

## GST ON

## NGO/NPOs

Prepared By:

**CA Sanjeev Goyal** +91-9871990666



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# GST Implications on Educational Institutions in India

#### INTRODUCTION

Understanding "Education" Under GST though the term "education" is not explicitly defined in the CGST Act, the Apex Court in Loka Shikshana Trust v/s CIT defined it as the process of training and developing knowledge, skill, and character of students through formal schooling. The GST law respects this foundational perspective by exempting core educational services from tax, while peripheral or ancillary services remain taxable at the standard rate of 18%.

#### Classification of Educational Services

- Pre-primary education
- Primary education (1-8 classes)
- Secondary education (9-12 classes)
- Higher education (Class 12 → Undergraduate → PG → Professional Courses → PhD)
- Specialized education
- Other educational support services (general, technical, vocational)

These classifications help determine the applicable GST rate based on the nature of the service.





# Meaning of "Educational Institution"

An educational institution under GST includes those offering:

- 1. Pre-school to higher secondary education.
- 2.Curriculum-based education that leads to a qualification recognized by law.(Curriculum-based +Law)
- 3. Approved vocational education courses, such as those under the Apprentices Act or National Council for Vocational Training. (Mostly Government body Certified)

Sr. No.	Description of Services	
Not. 11/2017	Educational Services	18%
NOT. 12/2017	Services Provided – a) By an <b>educational institution</b> to its students, faculty and staff;	Nil
Entry 66	b) <b>To an educational institution</b> , by way of, -	
	Transportation of students, faculty and staff;	
	<ul> <li>Catering, including any mid-day meals scheme sponsored by the Central Government, State</li> <li>Government or Union territory; (Govt only)</li> </ul>	
	Security or cleaning or housekeeping services performed in such educational institution.	
	Services relating to admission to, or conduct of examination by, such institution;	
	Provided that nothing contained in entry (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	

LIST OF SERIVICES PROVIDED BY PRE-SCHOOL TO HIGHER SCHOOL -EDUCATIONAL INSTITUTION			
Service Provided by School	Recipient	GST Applicability	Remarks
EXEMPTED SERVICES			
Education Services (core curriculum-based			
teaching)	Students	Exempt	As per curriculum recognized by law
Transportation Services (school buses, vans)	Students, Staff, Faculty	Exempt	Full exemption if operated by the school
Catering Services (e.g., mid-day meals)	Students, Staff	Exempt	Especially exempt under government schemes
Hostel Accommodation (if provided by the institution)	Students	Exempt	Considered part of educational services
Health Services (school clinic, first aid)	Students, Staff	Exempt	Auxiliary to core education
Sports & Physical Education (provided by school)	Students	Exempt	If part of the school's curriculum
Library Services (books, reading access)	Students, Staff	Exempt	Core auxiliary education service
Cultural & Extra-Curricular Activities	Students	Exempt	If part of overall education experience

Exempt

Exempt

Exempt

Exempt

Includes conducting and evaluating exams

Must be part of the education system

Educational in nature and organized by the school

Even if institution is not up to higher secondary level, exemption applies if

it conducts entrance exams

Students

Students

Students, Faculty

Students (aspiring candidates)

**Examination Services (internal exams, assessments)** 

Field Trips/Educational Tours (organized by school)

Counselling & Mentorship Programs

Conduct of entrance examination



## **TAXABLE SERVICES**

Service	Provided By	GST	Remarks
		Applicability	
		/ tppiioabiiity	
Sale of uniforms, books, stationery (if not part of	Educational		
fees)	Institution	Taxable	Considered supply of goods
	Educational		
Renting of halls to outsiders	Institution	Taxable	Commercial activity
	Educational		If vendor operates canteen
Canteen services outsourced to third party	Institution	Taxable	independently



## **Examples of GST-Exempt and Taxable Institutions**

- 1. B.Com program from a UGC-recognized university is exempt from GST.
- The student pays tuition fees.
- The course is part of a curriculum leading to a degree recognized by Indian law.
- **GST** is **NOT** applicable..
- 2. Private coaching centers offering non-curricular crash courses—even if they prepare students for recognized qualifications like CA—are subject to GST, typically at 18%.
- While the CA qualification is recognized by law, the institute is not part of the official curriculum.
  - It's a private coaching center, not a formal education body.
- GST is applicable (typically at 18%).

#### Analysis of exemption:-

Here as per serial no. 2 we have prepared all services which is provided to educational institution by different suppliers and about all services which could be exempt or taxable.



#### LIST OF SERIVICES PROVIDED BY SUPPLIERS TO PRE-SCHOOL TO CLASS 12 -EDUCATIONAL INSTITUTION

EXEMPTED SERVICES				
Service Provided TO School	Applicable Level	GST Applicability	<u>Remarks</u>	
Transportation of Students, Faculty, and Staff	Pre-school to Higher Secondary	Exempt	Provided by third-party transporters	
Catering Services (including mid-day meal scheme)	Pre-school to Higher Secondary	Exempt	Especially under Government schemes	
Security Services	Pre-school to Higher Secondary	Exempt	Housekeeping, watch & ward services	
Cleaning & Housekeeping Services	Pre-school to Higher Secondary	Exempt	As support to education delivery	
	All Educational		Includes question paper	



## Clarifications on some topic for education

#### 1. Circular No. 107/26/2019-GST dated 18.07.2019

#### <u>Boarding Schools – Bundled Services</u>

Boarding schools provide composite services (education + lodging + food). If these are naturally bundled (inseparable charges), the principal service—education—governs taxability, resulting in full exemption.

#### **Composite vs. Mixed Supply**

- Composite Supply: Incidental services like hobby classes are exempt when naturally bundled with education.
- **Mixed Supply:** Artificially bundled services (e.g., billing extra for coaching unrelated to recognized curriculum) are taxed at the rate of the highest-taxed component.

