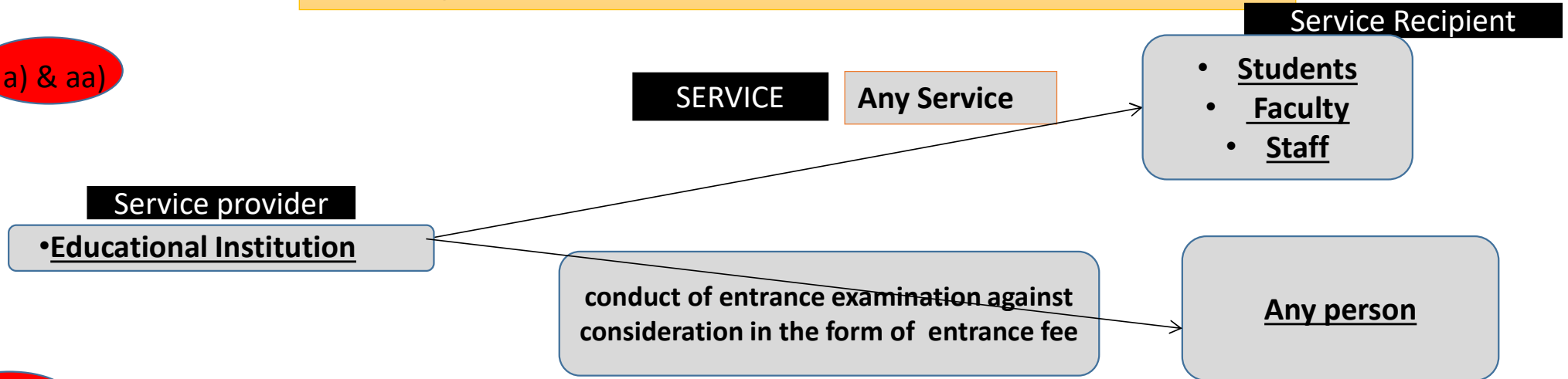
Provided that nothing contained in ⁴[sub-items (i), (ii) and (iii) of item (b)] shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent:

[Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,—

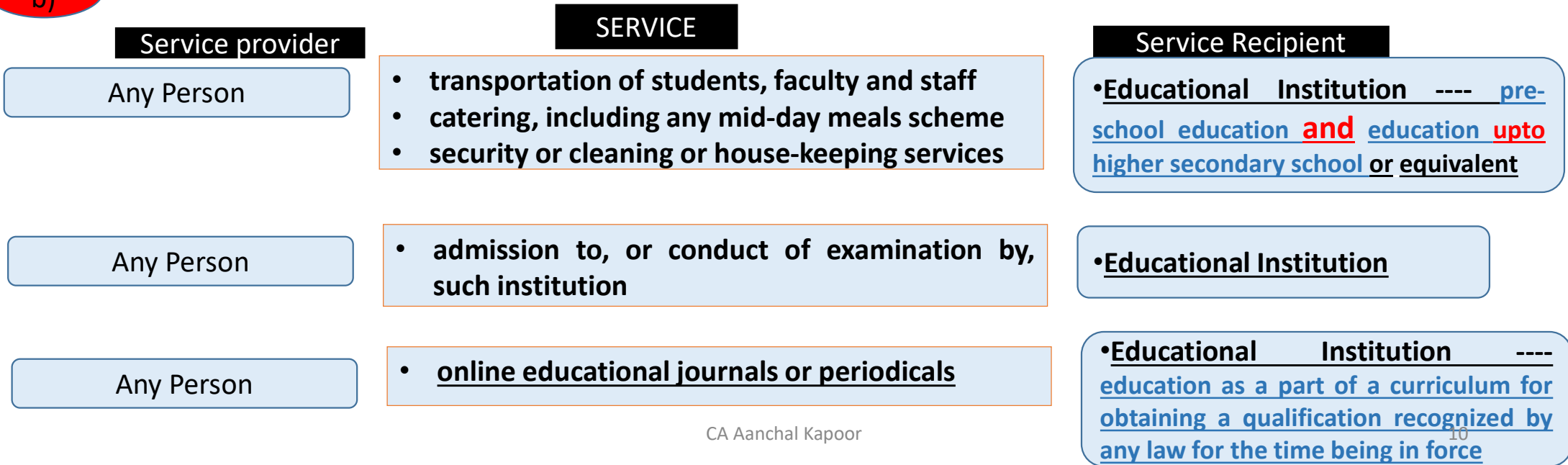
- i. pre-school education and education up to higher secondary school or equivalent; or
- ii. education as a part of an approved vocational education course.]

Entry No. 66 of Notification No. 12/2017 CT Rate

a) & aa)



b)



Clarification No. 55/29/2018-GST

TAXABILITY OF SERVICES PROVIDED BY INDUSTRIAL TRAINING INSTITUTES:-

1. Representations have been received requesting to clarify the following:

- a) Whether GST is payable on vocational training provided by private ITIs in designated trades and in other than designated trades
- b) Whether GST is payable on the service, provided by a private Industrial Training Institute for conduct of examination against consideration in the form of entrance fee and also on the services relating to admission to or conduct of examination.

2. With regard to the first issue, [Para 1(a) above], it is clarified that Private ITIs qualify as an educational institution as defined under para 2(y) of notification No. 12/2017-CT(Rate) if the education provided by these ITIs is approved as vocational educational course.

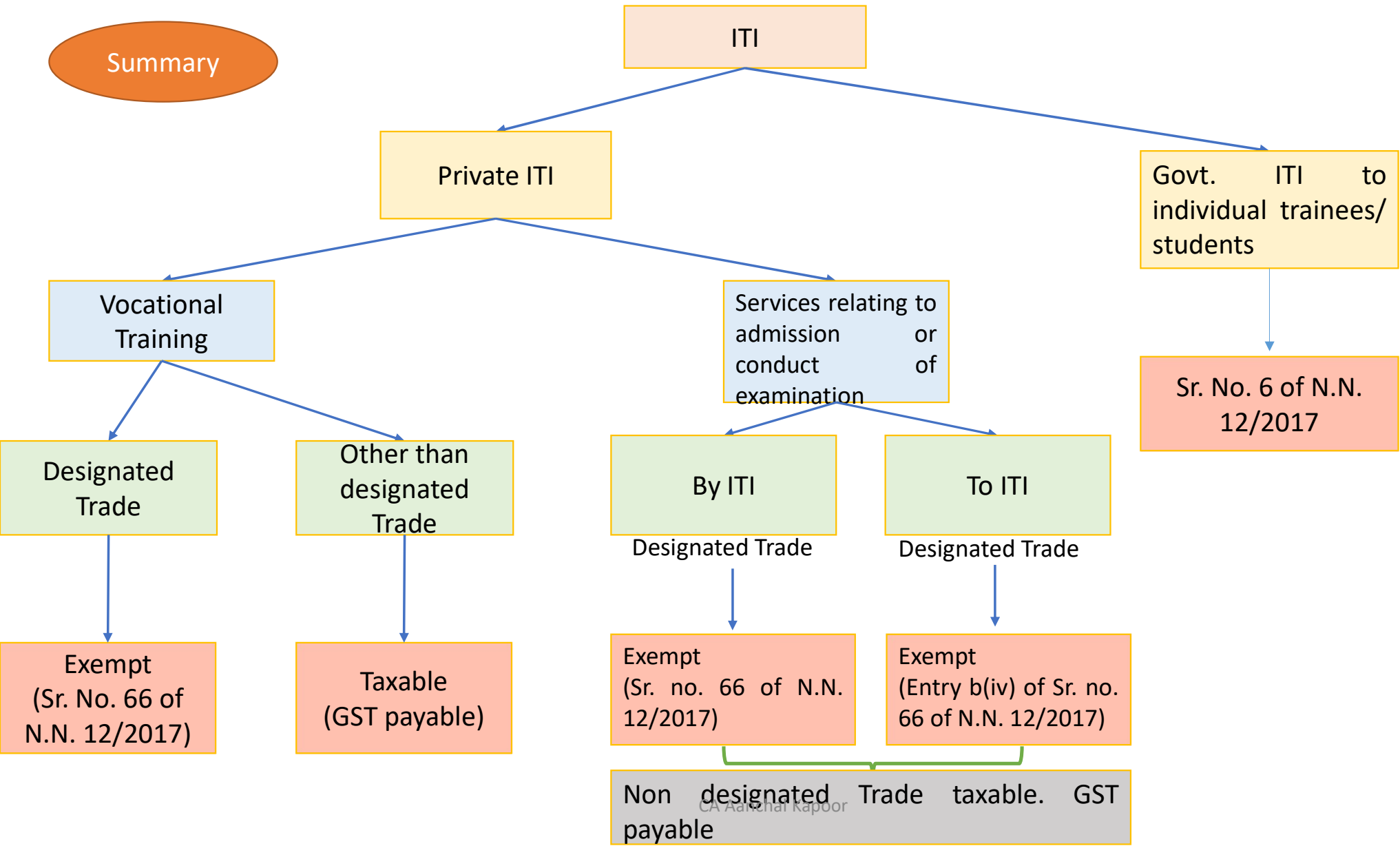
- The approved vocational educational course has been defined in para 2(h) of notification *ibid* to mean a course run by an ITI or an Industrial Training Centre affiliated to NCVT (National Council for Vocational Training) or SCVT (State Council for Vocational Training) offering courses in designated trade notified under the Apprenticeship Act, 1961; or a Modular employable skill course, approved by NCVT, run by a person registered with DG Training in Ministry of Skill Development.
- Therefore, services provided by a private ITI in respect of designated trades notified under Apprenticeship Act, 1961 are exempt from GST under Sr. No. 66 of Notification No. 12/2017-CT(Rate). As corollary, services provided by a private ITI in respect of other than designated trades would be liable to pay GST and are not exempt.

3. With regard to the second issue, [Para 1(b) above], it is clarified that in case of designated trades, services provided by a private ITI by way of conduct of entrance examination against consideration in the form of entrance fee will also be exempt from GST [Entry (aa) under Sr. No. 66 of Notification No. 12/2017-CT(Rate) refers].

- Further, in respect of such designated trades, services provided to an educational institution, by way of, services relating to admission to or conduct of examination by a private ITI will also be exempt [Entry (b(iv)) under Sr. No. 66 of notification No. 12/2017-CT(Rate) refers].
- It is further clarified that in case of other than designated trades in private ITIs, GST shall be payable on the service of conduct of examination against consideration in the form of entrance fee and also on the services relating to admission to or conduct of examination by such institutions, as these services are not covered by the exemption *ibid*.

4. As far as Government ITIs are concerned, services provided by a Government ITI to individual trainees/students, is exempt under Sl. No. 6 of 12/2017-CT(R) dated 28.06.2017 as these are in the nature of services provided by the Central or State Government to individuals. Such exemption in relation to services provided by Government ITI would cover both - vocational training and examinations conducted by these Government ITIs.