#### 2. Circular No. 85/04/2019-GST dated 01.01.2019

#### 1. Hostel Accommodation:

Exempt when provided by the educational institution to its students.

#### 2. Mess/Canteen Services:

Exempt only when run internally by the institution.

#### 3. Third-party vendors:

If vendors supply services like catering or security directly to the institution, it's taxable unless specifically exempt.



# Transportation & Hostel Accommodation (When Provided by the Institution Itself)

#### **Exemptions:**

Transportation of students, faculty, and staff by a school, college, or university in owned/hired vehicles is exempt from GST. Hostel accommodation provided by the institution to its students is also exempt, provided it's not in the nature of a commercial hotel or guest house.



#### **Legal Basis:**

As per Sl. No. 66(b)(ii) and (iii) of Notification No. 12/2017:

"Services provided to an educational institution, by way of transportation of students, faculty and staff; catering including any mid-day meals scheme sponsored by the Government; security or cleaning or house-keeping services performed in such educational institution..."





## Mess or Canteen Services (If Not Outsourced)

**Exemption Applies When:** The mess or canteen is run directly by the institution (not outsourced to a third party). It serves food to students, staff, and faculty.

<u>Taxable When</u>: The mess or canteen is outsourced to a private contractor, even if it's within the institution's premises.

**Legal Basis:** Covered under composite supply principles and clarified via CBIC Circular No. 85/04/2019-GST:

"If the canteen or mess is run by the educational institution themselves, it is a part of the composite supply of education and hence exempt."

<u>Rationale</u>: Food is an essential support for students in hostels or full-day institutions. When managed internally, it is seen as a non-commercial, welfare-oriented activity. Keeps education-related services non-profit and within affordable reach.





## Library Services & Sale of Merchandise





<u>Library Use (Exempt)</u>: Lending or access to books, journals, or digital resources by the institution's own library is exempt. Selling Books, Uniforms, or Other Merchandise (Taxable):

If the institution sells books, uniforms, or other items to the public or students, it is considered a commercial activity and is subject to GST.

**Legal Basis:** Library access is part of composite supply of education, and thus exempt. Sale of goods is a separate taxable supply under GST law, unless specifically exempted under a separate notification.

Rationale: Library services are a non-profit, knowledge-promoting support activity. Sale of goods involves trading and may compete with market players; hence, it's not granted a blanket exemption.



## Advertisement Income

Educational institutions earning through leasing ad spaces (e.g., campus hoardings or newsletters) are offering a taxable service under GST, generally attracting 18%.



## CASE LAWS

## Maharashtra Jain Education Society (AAR 2024)

#### 1. Issue

- Whether hostel-accommodation services provided by Maharashtra Jain Education Society (to its students) are exempt from GST under Entry No. 12 of Notification 12/2017-Central Tax (Rate) dated 28 June 2017.
- Specifically:
  - Whether a stay of 10 months (academic year) qualifies for exemption?
  - Whether a stay of 1–2 months during vacation qualifies for exemption?

#### 2. Facts

- The Society is registered with the Charity Commissioner (Pune) and also registered as a charitable trust under section 12AA of the Income-Tax Act.
- It runs hostels that provide accommodation services only to its students from 11<sup>th</sup> standard up to graduation.
- Hostel services include residential accommodation along with mandatory meals and amenities (bed, study table, common facilities, mess, utilities).
- Fee structure (as per AAR record): For academic-year stay (approximately 10 months), hostel fees (including meals & amenities) were fixed. For vacation periods (1–2 months), hostel stay (on demand) was charged separately.
- The Society approached the AAR seeking a ruling whether these hostel-accommodation services are GST-exempt under the Notification.

#### 3. Decisions:-

- Thus:
- Hostel accommodation for the full academic year and for continuing students' vacation stays qualifies for exemption.
- But short-term accommodation for new students & OTHERS (vacation-only) is taxable (i.e. not exempt under Entry 12).

## Emerald Heights International School (MP AAR 2018)

- Issue:- Is the service of organizing a conference by a school to which other schools send participants an "exempt educational service," or is it a taxable supply under GST?
- Fact:-The question raised before the AAR was whether the "conference services" (i.e., organising and hosting the event for outside students/staff) would also be exempt under the exemption notification, or would be taxable under GST.
- Decision:-
- The AAR ruled that the consideration received from other schools/participants for organising the conference is not exempt under the relevant exemption notification (neither under Entry No. 66 nor Entry No. 80 nor any other entry of Notification 12/2017-Central Tax (Rate).
- Therefore, the services provided (i.e., organising the conference/facility for other schools'
  participants) are liable to GST under applicable GST provisions.

## CST Delhi v. IIPM (2018)

#### Issue

- Whether IIPM's "management courses / training / coaching services" are taxable under the pre-GST regime (i.e., under the Finance Act, 1994) as a "commercial training or coaching centre," or whether they are to be treated as exempt "educational services."
- In particular, whether the fact that IIPM is a "society / non-profit / educational institution" changes the taxability of its courses.
- Not an educational institution.
- Facts
- IIPM was providing management and planning courses (variously described as "management courses," "planning & management training," etc.), and collecting fees from students.
- The training did **not** result in award of any certificate, diploma or degree recognized by law (i.e., by statutory authorities neither by University Grants Commission (UGC) nor All India Council for Technical Education (AICTE)).
- The tax authorities (CST/Service-Tax Department) issued a show-cause notice claiming service tax on the fees collected by IIPM, alleging that IIPM falls within "commercial training or coaching centre" under section 65(27) (or 65(105)(zzc), as per the Act) that is, a taxable service.

#### Decision

- The Tribunal (CESTAT Delhi) held in favour of the revenue. It ruled that IIPM's services are liable to service tax, because: the courses did **not** lead to any law-recognized degree or diploma; thus, they cannot be considered "exempt education services."
- The ruling stated that mere "educational institution / society status" does not automatically exempt all courses; what matters is whether the "qualification" granted is recognised under law. Since IIPM's courses were unrecognized, its activities fall under "commercial training/coaching," and are taxable.

#### Security & Intelligence Services (AAR Maharashtra 2019)

#### • 1. Issue

• Whether the security services provided by Security & Intelligence Services (SIS) to a certain educational/research institute (Visvesvaraya National Institute of Technology, Nagpur — VNIT) would qualify for **GST exemption** under the exemption notification for "services by an educational institution" (or related) — or whether they are **taxable supplies**.

#### • 2. Facts

• The question was raised whether such security services — supplied to an educational/research institute — would be exempt under the GST exemption regime (Notification No. 12/2017-Central Tax (Rate), or analogous state notification), which provides exemption for services by educational institutions.

#### • 3. Decision (AAR)

• The AAR held that security services provided by SIS to VNIT do not qualify for exemption under the entries applicable to educational institutions.

# Gujarat AAR – Vikram A. Sarabhai Community Science Centre (2020)

#### Issue

Whether any of the services/activities carried out by Vikram A. Sarabhai Community Science Centre (VASCSC) are liable to GST and whether the applicant is required to obtain GST registration.

#### Facts

VASCSC is a not-for-profit society (established 1966) running science popularisation activities — exhibitions, planetarium/astronomy shows, workshops, library membership, sale of TLM/science shop items and similar services to students/public. The applicant sought clarity on taxability and registration.

#### Decision

The Gujarat AAR held that the Centre's activities do **not** fall within the notified exemptions for "educational institutions"/charitable activities for GST exemption; accordingly the activities are **liable to GST** and the applicant is required to obtain registration for taxable supplies.



## Final Conclusion

The GST law safeguards genuine, formal, and non-commercial education by granting exemptions, while ensuring that commercial and profit-making services remain taxable. Educational institutions must carefully assess:

- Whether they qualify as recognized educational institutions.
- Whether their services are charitable under GST norms, and
- Whether ancillary services are bundled appropriately to retain exemption status.

Proper classification and documentation are critical to availing exemptions and avoiding litigation or penalties under GST.

# GST ON SKILL CENTRE &VOCATIONAL TRAINING



# GST on Vocational Training or Skill Centers

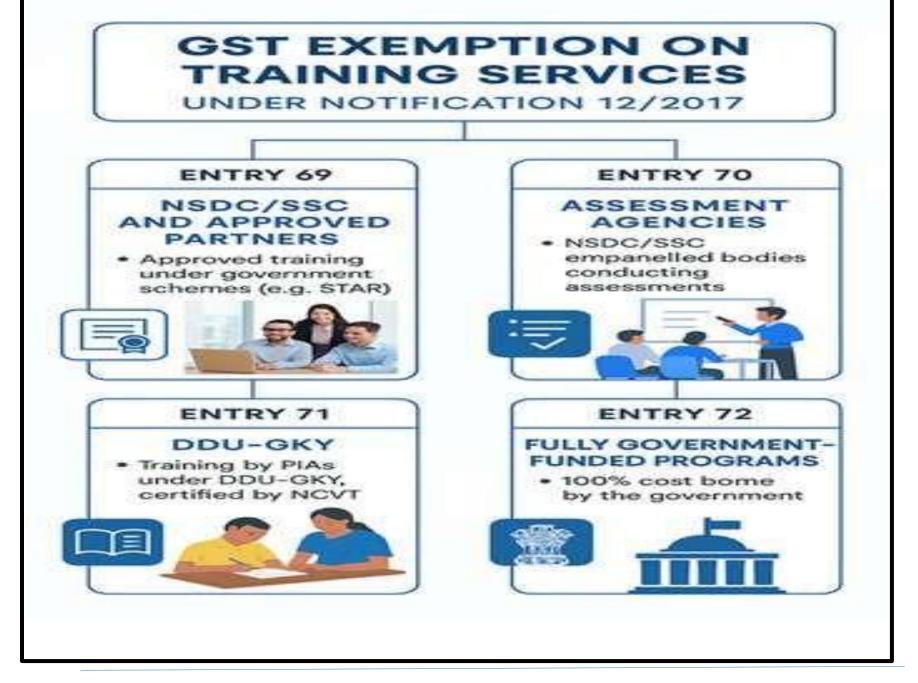
#### **INTRODUCTION**

In recent years, India has witnessed a growing emphasis on specialized education and practical skills development. With the changing employment landscape, the focus has shifted towards vocational training and skill enhancement, enabling individuals to become job-ready in specific trades or sectors. Vocational training courses are now offered extensively by both government-backed institutions and private organizations under various national initiatives such as Skill India, PMKVY (Pradhan Mantri Kaushal Vikas Yojana), and other state-level programs.

These vocational programs range from basic technical training to industry-specific skill-building in areas like healthcare, IT, construction, hospitality, and more. As these services directly contribute to employment generation and economic development, their treatment under Goods and Services Tax (GST) becomes a matter of policy relevance.

In this context, it is important to understand the GST exemptions available for vocational training services. The GST law provides certain exemptions to ensure that skilling initiatives remain affordable and accessible, especially when provided by recognized institutions. Let us now explore how GST is applied to vocational training and under what conditions these services may be exempt from tax.







#### 1. Serial No.: 69 - Heading 9992

#### **Service Providers:**

- National Skill Development Corporation (NSDC): A public-private partnership organization set up by the Government of India to promote skill development.
- **Sector Skill Councils (SSCs):** Industry-led bodies approved by NSDC to ensure that skill development efforts are in line with industry requirements.
- **Assessment Agencies:** Entities approved by NSDC or SSCs to assess and certify the competencies of trainees.
- Training Partners: Organizations approved by NSDC or SSCs to provide training under various skill development schemes.

#### **Services Provided:**

National Skill Development Programme: Initiatives implemented by NSDC aimed at enhancing skill development across various sectors. Vocational Skill Development Courses under:

- <u>the National Skill Certification and Monetary Reward Scheme</u>: Also known as the "**STAR Scheme**," it provides monetary rewards For successful completion of approved skill training programs.
- Other Schemes Implemented by NSDC: Includes various government- Funded skill development schemes aimed at enhancing employability.