Summary



CA Anil Chai Kapoor

Entry No. 67- CGST (Deleted vide notification No. 28/2018- Central Tax (Rate) dated, 31st December, 2019 w.e.f. 1st January 2019)

~~Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme:-~~

- ~~a) two year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management;~~
- ~~b) fellow programme in Management;~~
- ~~c) five year integrated programme in Management~~

CIRCULAR NO. 82/01/2019-GST - CENTRAL TAX

CLARIFICATION REGARDING APPLICABILITY OF GST ON VARIOUS PROGRAMMES CONDUCTED BY INDIAN INSTITUTE OF MANagements (IIMs)

I am directed to invite your attention to the Indian Institutes of Management Act, 2018 which came into force on 31st January, 2018. According to provisions of the IIM Act, all the IIMs listed in the schedule to the IIM Act are **"institutions of national importance"**. They are empowered 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. **Therefore, with effect from 31st January, 2018, all the IIMs are "educational institutions"** as defined under [notification No. 12/2017- Central Tax \(Rate\) dated 28.06.2017](#) **as they provide education as a part of a curriculum for obtaining a qualification recognised by law for the time being in force.**

2. At present, Indian Institutes of Managements are providing various **long duration programs** (one 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. Therefore, it is clarified that **services provided by Indian Institutes of Managements to their students- in all such long duration programs (one year or more) are exempt from levy of GST.** As per information received from IIM Ahmedabad, annexure 1 to this circular provides a sample list of programmes which are of long duration (one year or more), recognized by law and are exempt from GST.

3. For the period from 1st July, 2017 to 30th January, 2018, IIMs were not covered by the definition of educational institutions as given in [notification No. 12/2017 Central Tax \(Rate\) dated 28.06.2017](#). Thus, they were not entitled to exemption under Sl. No. 66 of the said notification. However, there was specific exemption to following three programs of IIMs under Sl. No. 67 of notification No. 12/2017- Central Tax (Rate). (Given above)

CIRCULAR NO. 82/01/2019-GST - CENTRAL TAX

4. For the period from **31st January, 2018 to 31st December, 2018, two exemptions**, i.e. under Sl. No. 66 and under Sl. No. 67 of notification No. 12/2017- Central Tax (Rate), dated 28.06.2017 are available to the IIMs. The legal position in such situation has been clarified by Hon'ble Supreme Court in many cases that if there are two or more exemption notifications available to an assessee, the assessee can claim the one that is more beneficial to him. Therefore, from 31st January, 2018 to 31st December, 2018, IIMs can avail exemption either under Sl. No 66 or Sl. No. 67 of the said notification for the eligible programmes. In this regard following case laws may be referred-

- i. *H.C.L. Limited v. Collector of Customs* [2001 (130) ELT 405 (SC)]
- ii. *Collector of Central Excise, Baroda v. Indian Petro Chemicals* [1997 (92) ELT 13 (SC)]
- iii. *Share Medical Care v. Union of India* reported at 2007 (209) ELT 321 (SC)
- iv. *CCE v. Maruthi Foam (P) Ltd.* [1996 (85) RLT 157 (Tri.) as affirmed by Hon'ble Supreme Court vide 2004 (164) ELT 394 (SC)

5 Indian Institutes of Managements also provide various **short duration/short term programs for which they award participation certificate to the executives/professionals as they are considered as "participants" of the said programmes. These participation certificates are not any qualification** recognized by law. Such participants are also not considered as students of Indian Institutes of Management. Services provided by IIMs as an educational institution to such participants is **not exempt from GST**. Such short duration executive programs attract standard rate of **GST @ 18% (CGST 9% + SGST 9%)**. As per information received from IIM Ahmedabad, annexure 2 to this circular provides a sample list of programmes which are short duration executive development programs, available for participants other than students and are not exempt from GST.

CIRCULAR NO. 82/01/2019-GST - CENTRAL TAX

7. Following summary table may be referred to while determining eligibility of various programs conducted by Indian Institutes of Managements for exemption from GST.

| Sr. No. | Periods | Programmes offered by Indian Institutes of Management | Whether exempt from GST |
|----------------|--------------------------------------|---|---|
| 1 | 1st July, 2017 to 30th January, 2018 | <ul style="list-style-type: none"> i. two-year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management, ii. fellow programme in Management, iii. five years integrated programme in Management. | Exempt from GST |
| | | <ul style="list-style-type: none"> i. One- year Post Graduate Programs for Executives, ii. Any programs other than those mentioned at Sl. No. 67 of notification No. 12/2017- Central Tax (Rate), dated 28.06.2017. iii. All short duration executive development programs or need based specially designed programs (less than one year). | Not exempt from GST |
| 2 | 31st January, 2018 onwards | <p>All long duration programs (one year or more) conferring degree/diploma as recommended by Board of Governors as per the power vested in them under the IIM Act, 2017 including one- year Post Graduate Programs for Executives.</p> <p>All short duration executive development programs or need based specially designed programs (less than one year) which are not a qualification recognized by law.</p> | <p>Exempt from GST</p> <p>Not exempt from GST</p> |

Entry No. 69 of Notification No. 12/2017 CT- Rate

Any services provided by,

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

Skill
Development/Enhancing
Programmes

Entry No. 70 of Notification No. 12/2017 CT- Rate

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

Entry No. 71 of Notification No. 12/2017 CT- Rate

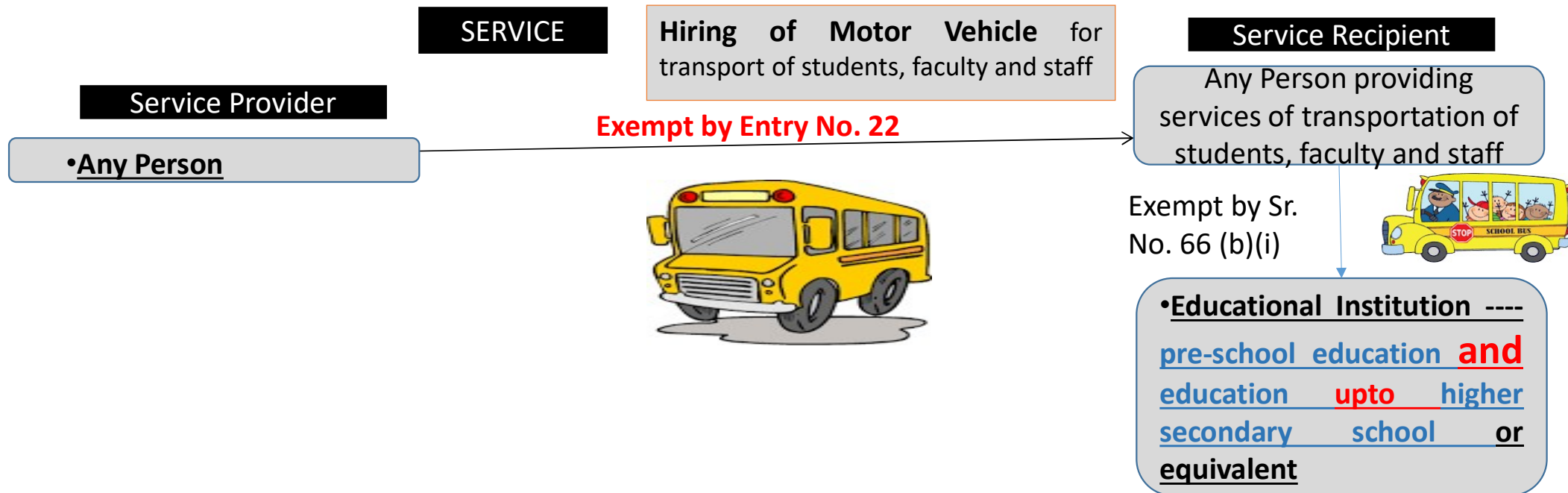
Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational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

Entry No. 22 of Notification No. 12/2017 Ct- Rate

Services by way of giving on hire—

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.]

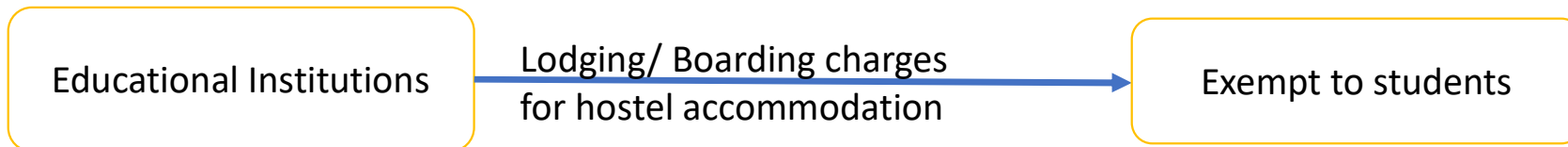


GST - CLARIFICATION AS TO APPLICABILITY OF GST ON ANNUAL SUBSCRIPTION/FEE CHARGED AS LODGING/BOARDING CHARGES BY EDUCATIONAL INSTITUTIONS FROM ITS STUDENTS FOR HOSTEL ACCOMMODATION

There are some reports that GST@18% will be levied on annual subscription/fees charged for lodging in hostels. This is not true. There is no change in tax liability relating to education and related services in the GST era, except reduction in tax rate on certain items of education.

It may be mentioned that **services provided by an educational institution to students, faculty and staff are fully exempt.** Educational institution has been defined as an institution imparting

- **Annual subscription/fees charged as lodging/boarding charges by such educational institutions from its students for hostel accommodation shall not attract GST.**



CIRCULAR NO. 117/36/2019-GST

CLASSIFICATION OF SERVICES - CLARIFICATION ON APPLICABILITY OF GST EXEMPTION TO THE DG SHIPPING APPROVED MARITIME COURSES CONDUCTED BY MARITIME TRAINING INSTITUTES OF INDIA

A representation has been received regarding applicability of GST exemption to the Directorate General of Shipping approved maritime courses conducted by the Maritime Training Institutes of India. The same has been examined and following is clarified.

Therefore, the Maritime Institutes are educational institutions under GST Law and the courses conducted by them **are exempt from levy of GST. The exemption is subject to meeting the conditions specified at Sl. No. 66 of the notification No. 12/ 2017- Central Tax (Rate), dated 28-6-2017.**

Case study

ABC Ltd. an educational institute has following receipts.:-

| Particulars | Amount | Exempt/ taxable |
|---|---------|--------------------|
| Receipts from boarding School (including Rs. 1400000 from residential dwelling service) | 3000000 | Exempt |
| Receipts from 'Gyan Udhay' an Industrial Training Institute affiliated to National Council of vocational training | 200000 | Exempt |
| Receipts of 'Lakshya' an institute registered with DGET | 100000 | Exempt |
| Receipts from 'Wizard' a commercial coaching institute | 80000 | Taxable |
| Fees from employer for campus interview | 400000 | Taxable |
| Receipts from ' Concepts' a coaching institute providing coaching in field of commerce(certificate was awarded to each trainee after completion) | 140000 | Taxable |
| Receipts of Gurukul School providing education upto higher Secondary | 500000 | Exempt |

Rate of GST on education services

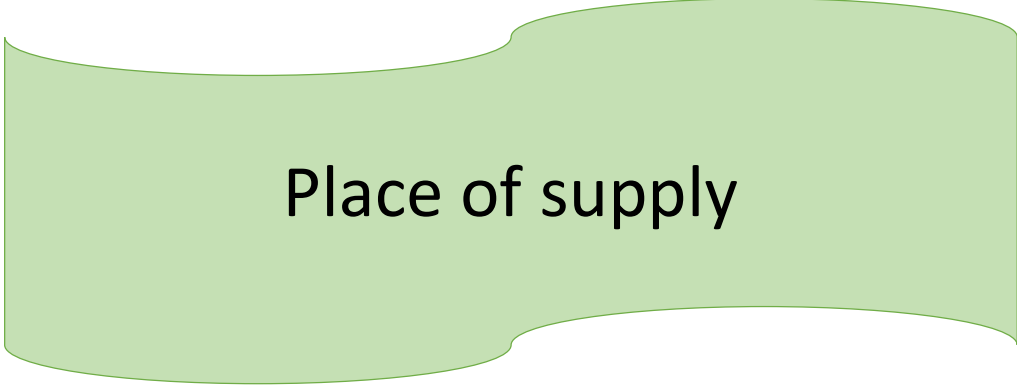
GST Rate on education Services

| SAC /HSN Code | Description of Service | Rate |
|-------------------------|---|---|
| 9992 | Education services(Except services in Entry No. 66 of N.N. 12/2017 CT Rate) | 18% (Notification 11/2017) |
| 90 or any other chapter | Technical aids for education, rehabilitation, vocational training and employment of the blind such as Braille typewriters, braille watches, teaching and learning aids, games and other instruments and vocational aids specifically adapted for use of the blind | 5% (Sr. Serial No. 257 of Schedule I of the Notification No.1/2017-Central Tax (Rate) dated 28th June, 2017) |
| 9023 | Instruments, apparatus and models, designed for demonstrational purposes (for example, in education or exhibitions), unsuitable for other uses | 28 %/ Serial No. 191 of Schedule IV of the Notification No.1/2017-Central Tax (Rate) dated 28th June, 2017 |
| 999259 | Specialized educational service | 18% |
| 999291 | Cultural educational service | 18% |
| 999293 | Commercial training and coaching services | 18% |
| 999294 | Other education & education services | 18% |

Registration

Registration

- If an education Institution is providing only education as a service then fees received from students is chargeable at NIL rate of GST and educational institution is not required to register in GST.
- But if educational institution is also giving ground on rent for functions or sponsorship services, then they will be required to get themselves registered in terms of sec. 22 or 24 of the CGST Act,2017. Aggregate Turnover(Sec. 2(6)) to be taken adding all Incomes whether Exempt or Taxable.



Place of supply

Place of Supply of Educational Services where the location of supplier of services and the location of the recipient of services is in India

➤ **12 (2)** The place of supply of services, except the services specified in sub-sections (3) to (14),—

a) made to a registered person shall be the location of such person;

Location of Recipient

Online Coaching Training

b) made to any person other than a registered person shall be,—

i. the location of the recipient where the address on record exists; and

ii. the location of the supplier of services in other cases.

➤ **Section 12(6) of IGST Act, 2017** “The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, *educational*, entertainment event or amusement park or any other place and services ancillary thereto, shall be the place **where the event is actually held or where the park or such other place is located.**”

Location of Educational Institution

➤ **Section 12(7) of IGST Act 2017** “The place of supply of services provided by way of,—

a. organisation of a cultural, artistic, sporting, scientific, educational or entertainment **event** including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or

b. services ancillary to organisation of any of the events or services referred to in clause (a), or assigning of sponsorship to such events,—

i. to a **registered person**, shall be the location of such person;

Location of Recipient

ii. to a **person other than a registered person**, shall be the place where the event is actually held and if the event is held outside

India. the place of supply shall be the location of the recipient

Location of Event

Place of supply of Educational Services where the location of the supplier of services or the location of the recipient of services is outside India

- **13(2)** The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services: Location of Recipient Online Coaching Training

Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

- **Section 13(5)** of IGST Act 2017,

“The place of supply of services supplied by way of

- admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a
- celebration, conference, fair, exhibition or similar events, and of services ancillary
- to such admission or organisation, shall be the place where the event is actually held.”

- **Section 13(3)(b)** of IGST Act 2017

- The place of supply of services supplied by way of requiring Physical Presence
- Where services are actually performed.

Case Laws

APPELLATE AUTHORITY FOR ADVANCE RULINGS, WEST BENGAL Global Reach Education Services (P.) Ltd., In re [[2018] 96 taxmann.com 107 (AAAR-WEST BENGAL)]

Section 2(13) of the Integrated Goods and Services Tax Act, 2017 - Intermediary - Appellant promotes courses of foreign Universities, finds suitable prospective students to **undertake courses, and, in accordance with University procedures and requirements, recruits and assists in recruitment of suitable students** –

Question :- Whether appellant is to be considered as an 'intermediary', in terms of section 2(13) and, therefore, services of appellant are not 'Export of Services' under GST Act, and are eligible to tax –

Answer:- Held, yes [Paras 23 & 24]

IGST : Where appellant promotes courses of foreign university in India, finds suitable prospective students to undertake courses, and assists in recruitment of suitable students, appellant is to be considered as an intermediary in terms of section 2(13) and, therefore, services of appellant are not 'Export of Services' under GST Act, and are eligible to tax.



Foreign University

Promotes the courses offered by university in India



Finds suitable prospective students



This is **not Export of service.** This is considered as intermediary services u/s 2(13) and therefore liable to tax & Place of Supply is as per 13(8).

Emerald Heights International School, In re vs. [[2019] 109 taxmann.com 377 (AAR - MADHYA PRADESH)]

Classification of service - Madhya Pradesh Goods and Services Tax Act, 2017 - Educational conference – Heading No. 9992 [Education services] - Applicant-school is a member of an **association which is a charitable organization** - Applicant and said association **intend to enter into an agreement for hosting and managing conference/gathering for students and staff of other member (participant) schools of said association** –

- **Many of member school are based outside India** as per agreement, applicant is responsible to hold an educative conference engaging skilled personnel and sufficient financial and material resources for planning conference, inviting participants, arranging accommodation, food etc. –
- Consideration for performing above mentioned functions would flow from **participant schools in form of fee along with list of individual student and staff** –
- **Whether consideration received by applicant from participant schools would not be exempted under Entry No. 66 or Entry No. 1 or Entry No. 80 of Notification No. 12/2017 - Central Tax (Rate) - Held, yes** –
- **Whether various services provided for organizing said conference shall be liable to tax at rate applicable to respective services - Held, yes [Para 8.1]**
- GST : Where applicant-school and an association (a charitable organization), of which applicant is a member, intend to enter into an agreement for hosting and managing an educative conference/gathering for students and staff of other member schools **(many of which are based outside India)** of said association, **consideration received by applicant from said schools in form of fee for participation of their students and staff would not be exempted under Entry No. 66 or Entry No. 1 or Entry No. 80 of Notification No. 12/2017 - Central Tax (Rate).**



Applicant school is hosting conference also for schools outside India



This service is **not covered by Entry No. 66 or 80** of N.N. 12/2017. Hence the **same is not covered by exemption**

Attest Testing Services Ltd., In re vs. [[2019] 109 taxmann.com 366 (AAR - MAHARASHTRA)/[2019] 29 GSTL 528 (AAR MAHARASHTRA)/[2019] 76 GST 512 (AAR - MAHARASHTRA)

Classification of services - Maharashtra Goods and Services Tax Act, 2017 - Educational Services - Heading No. 9992 [Education Services] - Section 2(30) of the Central Goods And Services Tax Act, 2017/Section 2(30) of the Maharashtra Goods and Services Tax Act, 2017 - **Supply - Composite supply** –

- Applicant is providing **services, viz., conducting online examinations along with pre-exam management processes, post exam management processes across different cities and examination centers** –
- Whether **services provided by applicant satisfy definition of 'composite services' in as much as it provides services to completely manage conduct of examinations electronically like facilitation of online booking of examination slots by candidates, setting up questions based on question bank management, conduction of online examinations in their authorized examination centers, invigilation and exam evaluation services, etc. - Held, yes** –
- Whether **services provided by applicant are naturally bundled with principal supply being conduct of examination and therefore, services supplied by applicant are in nature of naturally bundled services - Held, yes** –
- Whether thus, **services provided by applicant are composite supply in which conduct of examination can be considered as principal supply and exemption under Entry 66 of Notification 12/2017-Central Tax (Rate), dated 28-6-2017 will be available to applicant only when provisions mentioned therein are satisfied by them - Held, yes [Paras 5 6] [In favour of assessee]**
- GST: Where applicant is providing services, viz., conducting online examinations along with pre-exam management processes, post exam management processes across different cities and examination centers, services provided by applicant satisfy definition of 'Composite Services' under section 2(30) **in which conduct of examination is principal supply and exemption under Entry 66 of Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 will be available.**



Applicant

Providing service of **online conduct of Exams (Principal Supply)**

Providing service of **Post Examination process**



Principal supply exempt. So **Composite** also exempt.

Arivu Educational Consultants (P.) Ltd., In re vs. [[2019] 110 taxmann.com 426 (AAR - KARNATAKA)/[2020] 77 GST 25 (AAR - KARNATAKA)/[2020] 32 GSTL 353 (AAR - KARNATAKA)]

- Section 15 of the Central Goods and Services Tax Act, 2017 read with rule 33 of the Central Goods and Services Tax Rules, 2017 /Section 15 of the Karnataka Goods and Services Tax Act, 2017 read with rule 33 of the Karnataka Goods and Services Tax Rules, 2017 - Supply - Taxable supply, value of - Applicant provides coaching, learning and training services in relation to under-graduate, graduate and post-graduate degree, diploma and professional courses on a standalone bases to students –
- In this process, applicant collects certain amount as examination fee from students and remits same in bulk to respective institute or college or university without any additional charges or profit element –
- Whether activity of collecting examination fee (charged by any university or institution) from students and remitting same to that particular university or institution without any value addition to it is a service as a pure agent and hence value is excluded from taxable value of applicant as per rule 33 - Held, yes [Para 9] [In favour of assessee]
- GST : Where applicant provides coaching, learning and training services and collects certain amount as examination fee from students and remits same to respective college or university without any profit element, activity of collecting examination fee is a service as a pure agent.