**<u>Eligibility</u>**: Only services provided by NSDC, SSCs, their approved assessment agencies, or training partners in relation to specified skill development programs are eligible For GST exemption under this entry.

**Non-Eligibility**: General training services or courses not aligned with the specified programs or not provided by approved entities do not qualify For this exemption.

<u>Objective</u>: This exemption aims to promote skill development in India by reducing the tax burden on training services aligned with national skill development initiatives.

#### 2. Entry No. 70 – 9992

## NGO PILOT

#### **Description of Services**

Services of assessing bodies empanelled centrally by the National Skill Development Corporation (NSDC) Sector Skill Council approved by the <u>National Skill Development Corporation</u>, for conducting assessment which is a **requirement** For completion of a recognized training course.

#### **What Services Are Covered?**

The service of conducting assessments (examinations, evaluations, practical or theoretical tests). The assessment must be a required component For completion of a recognized training course (usually under NSDC-aligned programs).

**GST Rate:** Nil **Condition:** Nil

#### **Not Covered / Not Exempt If:**

- The assessment body is not empanelled with NSDC or SSC.
- The assessment is not part of an approved/recognized skill development course. The service is unrelated to NSDC/SSC-recognized programs.

#### 3. Entry No. 71 – GST Exemption



Services provided by training providers (Project Implementation Agencies) under **Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDU-GKY)** 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 (NCVT).

#### **Key Points:**

- Applicable Scheme: Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDU- GKY).
- **Service Providers:** Training providers acting as Project Implementation Agencies (PIAs) under DDU-GKY.
- **Type of Services:** Provision of skill or vocational training courses.
- <u>Certification</u>: Courses must be certified by the National Council For Vocational Training (NCVT).
- Implementing Authority: Ministry of Rural Development, Government of India.

#### **GST Exemption Not Applicable If:**

- The training is not under DDU-GKY
- The training provider is not recognized as a PIA under DDU-GKY. The courses offered are not certified by NCVT.

#### 4. Serial No.: 72 Heading 9992

#### **Description of services:**

NGO PILOT

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

Rate (per cent.): Nil Condition: Nil

#### **Scope of Services Covered:**

#### **Service Providers:**

Any entity providing training services.

#### **Services Provided:**

Training programmes where the entire expenditure is borne by: (a) The Central Government, (b) The State government, and The Union territory administration.

#### **GST Exemption:**

Services provided under such Fully government-Funded training programmes are exempt From GST, meaning no GST is applicable on such services.

#### **Conditions:**

The entire cost of the training programme must be borne by the Central Government, State Government, or Union territory administration. If the trainee bears any part of the cost, the exemption under this entry does not apply.

#### **Key Takeaways**

<u>Eligibility:</u> Training services provided under programmes Fully Funded by the Central Government, State Government, or Union territory administration.

**Non-Eligibility:** Training programmes where the cost is partially or Fully borne by the trainee or any entity other than the specified governments.

<u>Objective:</u> This exemption aims to promote skill development and capacity building by reducing the tax burden on training services that are entirely government-Funded.





## **Final Thoughts**

These entries collectively illustrate the government's targeted approach to GST exemption—Focusing on schemes of national importance, Standardization and accountability via registered/approved entities Ensuring public money spent on training isn't taxed again and Encouraging skilling initiatives in rural, urban, and underserved sectors.

However, service providers must be extremely careful in aligning with: The speciFic scheme, The certifying or approving authority and The Funding source to avail exemption. Any deviation results in loss of benefit and potential tax liability.



# What if your organization not covered under Entry 69-72, GST implications:-

A vocational training provider does not fall within the ambit of Entry No. 69 to 72—for instance, if they are not affiliated to the National Skill Development Corporation (NSDC) or do not provide training under a government-recognised scheme they must test their eligibility under Entry No. 1 of the same notification.

Case	Reason / Explanation	GST Status
Private training institutes <b>not affiliated</b> with NSDC, Sector Skill Council, or any Government scheme	Not covered under entries 69–72	Taxable @18%
Training courses conducted independently by NGOs, trusts, or companies without formal NSDC or Govt. approval	No exemption entry applies	Taxable @18%
Personality development, computer coaching, language, or corporate training for employment enhancement	Not recognized as "skill development programme under National Skill Mission"	Taxable @18%
Skill programs conducted for commercial organizations or industries (not for Govt. schemes)	Treated as commercial education service	Taxable @18%
Courses run under <b>franchise agreements</b> with private entities	Not under government notification or NSDC approval	Taxable @18%

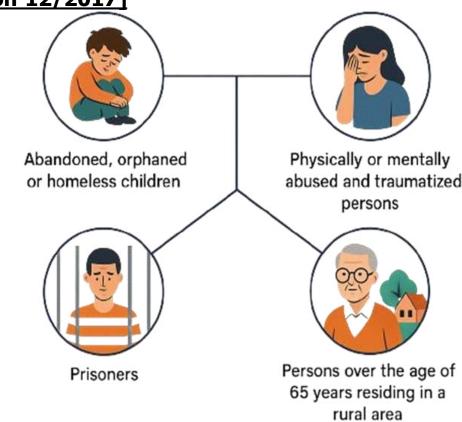


Sr. No.	Description
Entry 1 Of 12/2017	Services by an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 by way of charitable activities are exempt from GST

**Definition of "Charitable Activities" [Clause 2(r) of Notification 12/2017]** 

## Advancement of educational programmes or skill development for:

- Poor, Orphaned, Homeless children's Physically or mentally and Traumatized abused persons Prisoners
- Persons over age 65 in rural areas





### When GST Exemption Applies Under This Clause:

Condition	Exempt?
Entity is registered under 12AA/12AB	Yes
The activity is charitable in nature (education for disadvantaged groups)	Yes
Activity benefits general public or underprivileged sections	Yes

#### Conclusion for core exemption on educational services:-

Thus Even a vocational training institute, coaching centre, or skill development NGO, even if not a recognized educational institution, may still claim exemption if it caters to disadvantaged groups and is registered under 12AB/12AA.

#### Impact on charitable exemption:-

Case	Reason / Explanation	GST Status
1. Private training institutes <b>not affiliated</b> with NSDC, Sector Skill Council, or any Government scheme	Not covered under entries 69–72	Taxable @18%
2. Training courses conducted independently by NGOs, trusts, or companies without <b>formal NSDC or Govt. approval</b>	It will be exempt now if cover under charitable	
3. Personality development, computer coaching, language, or corporate training for employment enhancement	Not recognized as "skill development programme under National Skill Mission"	Taxable @18%
4. Skill programs conducted <b>for commercial organizations or industries</b> (not for Govt. schemes)	Treated as commercial education service	Taxable @18%
5. Courses run under <b>franchise agreements</b> with private entities	Not under government notification or NSDC approval	Taxable @18%



# GST Implications on Other Activities Carried Out by Vocational Training Centres

Now, let us discuss the other ancillary or additional activities undertaken by vocational training centres and examine the GST implications on such services. While the core training services may or may not qualify for exemption, it is equally important to assess the taxability of associated activities such as placement services, certification fees, sale of course material, canteen facilities, or commercial tie-ups.

Each of these services must be evaluated separately to determine whether they attract GST or are eligible for any exemptions under the law.





# GST on Placement Services Provided by Vocational Training Centres

Placement services refer to assistance provided by a training institute to help students secure employment after completing a course. These services may include resume building, interview preparation, job referrals, organizing campus interviews, or direct job placement with companies.

Under the GST regime, placement services are treated as separate taxable supplies—distinct From the core educational or training services.





## **Key GST Implications**

### 1. Not Covered Under Education Exemption:

- Placement services do not Fall under the definition of "education services" or "services provided in the course of education" as specified under Entry No. 66 or Entry No. 1 of Notification No. 12/2017 Central Tax (Rate).
- They are considered commercial in nature, as they involve a supply of service For consideration.

### 2. Taxability:

Placement services are taxable at the standard GST rate of 18%.

This applies whether the vocational training centre: Charges a separate Fee For placement, or Offers placement support as a value-added service.

### 3. **Bundled Services Exception**:

IF placement is offered as part of a single bundled service (e.g., an all-inclusive course Fee covering training + placement), the dominant intention of the bundle needs to be examined.

In such cases, the entire bundle may still be taxable if placement is a significant component.

### 4. Input Tax Credit (ITC):

IF the vocational training centre is registered and placement services are taxable, it can claim ITC on eligible input services used For providing such services.



# **Summary**

Placement services provided by a vocational training centre are not exempt From GST and are generally taxable at 18%, unless they are purely incidental and inseparably part of an exempt core training package (which is rare and subject to departmental scrutiny).

# Karnataka AAR – TeamLease Education Foundation (TEF), Bengaluru (2022)

- Issue
- Whether TeamLease Education Foundation (TEF), which provides skill-development and vocational courses under the National Skill Development Corporation (NSDC), is eligible for **GST exemption** as an "educational institution" under Entry 66 or under NSDC-related exemption notifications
- Facts
- TEF is a **Section 8 non-profit company** and an NSDC-approved training partner providing various **vocational courses**, training, assessments, apprenticeships, and skill programs funded under government schemes. They approached AAR to determine if such services are exempt.
- Decisions
- The AAR held that TEF is NOT an educational institution under GST, and its services do NOT qualify for exemption under Entry 66 or NSDC notifications. Therefore, TEF's training/vocational services are taxable under GST.
- TEF is an NSDC partner BUT that alone is not enough
- Being an NSDC training partner does not automatically grant GST exemption.
- Exemption requires that the **specific training programme** must also be:
- approved by NSDC, and
- conducted strictly under NSQF/SSC standards.
- TEF failed to prove that its training programmes were NSDC-approved or NSQF-aligned.

## Director of Skill Development, Madhya Pradesh (AAAR – MP)

### • Issue:

 Whether services received from a foreign consultancy for establishing the Global Skills Park are liable to IGST under Reverse Charge, or exempt because the project is a government skill-development initiative.

### Facts:

• The Directorate of Skill Development, MP engaged a Singapore-based consultancy for setting up a vocational skills centre. The department was unregistered under GST and claimed that the project was non-commercial and therefore not taxable.

### Decision:

AAAR held that setting up and running a skill-training institute is a "business" under GST law. Therefore, foreign consultancy services attract IGST under Reverse Charge, and no exemption is available. The department must pay IGST.



# Detailed Article on GST Implications on Healthcare Services in India

### **INTRODUCTION**

Healthcare is an essential service and a critical component of public welfare in India. The Goods and Services Tax (GST) regime, implemented from July 2017, has various implications on the healthcare sector. While the intent has been to keep primary health services out of the tax ambit, many peripheral and associated services have been brought under GST. This article provides a detailed and comprehensive analysis of the taxability, exemptions, registration requirements, and other compliances under GST for various services offered within the healthcare domain.

### General Exemption Framework for Healthcare Services

As per Entry No. 74 of Notification No. 12/2017-Central Tax (Rate), GST is not applicable on

### health care services provided by

- clinical establishments,
- Authorized medical practitioners
- Para-medics.

These services are defined as diagnosis or treatment or care for illness, injury, deformity, abnormality, or pregnancy in any recognized system of medicine. The exemption also includes ambulance services.

However, cosmetic or plastic surgeries not done for medical necessity remain taxable.



# Clinical Establishment

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

- Includes:
- Hospitals
- Nursing homes
- Clinics
- Rehabilitation centres providing medical/therapeutic care
- Wellness centres offering physical or mental treatment





## **Authorized Medical Practitioner**



Defined in the Notification as:

"A medical practitioner registered with any

medical council in India or as defined under any law for the time being in force."