As the exam fees is remitted to institute without charging any profit element, so it is considered as **service as pure agent**

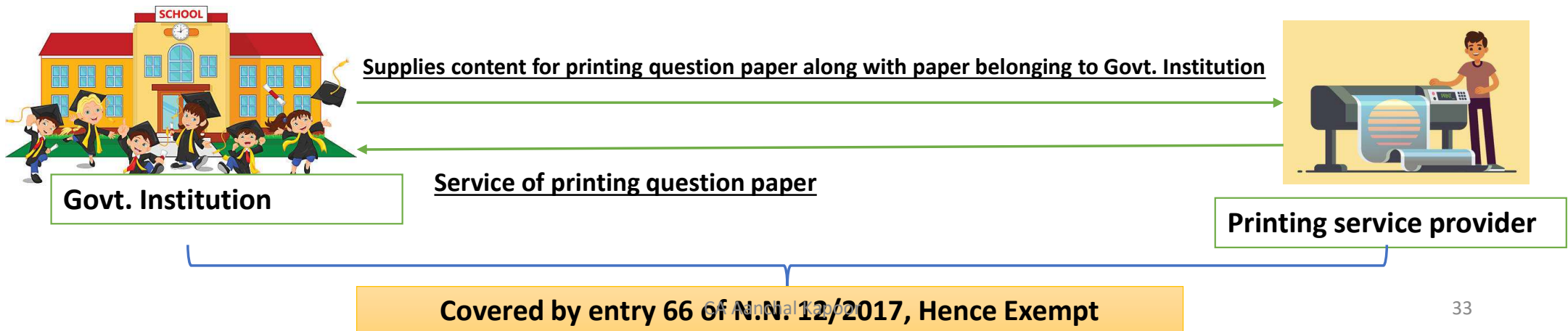
AUTHORITY FOR ADVANCE RULINGS, KARNATAKA Bangalore Printing & Publishing Co. Ltd., In re*[[2019] 110 taxmann.com 239 (AAR - KARNATAKA)]

Classification of services - Karnataka Goods and Services Tax Act, 2017 - Printing of question papers - Heading No. 9989 [Other manufacturing services; publishing, printing and reproduction services; material recovery services] –

- Applicant is **engaged in activity of printing of books, journals, question papers, calendars, etc.** - It has received **an order from State Government Institution for printing of question papers for State Level Higher Secondary Examinations** - Said Institution would supply to applicant only content for printing and printing inputs including paper belong to applicant - Whether supply made by applicant would constitute supply of service falling under Heading No. 9989 - Held, yes [Para 7][In favour of assessee]
- Classification of services - Karnataka Goods and Services Tax Act, 2017 - Printing of question papers - Heading No. 9992 [Education services] - Applicant is engaged in activity of printing of books, journals, question papers, calendars, etc. - **It has received order from State Government Institution for printing of question papers for State Level Higher Secondary Examinations** - Said Institution would supply to applicant only content for printing and printing inputs including paper belong to applicant –
- **Whether services supplied by applicant would be covered under Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017 - Held, yes [Para 7][In favour of assessee]**

GST : Where applicant has received order from State Government Institution for printing of question papers for State Level Higher Secondary Examinations and said Institution would supply to applicant only content for printing and printing inputs including paper belong to applicant, supply made by applicant would constitute supply of services falling under Heading No. 9989

GST : Where applicant has received order from State Government Institution for printing of question papers for State Level Higher Secondary Examinations and said Institution would supply to applicant only content for printing and printing inputs including paper belong to applicant, services supplied by applicant would be covered under Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017



[2019] 110 taxmann.com 361 (AAR - KARNATAKA) AUTHORITY FOR ADVANCE RULINGS, KARNATAKA Informatics Publishing Ltd.,/In re*

Classification of services - Karnataka Goods and Services Tax Act, 2017 - Providing of access to online content to users - Heading No. 998431 [Online text based information such as online books, newspapers, periodicals, directories and like] –

- Applicant is in business of only **providing access to articles published in various journals and papers to its subscribers** - It has a portal called J-Gate, which is a platform for searching various educational journals - It itself is not publishing any online journal, but only **maintaining a database of links to all journals** –
- Links to articles are maintained in a metadata form and subscriber when accesses to platform can access to individual article published in any of journal available in platform after reading catalogue of articles –
- Whether **activity of providing of access to online content by applicant to its users is covered under Service Code No. 998431 and liable to tax at 9 per cent CGST + 9 per cent SGST** - Held, yes [Para 6] [In favour of revenue]

GST: Where applicant is in business of only providing access to articles published in various journals and papers to its subscribers and it has a portal called J-Gate, which is a platform for searching various educational journals, and it itself is not publishing any online journals, but only maintaining a database of links to all journals, **activity of providing of access to online content by applicant to its users is covered under Services Code No. 998431 and liable to tax at 9 per cent CGST and 9 per cent SGST**



Providing access to articles published in various journals and papers to its subscribers



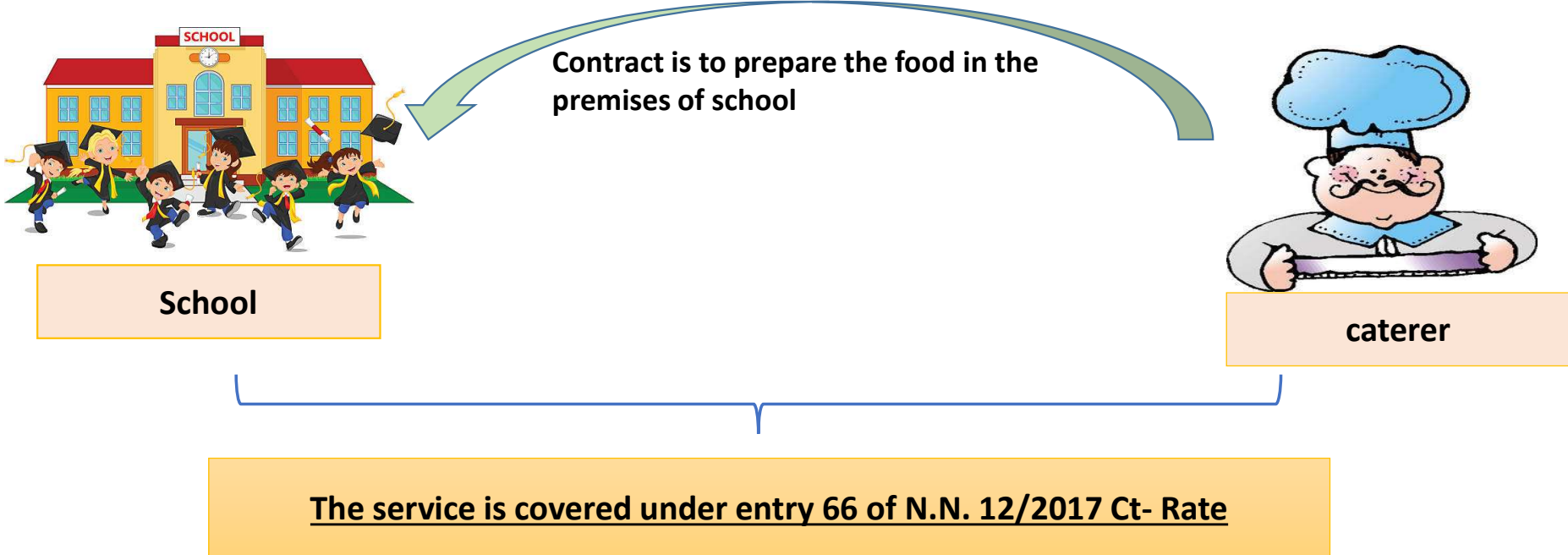
Covered under SAC Code 998431 and liable to tax @ 18%

➤ **2020 (5) TMI 602 - AUTHORITY FOR ADVANCE RULINGS, KARNATAKA IN RE: M/S. MAHALAKSHMI MAHILA SANGHA,**

Applicability of TDS under GST - catering services to educational institutions sponsored by State/ Central / Union territory - Sl. No. 66 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 - Circular 65/ 39/ 2018 –

- HELD THAT:- The agreements for the supply of services are entered **between the Heads of the Residential Schools and the applicant and the recipient of service is hence, the Residential Schools.**
- The **nature of the contract is verified and found that the successful bidders have to prepare the food** in the respective schools only and there is no provision of providing **food cooked outside the premises or from one school to another.** Hence the applicant has to prepare the food in the school premises and supply it to the students of the school for a monthly consideration. Further, it is seen that the students to whom the service is provided are from the Primary School category. **Hence the service is a catering service provided to an educational institution which is a primary school and hence is covered under the Entry No.66 of Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 as amended from time to time and is exempted from the payment of GST.**

The provision of tax deduction at source is applicable on the payment made to a supplier of taxable services and since the applicant is supplying exempt services, the said provisions are not applicable to the payments made to him by the educational institutions.



2018 (5) TMI 648 - AUTHORITY FOR ADVANCE RULING – MAHARASHTRA IN RE : SIMPLE RAJENDRA SHUKLA

Levy of GST - activity of preparing students for entrance exams - whether the services related to providing the coaching for entrance examination will come in the ambit of Goods and Service Tax? - applicant has argued that the word "Education" and "institution" has not been defined in GST Act - N/N. 12/2017- Central Tax (Rate) dated 28/06/2017.

Held that: - The applicant runs private institute, Simple Shukla's Tutorials and is engaged in providing the service of teaching to the students of Class XIth and XIIth science. This activity prepares the students for entrance examinations related to MBBS, Engineering and other science related examinations. However the institution "Simple Shukla's Tutorials" is in no way covered in the definition of Educational institution as given in the above notification.

The private institute does not have any specific curriculum and does not conduct any examination or award any qualification recognized by any law which would be covered in the above notification, The activity of applicant is not covered by the specific definition provided for interpretation of exemption notification.

The education service provided in the case is taxable at the rate of 9 percent under CGST ACT and 9 percent SGST Act - question answered in affirmative.



Prepares the students for entrance examinations related to MBBS, Engineering and other science related examinations.



Private institute does not have any specific curriculum and does not conduct any examination or award any qualification recognized by any law. Thus not covered N.N. 12/2017

Commissioner of Service Tax, Delhi v. Indian Institute of Planning & Management[[2018] 92 taxmann.com 221 (New Delhi - CESTAT)]

Classification of services - Section [65\(27\)](#) of the Finance Act, 1994 - Commercial training or coaching centre - Assessee 'IIPM' was engaged in **conducting management courses leading to award of Certificate of Associate Fellow in Indian Institute of Planning and Management (AFIIPM)**, Fellow Indian Institute of Planning and Management of IIPM and also MBA, BBA Degrees of International Management Institute (IMI), Europe –

Question :- Whether assessee would fall under category of **'commercial training or coaching centre' as defined under section 65(27)** and was liable to service tax - Held, yes [Para 12] [In favour of revenue] GST/Service Tax : Where assessee 'IIPM' was engaged in conducting management courses leading to award of Certificate of Associate Fellow in Indian Institute of Planning and Management (AFIIPM), Fellow Indian Institute of Planning and Management of IIPM and also MBA, BBA Degrees of International Management Institute (IMI), Europe, it would fall under category of 'commercial training or coaching centre']



IIPM

Conducting management courses leading to award of Certificate of Associate Fellow in Indian Institute of Planning and Management (AFIIPM),



Assessee IIPM falls under the category of **commercial coaching center. Hence liable for service tax**

CA Aanchal Kapoor

➤ **AUTHORITY FOR ADVANCE RULINGS, KARNATAKA Emerge Vocational Skills (P.) Ltd., *In re** [[2018] 97 taxmann.com 320 (AAR - KARNATAKA)]**

Section 9 of the Central Goods and Services Tax Act, 2017 - Levy and collection of tax - General (NR) - Whether services provided by an educational institution to its students, faculty and staff is exempt from tax vide entry no. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 - Held, yes - Whether thus, where assessee qualified as an educational institution in so far as those courses for which affiliation had been obtained from University in State of Karnataka and for which University curriculum was prescribed and qualifications recognized by law for time being in force was given after conduct of examinations by such university, assessee was exempt from GST - Held, yes [Para 4] [In favour of assessee]

CGST: Services provided by educational institution providing degree courses to students under related curriculums is exempt from GST



Curriculum was prescribed and qualifications recognized by law for time being in force was given after conduct of examinations by such university,



Assessee was exempt from GST

CA Aanchal Kapoor

2020 (4) TMI 597 - AUTHORITY FOR ADVANCE RULING GUJARAT IN RE: M/S. STATE EXAMINATION BOARD

Requirement of registration - examination to get admission for study at Rashtriya Military College, Dehradun etc. held by the State Examination Board - activities of conducting various types of examinations - N/N. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended - HELD THAT:- Notification no. 12/2017-Central Tax (Rate) dated 28.06.17 (Sr.No.1), as amended, clearly provides exemption to Services by an entity registered under section 12AA of the Income-tax Act, 1961(43 of 1961) by way of charitable activities. However, the applicant do not fall in the category of Charitable activities - The benefit of exemption is not available to the State Examination Board under entry no. 66 (b)(iv) to the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 read with Notification No. 02/2018-Central Tax (Rate) dated 25.01.2018 as the exams conducted by the applicant are planned and conducted by the State Examination Board on its own accord and its not the services provided to an educational institute - State Examination Board is liable for registration as it does not falls under Section 23(a) of Central Goods and Services Tax Act, 2017 - State Examination Board is liable for registration as provided under Section 22 of Central Goods and Services Tax Act, 2017.