Includes: Doctors registered with Medical Council of India (MCI) or respective State Councils, Practitioners of recognised alternative systems (Ayurveda, Unani, etc.) if registered under relevant law.



# Para-medics

**Defined as:** "Nursing staff, physiotherapists, technicians, lab assistants or any other person supporting the diagnosis and treatment of diseases."

Includes: Nurses, Physiotherapists, X-ray technicians, Lab technicians and Other allied health professionals





## **Summary of Exemption**

healthcare services are provided by:

- A clinical establishment, or
- An authorised medical practitioner, or para-medic

(Then no GST is applicable on such services)



# OPD (Out-Patient Department) Services

OPD services include consultations and minor medical procedures without hospital admission. These are exempt from GST when provided by registered Medical practitioners or clinical establishments.

However, if the hospital sells medicines, consumables, or implants to OPD patients through its pharmacy, such transactions are treated as taxable supply of goods and are subject to applicable GST rates.





# IPD (In-Patient Department) Services

IPD services involve admission and include room rent, surgeries, tests, food, doctor fees, and other related services. These are considered a composite supply, where healthcare is the principal supply, and thus the entire bundle is exempt. However, if food and medicine are offered optionally and charged separately, they are taxable. Further, hospital room rent (non-ICU) exceeding Rs. 5,000 per day is taxable at 5% without input tax credit as per the 47th GST Council Meeting.

Medical Diagnostic Tests and Laboratories
Diagnostic tests conducted by clinical establishments or dedicated diagnostic
labs are exempt if they qualify as clinical establishments under the Clinical
Establishment Act. This includes a wide range of tests like MRI, CT scan,
blood tests, X-rays, and others.





# Medical Counselling and Consultancy



Medical consultancy is exempt if it pertains to curing an illness. Services provided for general care, wellness, diet plans, or beauty enhancement are taxable. Thus, the intent and purpose of consultation determine taxability.



# Food Supplied in Hospitals



Food provided to inpatients as per doctor's or nutritionist's advice is exempt as part of the composite healthcare service. However, food served to outpatients, visitors, or staff is taxable. If food is outsourced from external caterers, the hospital cannot claim input tax credit.



# Medical Shops and Supply of Medicines

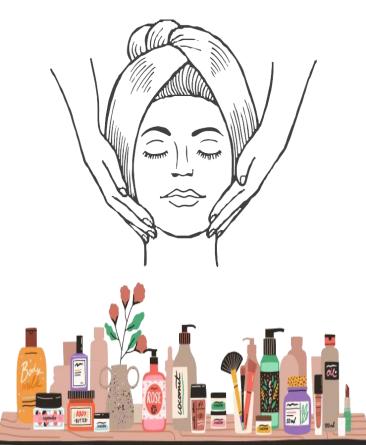
Medical shops are liable to GST on the sale of medicines and allied goods. While blood and contraceptives are exempt, many life- saving drugs attract 5% GST. Other medical consumables like Ayurveda formulations, surgical dressings, and certain pharmaceutical goods may attract 18%. Medical shops can claim input tax credit depending on the nature of invoices available.





# GST on Beauty and Cosmetic Services

Services such as beauty treatments, cosmetic surgeries, and aesthetic procedures done for non-medical reasons are taxable at 18%. If a cosmetic procedure is essential to restore anatomy or bodily functions, such as post-trauma or congenital issues, it is exempt.





# Services offered by veterinary clinics

Services offered by veterinary clinics for the treatment of animals and birds are exempt under Entry No. 46 of 12/2017, provided they qualify as healthcare services for non-human subjects.





## Cord Blood Banks and Stem Cell Preservation-Entry no. 73 of Notification no. 12/2017

Services by cord blood banks related to preservation of stem cells or any associated processes are exempt under Entry No. 73 of Notification No. 12/2017.



# Public Health and Rehabilitation Services by NGOs/Government-Entry 74A of 12/2017:-

Rehabilitation services offered by institutions registered under Section 12AA or established by the Central/State Government are exempt. This includes therapy, counseling, and public health services aimed at terminally ill, HIV/AIDS patients, or substance abuse victims.







# Bio-Medical Waste Treatment- Entry no. 75 of Notification no. 12/2017

Services provided by common bio-medical waste treatment facilities to clinical establishments are exempt under Entry No. 75. This includes all processes related to treatment or disposal of such waste. Charges for ancillary activities such as waste segregation, collection, and transportation are also exempt.



# GST on Return of Expired Medicines

Retailers or wholesalers can return expired medicines using either a fresh supply invoice or through a credit note. If credit note is issued within the prescribed time, tax liability can be adjusted.

However, credit for free samples or expired items must be reversed as per Section 17(5)(h).





# Free Samples and Gifts

As per Circular No. 92/11/2019-GST, free samples distributed without consideration do not qualify as supply under GST. However, input tax credit is not allowed for such goods. If the activity falls under Schedule I, such as transfer between branches, tax applies.





### Circulars and notifications issued on healthcare under GST?

### 1. Circular 32/06/2018

#### (1) Doctors/Consultants hired by Hospitals:

 Whether hired as employees or on contract basis, their services provided through the hospital to patients are treated as healthcare services- Exempt from GST.

#### (2) Retention Money:

• Hospitals often collect a total fee from patients and pay a portion to doctors/technicians while retaining a portion for infrastructure and support services.- The entire amount charged to patients is treated as healthcare service, hence exempt.

#### (3) Food Supplied to Patients:

- Food provided to in-patients as part of treatment is a composite healthcare service and not taxable.
- Food provided to staff, outpatients, visitors, etc. is taxable, and no ITC is allowed on inputs for such food.

### 2. Circular 51/25/2018:-

Ambulance services provided by private entities to the State Government under schemes like the National Health Mission (NHM) are considered activities in relation to public health, a function entrusted to Panchayats and Municipalities under the Constitution.