Whether the applicant is required to be registered under the Act. - HELD THAT:- Yes, the applicant is required to be registered under the Act.
Whether any tax liability arises from the work done by it? - HELD THAT:- Yes, the amount will be taxable.



Benefit of exemption is **not available** to the State Examination Board **under entry no. 66 (b)(iv) to the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 read with Notification No. 02/2018-Central Tax (Rate) dated 25.01.2018** **as the exams conducted by the applicant are planned and conducted by the State Examination Board on its own accord and its not the services provided to an Educational Institute.**

| Sr. No. | Question | Answer |
|---------|---|--|
| 1 | The activities of conducting various types of examinations : <u>for getting job of teacher for pre primary, primary and secondary school, for getting job as a teacher in Government/Grant-in-Aid School in standard 9 to 12, for getting a job as a Principal in Grant-in-Aid School, for being confirmed in service, for getting higher Scale, for getting promotion, for getting self employment as a painter, for getting self-employment, for getting jobs in various other fields, for scholarships, examination to get admission for study at Rashtriya Military College, Dehradun etc.</u> by the State Examination Board, Gandhi nagar are not exempt under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended. | State Examination Board is liable for registration as provided under Section 22 of Central Goods and Services Tax Act, 2017. |
| 2 | Whether the applicant is required to be registered under the Act. | Answered in Affirmative. |
| 3 | Whether any tax liability arises from the work done by it? | Answered in Affirmative. |

2020 (7) TMI 142 - AUTHORITY FOR ADVANCE RULING, WEST BENGAL IN RE: M/S. THE LEPROSY MISSION TRUST INDIA

BILL EDGAR MEMORIAL VOCATIONAL TRAINING CENTRE(BEMVT)

Exemption from GST - service of providing vocational training courses at Vocational Training Centre, Bankura - applicability of entry no 64 or 66 of Notification 12/2017 - Central Tax (Rate) dated 28/06/2017 (State Notification No. 1136-FT dated 28/06/2017), as amended time to time - HELD THAT:-

- The applicant is not the Government or local authority. Entry No. 64 of the Exemption Notification is not, therefore, applicable. A reference is made to the services provided by the applicant as a project implementation agency under the Deendayal Upadhyaya Grameen Kausalya Yojana. It is exempt under Entry 71 of the Exemption Notification. However, the applicant provides no evidence that BEMVT is acting as a project implementation agency under the above scheme.
- Clause h(ii) of the Exemption Notification defines an “approved vocational course” as a modular employable skill course, approved by NCVT and run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship. **BEMVT is registered with DGET and its courses on formal trade skills of diesel mechanic, welder and sewing technology, as mentioned in the Table in para 2.2 above, are approved by NCVT.** It is, therefore, imparting education as a part approved vocational education courses.

The applicant is, **therefore, an educational institution** in terms of clause 2(y)(iii) of the Exemption Notification, and its supplies to the students, faculty and staff **relating to the courses imparting skills of diesel mechanic, welder and sewing technology are exempt in terms of Entry 66 (a) of the Exemption Notification.**

➤ **2019 (6) TMI 1172 - AUTHORITY FOR ADVANCE RULING, MAHARASHTRA IN RE: M/S. ORIENT PRESS LTD.**

- Classification of supply of services - rate of tax - Printing of Pre-examination items - Printing of Post-examination items - **Scanning and processing of results of examinations - exempt supply or not - business of providing the services of printing of security documents to various clients like Government Authorities and agencies, Banks, Educational Boards / Institutions and Private Companies.**
- Supply of service of Printing of examination items like **question papers OMR sheets (Optical Mark Reading), Answer booklets for conducting of an examination by the educational boards or institutions - exempt services or not - N/N. 12/2017 - CT (Rate), dated 28th June, 2017 as amended - Circular No. 11/11/2017-GST dated 20.10.2017 - HELD THAT:- As per under Entry No. 66 of the Notification No. 122017 - C T (Rate), dated 28th June, 2017 as amended, services provided to an educational institution, by way of Services relating to admission to, or conduct of examination by, such institution falls under Heading 9992 (Education Services and exempted from payment of GST. Such services are exempted only if they are, in the subject case, related to conduct of examination by such institution.**
- The question papers, OMR sheets (Optical Mark Reading), answer booklets are very essential and necessary requirements to conduct any examination. **To print question papers the content i.e. the questions will be provided by the institution conducting the examination.** The contents of the **OMR sheets and answer sheets will also be provided accordingly by the institution** - in the subject case **there is a supply of services and since the same are provided to educational institutions, the same shall be classified under Heading 9992 and will be exempted from payment of GST vide Entry No. 66 of the Notification No. 12/2017 - Central Tax (Rate), dated 28th June, 2017 as amended.**
- Whether **supply of service of Printing of Post examination items like marks card, grade card, certificates to educational boards (up to Higher Secondary) after scanning of OMR Sheets and processing of data are also exempted under the said Notification? –**
- HELD THAT:- **Conduct of any examination by an educational Institute includes both pre examination works, actual conduct of the exams and post-examination works.** Hence for reasons mentioned in para no. 5.4 above we hold that such supply is also a supply of services and classifiable under Heading 9992 and will be **exempted from payment of GST** vide Entry No. 66 of the Notification No. 122017 - Central Tax (Rate), dated 28th June, 2017 as amended. We do not agree with the **jurisdictional officer who has opined that the said supply is a supply of goods and not services.**

➤ **2019 (7) TMI 1332 - AUTHORITY FOR ADVANCE RULING, MAHARASHTRA IN RE: M/S. SECURITY AND INTELLIGENCE SERVICES (INDIA) LTD.**

Security Services

Educational Institution - services provided to Visvesvaraya National Institute of Technology, Nagpur - exemption under Serial No. 66 of Notification No. 12/2017 - Central Tax (Rate) dated 28th June 2017 - Rate of tax.

Whether the services provided to Visvesvarayya National Institute of Technology, Nagpur will qualify for exemption under Serial No. 66 of Notification No. 12/2017 - Central Tax (Rate) dated 28th June 2017, considering it to be an educational Institution? - HELD THAT:- The applicant is of the opinion that the said Sr.No. 66 is not applicable in their case but VNIT has informed them that GST is not applicable on security services provided by the applicant to them. As per Sr.No.66 (b) (iii) **security services or cleaning services or housekeeping services supplied to an educational institution attracts NIL rate of GST.** **Hence to avail of the benefit of Sr. No.66 mentioned above in the subject case, since the security' services are provided by the applicant to VNIT, the latter must fall under the definition of an 'educational institution'.**

VNIT as per the submissions made by the applicant is not engaged in providing preschool education and education up to higher secondary school or equivalent.

Since VNIT as a **technical institute is engaged in imparting under-graduate courses, post-graduate courses and Ph. D programs** in the field of engineering, architecture and science thereby being engaged in imparting education as a part of a curriculum for obtaining a qualification recognised by law for the time being in force, it would get covered under the definition of "educational institution" vide clause (ii) mentioned above and therefore it is seen that the security services as in the subject case are provided to an educational institution i.e. VNIT.

The applicant has been given the status of a Deemed University by the University Grants Commission. The UGC was formally established 1956 as a statutory body of the Government of India through an Act of Parliament for the coordination, determination and maintenance of standards of university education in India.

The proviso to Sr. No. 66 mentioned above very clearly states that only services provided to an educational institution which provides services by way of **pre-school education and education up to higher secondary school or equivalent, will be exempt.** In the subject case the applicant is not providing services, **as an educational institution, by way of pre-school education and education up to higher secondary school or equivalent.** **Hence Security services provided in the instant case will not be exempt from payment of GST.**

2020 (7) TMI 348 - AUTHORITY FOR ADVANCE RULINGS, ANDHRA PRADESH IN RE: M/S. MASTER MINDS

Ques:- Whether the services of supply of service of education as per the curriculum prescribed by the statutory authorities/ government to the students of the applicant for obtaining qualifications/ certificates of CA-Foundation, CA-Inter, CA-Final, CMA (ICWA)-Foundation, CMA-Inter, CMA-Final and Intermediate duly recognized by the respective statutory authorities/ government are exempted under Notification NO.12/2017-CT (Rate) dt.28.06.2017 (entry No.66(a)), as amended or Not?

Ans:- In the instant case, the coaching or training service provided in respect of the courses pertaining to CA (Inter & Final) and ICWA (Inter & Final) does Not fall under clause (i) of the above said definition, as the same is Not related to pre-school education and education up to higher secondary school or equivalent. Similarly, the service provided by the applicant also does Not fall under clause (iii), as the same is Not related to imparting of education as a part of an approved vocational education course (which is generally a Non-academic course and a specific trade / vocation oriented course) - In the instant case, the coaching or training provided by the applicant is for preparing the students for writing/appearing CA(Inter & Final) and ICWA (Inter & Final) Exams conducted by ICAI/ ICWAI. The said coaching or training per se does Not lead to grant of a certificate or diploma or degree or qualification which is recognized by any law. It only aims at giving a better preparation to the students and improves their chances in the examination. It is similar to any other coaching or training given in respect of competitive / entrance examinations such as IIT, EAMCET etc.

It is pertinent to mention that the coaching or training as imparted by the applicant is neither mandatory Nor sine qua Non to the students appearing for CA / ICWA examination. Students, who prepare on their own, can also appear for these examinations and qualify basing on their performance. Hence, as stated supra, the coaching or training imparted by the applicant is only a facilitation / improvisation of the preparation for the said exams and can not be considered as a coaching/training leading to grant of certificate, qualification etc. recognized by law - the coaching or training service provided by the applicant to the aspirants of CA-Foundation, CA-Inter, CA-Final, CMA (ICWA)-Foundation, CMA-Inter, CMA-Final and Intermediate is Not the service provided by means of 'education as a part of curriculum that has been prescribed for obtaining a qualification prescribed by law'. Hence it cannot be said that the coaching / training given by the applicant to CA aspiring students (for appearing and qualifying in the examinations) would lead to grant of certificate/qualification recognized by law. Therefore, the service rendered by the applicant is Not a service by way of 'education as a part of curriculum for obtaining a qualification recognized by any law for the time being in force'.

The rates of GST to be collected towards various activities of the University are as follows

The rates of GST to be collected towards various activities of the University are as follows:

| Paid by Colleges | Rate of Tax | HSN Code |
|--|--------------------|-----------------|
| Application Form Fees | 12% | 4911 |
| Inspection Fees | 18% | 9992 |
| Initial, Permanent and Continuation Affiliation Fees | 18% | 9992 |
| Fees for Increase in intake for courses | 18% | 9992 |
| Brochures, leaflets and similar Printed Materials | 5% | 4901 |
| Printed Books including Brailee books | Exempted | |
| Newspapers, Journals and periodicals | Exempted | |
| Paid by Students | | |
| Education services provided by an Educational Institution to its students, faculty and staff | Exempted | |
| Application Form Fees | 12% | 4911 |
| Online Application Fees | 18% | 9992 |
| Late Fee, Processing Fee, Placement Fee | 18% | 9992 |
| Panel fee for Late submission of Dissertation, Synopsis, and Thesis | 18% | 9992 |
| Migration Application Fees | 18% | 9992 |
| Matriculation Fee paid by students after admission | Exempted | |
| Internship fee as part of Curriculum | Exempted | |
| Registration Fee and Tuition Fees | Exempted | |
| Library Fee | Exempted | |
| Special Equipment Fee, Lab Fee and Computer Lab Fee | Exempted | |
| Infrastructural facilities fund | Exempted | |
| Eligibility Fee, ID Smart Card Fee | Exempted | |
| Exam Fees for Theory, Practical, Dissertation, Project & Viva-voce | Exempted | |
| Hostel Room Rent | Exempted | |
| Examination Application Fee, Convocation | Exempted | |

| | | |
|--|----------|------|
| Application Fee | | |
| Duplicate Application Fee, Fee for Certificate and Marks Statement | Exempted | |
| Ph.D. Registration Fee, Extension Fee, Thesis submission Fee | Exempted | |
| Research Grant | | |
| Academic Research Purpose | Exempted | |
| Consultancy Projects | 18% | 9992 |
| Rent | | |
| Auditorium | 18% | 9972 |
| Open Shelters | 18% | 9972 |
| Other Services | 18% | 9972 |
| Commercial Rent | 18% | 9972 |

| Rent | Rate of Tax | HSN Code |
|---|--------------------|-----------------|
| Guest House | | |
| Rate per day below Rs.1000/- | Exempted | |
| Rate per day above Rs.1000/- to Rs.2500/- | 12% | 9963 |
| Rate per day above Rs.2500/- to Rs.7500/- | 18% | 9963 |
| Rate per day above Rs.7500/- | 28% | 9963 |
| Other Services | | |
| Sale of Metal Scrap | 18% | 7204 |
| Sale of Waste paper, Plastics, Rubber and Glass | 5% | 4707 |
| Sale of Tender Documents for cost | 12% | 4911 |
| Sale of Books by the Publication Division | Exempted | |
| All other Receipts through any other Services | 18% | 9997 |

TDS Provisions can also come into picture depending on facts.

FAQ

FAQ

FAQ – What will be the treatment in case of Bundled Supply or Mixed Supply of Service by an Education Institution e.g. Boarding & Lodging Service by Boarding Schools?

Reply – Boarding schools provide service of education coupled with other services like providing dwelling units for residence and food. This may be a case of bundled services 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 of the CGST Act, 2017. 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.

Let's take another example 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, 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) read with section 8 of the CGST Act, 2017. The taxability will be determined by the supply which attracts highest rate of GST. 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.

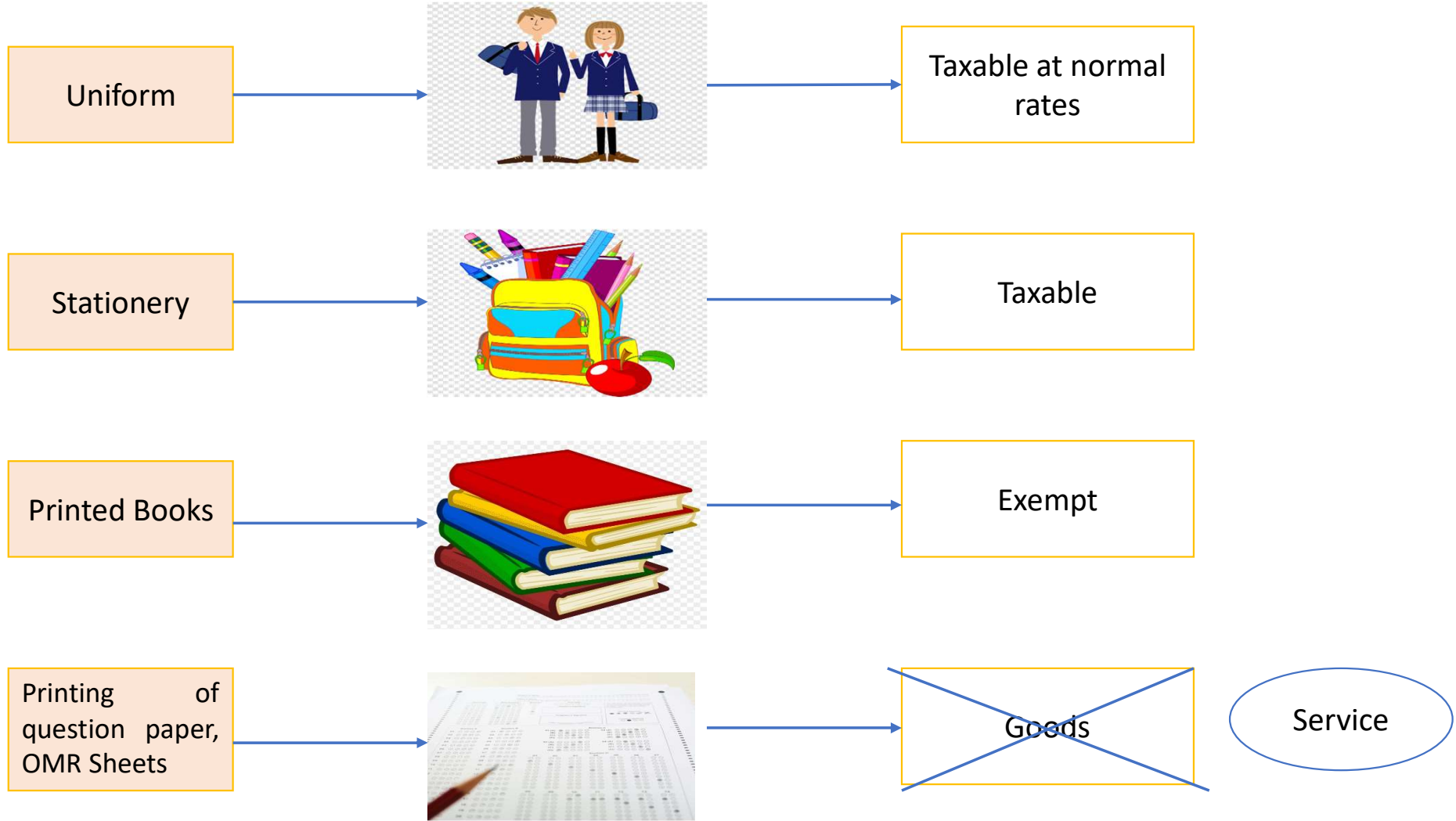
One relevant consideration in such cases will be the amount of extra billing being done for the unrecognized component viz-a-viz the recognized course. If extra billing is being done, it may be a case of artificial bundling of two different supplies, not supplied together in the ordinary course of business, and therefore will be treated as a mixed supply, attracting the rate of the higher taxed component for the entire consideration.

FAQ – Whether Institutions providing Degree under Foreign Laws but eligible for Equivalence Degree by AIU will be eligible for exemption?

Reply – Involves question of Law.

Taxability of sale of goods or services

Taxability of goods



Taxability of services

Annual function/ sports function



Fees charged from students

Exempt

Amount charged from others

Taxable

Services received by education institution of printing question paper, OMR sheets



Exempt

Security/ Housekeeping/ cleaning services Edu. Inst. under 2(y)(i)



Exempt

Manpower supply to Edu. Inst. under 2(y)(i)



Taxable

Day Care Services by Educational Institution



Exempt only if to Students

Hostel



Exempt

Canteen Income to School



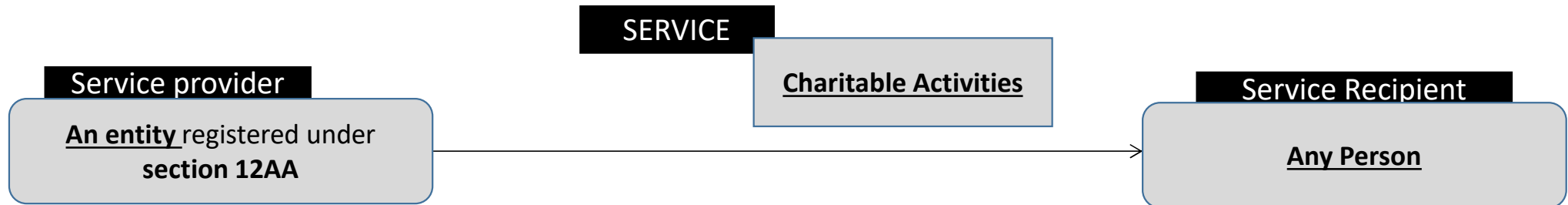
Exempt
(For Students)⁵¹



CHARITABLE INSTITUTIONS

Entry no. 1 of Notification No. 12/2017- Ct Rate

Services **by an entity** registered under **section 12AA** of the Income-tax Act, 1961 (43 of 1961) by way of **charitable activities**



“Charitable activities” means activities relating to—

- i. public health by way of,—
 - A. care or **counselling** 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;

CHARITABLE PURPOSE U/S 2(15) of Income Tax Act

Charitable Purpose **includes**

Relief of the poor

Education

Yoga(as per amendment made by finance act 2015

Medical Relief

Preservation of environment(including watersheds, forests and wildlife)

Preservation of monuments or places of objects of artistic or historic interest

The **advancement of any other object of general public utility.**

Provided that the **advancement of any other object of general public utility** shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless—

(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility;

and

(ii) the aggregate receipts from such activity or activities during the previous year, **do not exceed twenty per cent of the total receipts,** of the trust or institution undertaking such activity or activities, of that previous year;

Note: Any institution for being recognized as public charitable institution should have **its objects falling within the meaning of "CHARITABLE PURPOSE"** as defined u/s 2(15) of Income Tax Act 1961.

Circular No. 66/40/2018-GST

CLASSIFICATION OF SERVICES - GST ON RESIDENTIAL PROGRAMMES OR CAMPS MEANT FOR ADVANCEMENT OF RELIGION, SPIRITUALITY OR YOGA BY RELIGIOUS AND CHARITABLE TRUSTS

*"The services provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of religion, spirituality or yoga are **exempt**.*

- ***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**".*

It is accordingly clarified that taxability of the services of religious and charitable trusts by way of residential programmes or camps meant for advancement of religion, spirituality or yoga may be decided accordingly.



[2019] 101 taxmann.com 2 (AAAR-MAHARASHTRA) Shrimad Rajchandra Adhyatmik Satsang Sadhana Kendra, In re Section 2(17), read with section 7, of the Central Goods and Services Tax Act, 2017/Section 2(17), read with section 7, of the Maharashtra Goods and Services Tax Act, 2017 - Business - **Appellant a public charitable and religious trust engaged in spreading knowledge of Jain Religion submitted that its main objective is advancement of religious and spiritual teachings, hence it cannot be said to be carrying any 'business' as contemplated under section 2(17) of CGST Act –**

- On perusal of activities of trust it is found that **though charitable trust is formed with fundamental objectives of carrying out spiritual activity and salvation, but trust also sells various goods and services like books, CDs and DVDs for advancement of religious teachings to people desiring to buy them and such an activity of trade and commerce by itself forms a part of objective of trust –**

Ques :- Whether intention of legislature is to tax all activities of **supply of goods and services by charitable trust except those specifically exempted –**

Ans:-yes –

Ques:- Whether very fact that certain services have been carved out and given out a special treatment makes it clear that all trade and commerce transaction of selling books, statues, CDs and DVDs etc. done commercially for consideration fall within scope of 'supply' and come within broad ambit of 'business' under CGST Act –

Ans:-yes

Ques:- Whether therefore, AAR was right in holding that appellant, a public charitable and religious trust engaged in advancement of religious and spiritual teachings also engaged in sale of spiritual goods, can be said to be in 'business' and therefore attract provisions of CGST Act, 2017 –

Ans:- yes[Paras 5 and 6]

Exemption to Charitable organisations

Pursuant to Notification No. 12/2017 CT dated 28th June 2017, the Govt. has exempted services by way of **charitable activities**, provided by charitable organisations from levy of GST. Thus charitable organisations engaged exclusively in charitable activities are exempted from obtaining registration.