Therefore, such services are exempt from GST under the aforementioned entries.



### 3. Circular No. 177/09/2022-GST (Dated: 3 August 2022)

**Issue:** Applicability of GST on services provided through Assisted Reproductive Technology (ART) procedures, such as In Vitro Fertilization (IVF).

**Decision:** The circular clarified that services by way of **ART procedures, including IVF, are covered under the definition of 'healthcare services' as per Notification No. 12/2017**-Central Tax (Rate) dated 28 June 2017. Therefore, such services are exempt from GST.

Nagri Eye Research Foundation (Guj. HC, 2021)

- Sale of medicines to outpatients held taxable
- Court: Not naturally bundled with healthcare services
- Outpatients free to purchase medicines elsewhere
- Hence treated as independent taxable supply

# Malankara Orthodox Syrian Church Medical Mission Hosp. (Kerala AAR, 2023)

- • Medical services exempt; ancillary services (canteen etc.) taxable.
  - Brief Summary:

Hospital provides healthcare (exempt), but activities like canteen are not naturally bundled, hence taxable.

# Kasturba Health Society (AAAR Maharashtra, 2023)

- Outpatient pharmacy & diagnostics taxable; inpatient exempt.
  - Brief Summary:
     Inpatient treatment is a composite healthcare service (exempt).

Outpatient pharmacy and tests are independent supplies, therefore taxable.

# Medivision Scan & Diagnostic Centre (Kerala AAR, 2021)

- Diagnostics for hospitals taxable; not provided to patients directly.
  - Brief Summary:

Diagnostics were supplied B2B to hospitals, not to patients. Since hospitals are recipients, the service becomes taxable.

# Ernakulam Medical Centre Pvt. Ltd. (Kerala AAR, 2021)

- Food to inpatients exempt; to others taxable.
  - Brief Summary: Food provided to inpatients is part of healthcare (exempt). Supply to visitors/attendants is not linked to treatment, hence taxable.

# KIMS Healthcare Management Ltd. (Kerala AAR, 2019)

- Room rent for doctors taxable commercial supply.
  - Brief Summary:
     Hospital leasing rooms to doctors is treated as commercial renting and does not fall under healthcare exemption.



# GST Exemptions and Applicability for Rehabilitation Centres in India

### INTRODUCTION

Rehabilitation centres, which serve individuals recovering from addiction, disabilities, trauma, or mental illness, often provide a mix of medical, educational, and social services. These centres may operate as non-profit entities, trusts, or NGOs.

### **GST Exemption Criteria for Rehabilitation Centers**

Entry 74A, services provided by rehabilitation professionals recognized under the Rehabilitation Council of India Act, 1992, are exempt from GST when offered at:

### 1. Entry 74A - Services by Rehabilitation Professionals Exempt if:

Provided by **rehabilitation professionals recognized** under the Rehabilitation Council of India Act, 1992, and provided at a rehabilitation center established by:

Central/State Government Union Territory or 12A Registered Entities.

**Result:** GST is exempt on services provided by such rehab centers.





### <u>Charitable Activities Exemption under Entry 1 (Notification 12/2017)</u>

Charitable activities (as defined) like:

- Care or counseling of mentally ill persons
- Physical or mental disabilities
- Drug addiction or alcoholism

If the rehab center is engaged in these, and is registered under 12AA/12AB, its services are GST-exempt under Entry 1 as charitable activities.

### Implications for Rehabilitation Centers not covered above two entries:-

If a rehabilitation center is not established by the government or not registered under Section 12AA, it does not qualify for the GST exemption under **Entry 74A**. Consequently, such centres can covered under the following general entry for health care:-

## Separately, Entry 77 of the same notification exempts "healthcare services" provided by:

- Clinical establishments
- Authorized medical practitioners
- Paramedics





### What Is a Clinical Establishment?

As per the Clinical Establishments (Registration and Regulation) Act, 2010: A clinical establishment includes:

- Hospitals
- Nursing homes
- Clinics
- Rehabilitation centres providing medical/therapeutic care
- Wellness centres offering physical or mental treatment

If your rehab centre provides medical treatment, psychiatric counselling, physiotherapy, occupational

therapy, etc., it qualifies.





# **Conclusion**

Criteria	GST Exempt?	Exemption Basis
Government-established +RCI-registered professional	<b>✓</b>	Entry 74A
NGO/Trust registered under 12AA/12AB + engages in mental/physical disability or addiction rehab	~	Entry 1 (Charitable)
Private, for-profit rehab center with no 12AA/12AB and no healthcare services	×	Not eligible

Rehabilitation centers in India can be GST-exempt if they either qualify as government-recognized centers, registered charitable entities, or clinical establishments offering healthcare services. If none of these conditions are met, GST will be applicable as per standard rules.



# ANCIALLRY ACTIVITES CARRIED BY REHAB CENTRE

# **GST Implications on Other Activities Carried Out by Rehabilitation Centres**

While the rehabilitation services may be exempt from GST in certain conditions, many rehabilitation centres also undertake additional or ancillary activities such as placement assistance, certification, sale of material, canteen services, or event organization. These must be assessed individually to determine their taxability under GST law.





### GST on Placement Services by Rehabilitation Centres

Placement services include helping rehabilitated individuals (especially those recovering from substance abuse or disabilities) to secure employment. This could involve skill training, interview prep, or employer referrals.

GST Impact – If Rehabilitation Centre is Registered under Section 12A/12AB

#### **Exemption Notification:**

Under Notification No. 12/2017 – Central Tax (Rate), Entry No. 1:

Services by an entity registered under Section 12AA/12AB of the Income Tax Act, by way of charitable activities – are exempt from GST.

#### ~ If Placement Services are for Disabled Persons:

- If the placement service is linked to vocational training or skill development for physically or mentally disabled individuals, it can qualify as a "charitable activity".
- Hence, GST Exempt if the rehabilitation centre is 12A/12AB registered.