However, charitable organisations are compelled to register where they have receipts on account of ancillary activities like providing shop on rent to outsider(so that the visitors get tea and food), charitable hospitals running pharmacy and providing medicines at concessional rate etc.(Donations Excluded & Advertisement, Sponsorship, Consultancy, Sales included)

Acharya Shree Mahashraman Chaturmas Pravas Vyavastha Samiti Trust, In re vs. (AAR)(2019] 110 taxmann.com 282 (AAR - KARNATAKA)/[2019] 31 GSTL 138

Rajiv Gandhi Centre For Aquaculture, In re vs. AAR([2019] 108 taxmann.com 465 (AAAR - TAMILNADU)/[2019] 76 GST 71

Circular No. 116/35/2019- GST

SECTION 7 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SUPPLY - SCOPE OF - LEVY OF GST ON THE SERVICES OF DISPLAY OF NAME OR PLACING OF NAME PLATES OF THE DONOR IN THE PREMISES OF CHARITABLE ORGANISATIONS RECEIVING DONATION OR GIFTS FROM INDIVIDUAL DONORS

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



Some examples of cases where there would be no taxable supply are as follows:—

- a) "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution
- b) "Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

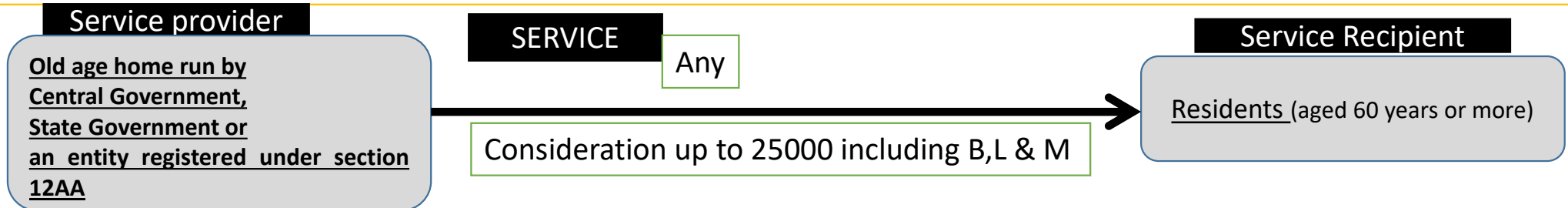
In each of these examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus where all the three conditions are satisfied namely the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is **philanthropic (i.e. it leads to no commercial gain) and not advertisement, GST is not leviable.**

If instructed to put Board of particular Dimensions with Firm Name in Return , then it will be taken as Supply.

Entry no. 9D of Notification No. 12/2017- Ct Rate

Services by an **old age home** run by Central Government, State Government or by an entity registered under **section 12AA** of the Income-tax Act, 1961 (43 of 1961)

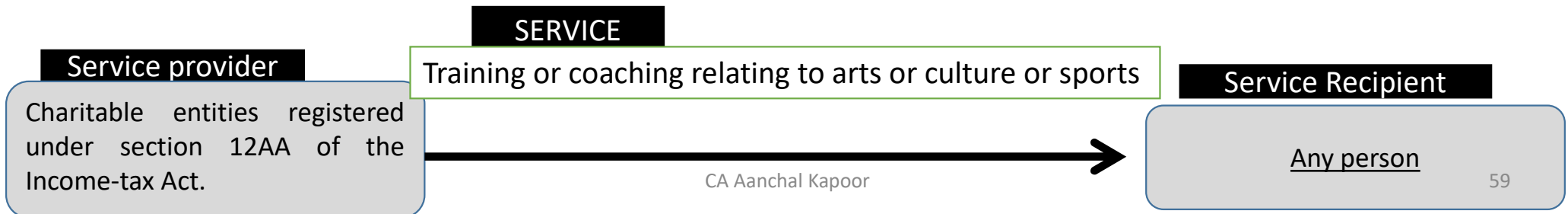
- to its residents (aged 60 years or more) against consideration
- **Up to twenty-five thousand rupees per month per member,**
- **provided that** the consideration charged is **inclusive of charges for boarding, lodging and maintenance.**



Entry no. 80 of Notification No. 12/2017- Ct Rate

Services by way of **training or coaching in recreational activities** relating to—

- arts or culture, or
- sports by charitable entities registered under **section 12AA** of the Income-tax Act.



Entry no. 13 of Notification No. 12/2017- Ct Rate

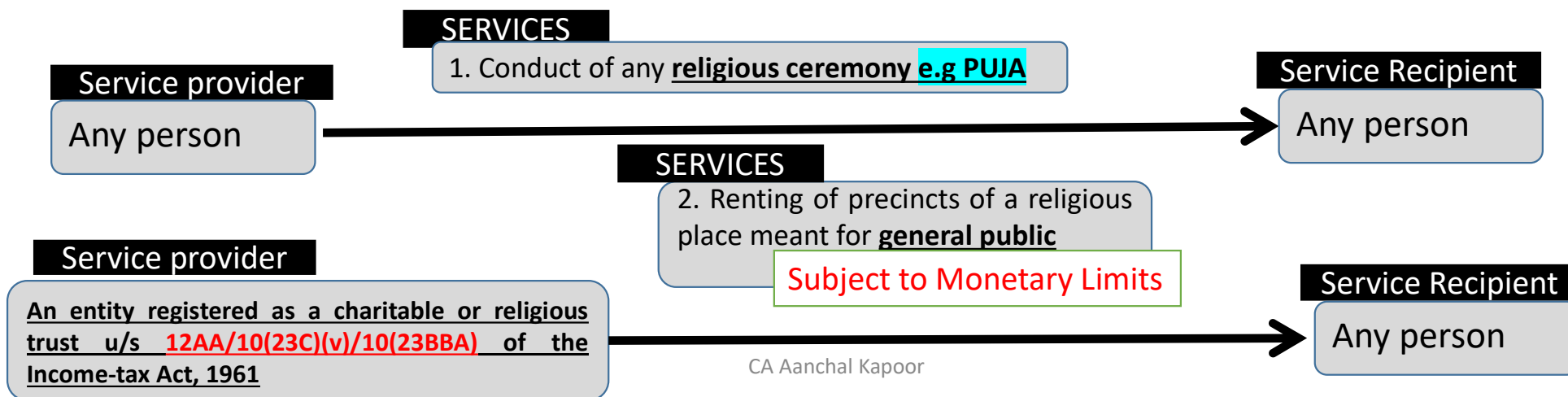
Services by a person by way of—

- a) conduct of any **religious ceremony**;
- b) renting of precincts of a **religious place** meant for **general public**, owned or managed by **an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961** (hereinafter referred to as the Income-tax Act) or a trust or an institution registered under sub-clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act:

Defined in (zc) point of N.N. 12/2017 means, "the body of people at large sufficiently defined by some common quality of public or impersonal nature."

Provided that nothing contained in **entry (b)** of this exemption shall apply to,-

- i. **renting of rooms** where **charges are one thousand rupees or more per day**;
- ii. **renting of premises, community halls, kalyanmandapam or open area, and the like** where charges are **ten thousand rupees or more per day**;
- iii. **renting of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month.**



Other points related to charitable institutions

Sale of Goods by charitable institution



Taxable
~~Exempt~~
(Prasad Sacred Food exempt -2106)

Public libraries



Exempt
(Entry No. 50 of N.N. 12/2017)

Goods or services to Charitable Institution



Eg. Rental, CA services

Taxable

Renting of space for Advertisement Hoardings



Taxable

Import of service by charitable institution for charitable purpose



No RCM
(Exempt-Entry No.10 of Not. 9/2017-IT(Rate))

Online pooja

[2018] 100 taxmann.com 291 (AAR - MAHARASHTRA) Sadashiv Anajee Shete, *In re*

Classification of services - Heading No. 9963 - Religious ceremony - **Facilitator between pundit and website users**/Maharashtra Goods and Services Tax Act, 2017 - Applicant is engaged in business of **assisting believers, followers and devotees to book Pundits/Brahmins** online for their religious ceremonies **like pujas, abhisheks, etc.** - Said service is being provided through **applicant's own website by charging money** - He is facilitator **between pundits and customers** - Applicant is taking **booking of services online on his own website from customers and intimates names of Pundits/Brahmins who would perform job to customers also online** - Whether applicant is not covered under Entry No. 13 of exemption Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017 and, **therefore, his services are not exempt from GST - Held, yes [Para 4.3]**

Classification of services - Religious ceremony - Heading No. 9963 - Maharashtra Goods and Services Tax Act, 2017 - Whether, on facts, stated under heading 'Classification of services/Maharashtra Goods and Services Tax Act, 2017 - **Facilitator between pundit and website users (Intermediary)**', **Pundits are persons who are actually performing services like puja, abhishek to customers and, therefore, they are eligible for exemption from GST - Held, yes [Para 6]**

Section 24, read with section 2(44) and 2(45), of the Central Goods and Services Tax Act, 2017/Section 24 of the Maharashtra Goods and Services Tax Act, 2017 - Registration - Compulsory registration in certain cases –

Question :- Whether where applicant is providing services and doing activities through electronic network of own website and facilitated recipient of services on electronic basis through their internet website, applicant is squarely covered as 'Electronic commerce operator' and considering section 24 he shall be required to be registered under Act

Answer- **Yes –**

Question:- Whether further since he is liable to receive commission for supply of services he would be liable to pay GST on value of commission received from website users and not for amount received –

Answer:- Yes



[2019] 110 taxmann.com 282 (AAR - KARNATAKA) Acharya Shree Mahashraman Chaturmas Pravas Vyavastha Samiti Trust, In re
Section 7 of the Central Goods and Services Tax Act, 2017/Section 7 of the Karnataka Goods and Services Tax Act, 2017 - Supply - Scope of –

Ques. I. Whether where **applicant, a charitable trust**, was **constructing buildings and giving it on rent, etc.** which **was not directly related to advancement of religion, spirituality or yoga**, it could be said that these **services were in course or furtherance of business** and it was to be held that **these were covered within meaning of 'supplies' under section 7(1)**

Ans:- yes

Ques. II. Whether where **a person (supplier) makes a taxable supply**, he shall be **liable to get himself registered, if his aggregate turnover exceeds threshold –**

Ans:-yes

Ques. III. - Whether entry No. 7(ii) of Notification No. 11/2017 - Central tax (Rate), dated 28-6-2017, reveals that **accommodation provided in commercial places meant for residential or lodging purposes having a declared tariff of a unit of accommodation of Rs. 1000 per day per unit** or equivalent would be taxable at 6 per cent under CGST Act –

Ans:- yes –

Ques IV:- Whether thus, where applicant, a charitable trust, is a supplier of service within scope of section 7(1) and they are providing **accommodation services to pilgrims and charging persons on a monthly basis or daily basis for residential purposes, activity of applicant is squarely covered under entry No. 7(ii), if declared tariff of a unit of accommodation is Rs. 1000 or more per day or equivalent –**

Ans:- yes [Para 12.2]

Ques V. Whether entry No. 14 of Notification No. 12/2017 - Central Tax (Rate), dated 28-6-2017, states **that 'Services by a hotel, inn, guest house, club or campsite by whatever name called, for residential or lodging purposes**, having a declared tariff of a unit of accommodation below one thousand rupees or equivalent is exempt from tax' and these services must be of heading 9963 –

Ans:- Held, yes [Para 12.3]

Ques V. Whether conditions which need to be satisfied for a contract to be covered under entry No. 12 of Notification No. 12/2017 - Central Tax (Rate), dated 28-6-2017, are that **(i) it must be a service of renting of residential dwelling and (ii) it must be for use as residence –**

Ans.yes

Ques. VI:- Whether where applicant charitable trust was providing accommodation services to pilgrims and charging persons on a monthly basis or daily basis **for residential purposes, since, accommodations provided were for temporary stay and not for a permanent residence, accommodation services provided would not be covered under said entry.**

Ans :- yes

Ques VII. Whether as per entry 7 of Notification No. 11/2017 - Central Tax (Rate), dated 28-6-2017, supply of **goods being food or any article for human consumption or drink by way of or part of any service or in any manner whatsoever is taxable –**

Ans:-yes

Ques VIII :- Whether thus, supply of food and beverages by applicant, a charitable trust, at subsidized rates to devotees is taxable under GST Act

Ans:- yes

Ques. IX:- Applicant charitable trust is providing space for registered person without consideration for supply of food and beverages to devotees, and, consideration for food and beverages supplied by such registered person is received by him directly from devotees - Whether this would amount to a supply of usage rights of space without consideration and devotees are consumers –

Ans:- yes

Ques. X:- Whether Schedule I to CGST Act, which is related to 'activities to be treated as supply even if made without consideration' does not cover this item as long as registered person and applicant arc not related persons –

Ans:- yes

Ques. XI:- Whether in case two are related persons as per definition of 'related persons' as defined in Explanation to section 15, then, providing of space for registered person without consideration would be a supply liable to tax as per provisions of CGST Act, 2017 –

Ans:- yes

Ques XII:- Section [2\(13\)](#), of the Integrated Goods and Services Tax Act, 2017 - Intermediary - Applicant charitable trust intends to book hotel rooms for pilgrims from outside and supply of service is by hotel to pilgrims and applicant is facilitating supply of accommodation service to pilgrims by hotel - Whether since applicant arranges supply of services and facilitates supply, it would be squarely covered under definition of 'intermediary' –

Ans:- yes

General Circular No. 05/2021

E-file no. CSR-10/9/2020-CSR-MCA

Government of India

Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhawan,

Dr. R. P. Marg, New Delhi - 110 001

Date: 22nd April 2021

To,

All Stakeholders.

Subject: - Clarification on spending of CSR funds for setting up makeshift hospitals and temporary COVID Care facilities - reg.

Ma'am/Sir(s),

In continuation to this Ministry's General Circular No. 10/2020 dated 23.03.2020 wherein it was clarified that spending of CSR funds for COVID-19 is an eligible CSR activity, it is further clarified that spending of CSR funds for 'setting up makeshift hospitals and temporary COVID Care facilities ' is an eligible CSR activity under item nos. (i) and (xii) of Schedule VII of the Companies Act, 2013 relating to promotion of health care, including preventive health care, and, disaster management respectively.

2. The companies may undertake the aforesaid activities in consultation with State Governments subject to fulfillment of Companies (CSR Policy) Rules, 2014 and the circulars related to CSR issued by this Ministry from time to time.
3. This issues with the approval of competent authority.

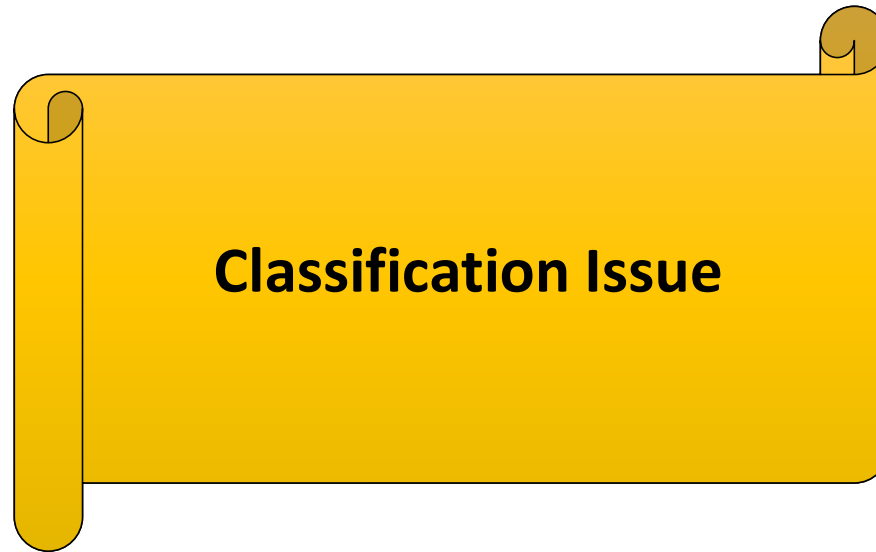
Yours faithfully,



(Shobhit Srivastava)

Deputy Director (CSR Cell)

Tel: 011-23070216



Classification Issue

Principles of classification as a medicine

3003/3004 – Medicaments for therapeutic or prophylactic uses[12%]

Determinant factors in classification in above entry

- Curative effect (therapeutic use) or Preventive effect (prophylactic use) :
- Period of usage i.e., to be used for a limited period or regularly
- Prescription by a medical practitioner
- License to manufacture, store and sell by FDA
- Reference to Pharmacopoeia or authoritative books
- Trade parlance, i.e., how it is known in the market
- Certificate by the technical experts or authorities.
- Whether put up in measured doses or not?

Medicament vs Cosmetic – Judicial Interpretation

- 3003 90 – Medicine [12%] Vs Entry 3305 - Preparations for hair [18%]
- **Khandelwal Drug Agencies (Raj HC) (STR Case No. 358 of 1999 [2007] RD-RJ 3199 (6 July 2007))**: Swad having therapeutic value is medicine though it is sold in tea stall or betel shop.
- **Global Tele Mall–MP HC-Hair (CEA No.102/2017)** wash/shampoo made from ayurvedic ingredients having therapeutic quality classifiable as Ayurvedic Medicine.
- **Marico Industries Ltd. -SC – Mediker (W. P. No.21702/2017 & others)** used for anti-lice treatment is a drug because of its medicinal effect. Once it is a drug, it cannot be shampoo
- **Ciens Laboratories SC (CIVIL APPEAL NO. 6988 OF 2003)** : The product having therapeutic value sold without prescription is medicine. If a product's primary function is "care" and not "cure", it is not a medicament.
- **Plethico Pharmaceutical Ltd (Excise Appeal No. E/766/2010- Ex (DB))**: Percentage of active ingredient is not material. Plethico byte' tablet contains 'mulethi' which acts as a therapeutic agent, it is medicament irrespective of small value of ingredient.

Medicament vs Cosmetic – Judicial Interpretation

- **Davo Laboratories (Excise Appeal No. 298 of 2008 with E/C.O./150 of 2008)** – Delhi Tribunal: Mere manufacture under licence from Drug authorities has no relevance for classification. It is the common/popular description of product, length of usage of the product, primary object of curing or caring which determine classification.
- **B P L Pharmaceutical Ltd SC (CASE NO.: Appeal (civil) 2516-2517 of 1994)**: Selsun', is an anti-dandruff preparation containing 2.5% selenium sulfide which is full therapeutic limit permissible as per pharmacopoeia. It is manufactured under Drugs Licence, certified by Food and Drugs Administration as a medicine.
- Common parlance: Wherever tariff is not clear, classification based on how the said product is known in the market. To be preferred over scientific meaning, unless specifically provided.
- **Sharma Chemical Works SC (CASE NO.: Appeal (civil) 7610 of 1999)**: Use by customers is the main criteria for classification:
 - Prescription is not mandatory to classify as medicine:
 - All medicines must have curative or preventive values but all articles having some elements of curative or preventive values need not be medicines. Consumer perception is very important

Hand Sanitizer – Classification

- Trade parlance only when heading not technical.
- Chapter 30/38 (disinfectant) - technical hence, trade parlance cannot be applied.
- Alcohol based sanitizers with 70% alcohol is medicament as;
 - Has therapeutic or prophylactic values
 - APIs are solutions used to prevent disease/antiseptic agents.
 - FDA license/Quality control testing procedure prescribed in D&C Act/FDA certifying goods as pharmaceutical/Legal Metrology Act applicable
 - **ICPA Health Products P. Ltd SC (CASE NO.: Appeal (civil) 4766-4768 of 1998)** – cleaning wounds solutions is medicament
 - Circular No. 7/92-CX 3 – disinfectant manufactured as drug – classification in Chapter 38 only if Chapter 30 not applicable.

Adverse Advance Rulings by department

ITC on CSR and R & D Activities

- Medicines given under CSR – not gift – ITC not liable to be reversed – Positive judicial rulings under earlier regime – Positive AAR by Uttar Pradesh AAR – **M/s Dwarikesh Sugar Industries Ltd. (GST AAR Uttar Pradesh) (Order No. 52)**
- GST applicable on goods removed for CSR activities as permanent transfer of business asset ??
- Expense incurred on R & D activities abandoned later – **Kerala Minerals and Metals Ltd. CESTAT (Final Order No.s 506-512/2007 in Appeal No. E1274)**- CENVAT once rightly indefeasible. Subsequent abandoning of plant will not make appellant liable to reverse CENVAT.
- ITC on goods and services that qualify as Plant and Machinery allowed
- P&M means apparatus, equipment, and machinery fixed to earth by foundation or structural support used for making outward supply and includes such foundation and structural supports but excludes (land, building or any other civil structures, telecommunication towers and pipelines laid outside the factory premises)

Query

If someone is providing online dance classes to overseas student. What is the tax implication under GST Service provider registered under GST?

Online Dance Classes provided to an overseas student are a performance-based service. As per Rule 12(5) Place of Provision Rules, the place of supply of services is actually performed. But now the question is where is actually performed. The location of supplier i.e. dance teacher or location of recipient i.e. student. "Actually performed" is where it is consumed i.e. location of student or the place it is performed by supplier i.e. permanent establishment of teacher. This has not been answered yet.

There is another school of thought which says that online classes does not require physical presence and hence general rule should be applied and it is recipient location. It seems to be more logical. If this rule is applied then it will be fall under export of service. Service provider is in India, service recipient is outside India, payment is in foreign currency and place of supply is outside India. Service provider can issue invoices without charge of GST but he has to execute undertaking.

THANK YOU

Disclaimer

The views expressed are solely of the author and the content of this document is solely for information purpose and not to be construed as a professional advice. In cases where the reader has any legal issues, he/she must in all cases seek independent legal advice.



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