#### ~ If Placement Services are for General Population:

- Considered a commercial activity.
- Even if 12A/12AB registered, GST will apply at 18% under SAC 9985 (Business Support Services), unless specifically covered under charitable activity.

**GST Impact – Without 12A/12AB Registration** 



#### **Key Consequences:**

The exemption for charitable services under Notification 12/2017 is **only available to entities registered under Section 12AA/12AB**.

Not Covered under Healthcare or Education Exemption: Placement services are commercial in nature and do not qualify under healthcare or education exemptions (e.g., Entry 74 or 66 of Notification No. 12/2017).

- <u>Taxable @18%</u>: Whether charged separately or bundled, placement services are taxable at 18% unless wholly incidental to an exempt therapeutic program.
- **<u>Bundled Services Caveat</u>**: If job support is part of an all-inclusive rehab program, taxability depends on the dominant intention and documentation.
- Input Tax Credit: ITC can be availed if the centre is GST-registered and providing taxable services.

### Spandana Rehab Research & Training Centre

- Issue: Whether rehabilitation services qualify as exempt healthcare services.
- Key Fact: Only clinical rehabilitation provided under supervision of medical professionals is exempt.
- Ruling: Non-clinical rehab activities (training, counselling, workshops, etc.) treated as taxable.
- GST Position: Only clinical rehab exempt; all other services liable to GST at applicable rate.
- Importance: Classification depends on whether the centre functions as a 'clinical establishment'.
- Services must be for specific conditions only
- The exemption is **only** for rehabilitation of:
- Mental illness
- Mental retardation
- Drug addiction
- Behavioural issues
- If the centre treats physiotherapy, stroke rehab, autism, speech therapy, old-age care, orthopaedic rehab, etc., these are not exempt under Entry 74A.



## GST ON SPORTS FOUNDATION

Here is a more detailed and elaborated version of the article "GST on Sports Foundations in India: A Comprehensive Guide"—perfect for a professional report, publication, or compliance handbook. This version includes enriched descriptions, legal references, practical examples, and structured subheadings.

#### Introduction

The introduction of Goods and Services Tax (GST) in India on July 1, 2017, has been one of the most significant tax reforms in the country's history. While its impact on industries like manufacturing and trading is well-known, its implications on non- profit entities and sports foundations have often been misunderstood or overlooked. Sports foundations in India operate with a wide range of objectives—from promoting grassroots sports and training young talent to organizing large-scale national tournaments. Many of these organizations are registered under the Income Tax Act as charitable trusts under Section 12AA or 12AB, availing income tax exemptions. However, under the GST law, the taxability of their services and income streams is assessed separately. This guide aims to bridge that gap by thoroughly analyzing the GST applicability on various aspects of a sports foundation's operations.



## GST Exemptions: Key Provisions & Notifications

<u>Under the GST various exemptions have been specified for Sports and sports events which are charged at NIL rate are as follows :-</u>



#### 9985 "Services by way of sponsorship of sporting events organized –

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

#### 9992 Services provided to a recognised sports body by-

an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a **recognized sports body**; another recognised sports body.



#### Meaning of Recognised sporting event & Recognised sports body

#### "(zw) 'recognised sporting event' means any sporting event -

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

#### (zx) "recognised sports body" means -

- the Indian Olympic Association;
- Sports Authority of India;
- a national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations;
- national sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government;
- the International Olympic Association or a federation recognised by the International Olympic Association; or
- a federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India;

#### **9996-NIL ENTRY**



- Services by way of right to admission to the events organized under FIFA U- 17 World Cup 2017
- Services by way of right to admission to the events organised under FIFA U- 17 Women's World Cup 2020
- Services by way of right to admission to the events organised under AFC Women's Asia
   Cup 2022

## General Entry 81:- Recreational, cultural and sporting event - Services by way of right to admission to- (For profit or NON-Profit for all )

- Circus, dance, or theatrical performance including drama or ballet;
- Award function, concert, pageant, musical performance or any sporting event other than a recognized sporting event;

Recognized sporting event; planetarium, where the consideration for right to admission to the events or places as referred to in items above is not more than ₹500 per person.



#### **Conclusion for GST chargeability for core exemption**

The GST framework provides several specific exemptions for sports and sporting events under various service codes such as 9985, 9992, 9995, and 9996, covering areas like:

- Sponsorship of non-commercial sporting events,
- Services rendered by players, referees, and coaches to recognised sports bodies,
- Concessionary (Below Rs.500) or NIL-rated admission to certain sporting events.

#### What if the Organization not covered above exemption and NGO hold valid license 12Aa/12ab:-

However, in addition to the above sector-specific exemptions, sports organisations, associations, or NGOs should also evaluate their eligibility under general charitable exemptions, particularly the one provided under Entry No.80 of Notification No. 12/2017-Central Tax (Rate).

9996 Services by way of training or coaching in recreational activities relating to-

- (a) arts or culture, or
- (b) sports by charitable entities
- (c) registered under section 12AA of the Income-tax Act.

#### **Crux of Entry:-**



Training and coaching services are core activities of sports foundations, often aimed at building skills in sports such as cricket, swimming, athletics, and other recreational disciplines. As per Entry No. 80 of Notification No. 12/2017 – Central Tax (Rate), any service provided by way of training or coaching in recreational activities related to arts, culture, or sports is exempt from GST, provided it is delivered by a charitable entity registered under Section 12AA or 12AB of the Income Tax Act. This exemption is specifically designed to support non-profit and social welfare organizations promoting physical education. Examples of exempt services include swimming coaching, dance classes related to cultural preservation, or cricket training offered through a registered charitable trust. However, this exemption does not apply to commercial

fitness activities such as **Zumba**, **gym workouts**, **or summer camps** unless they are clearly related to recognized sports or artistic activities. Therefore, services offered by private or for-profit bodies in the form of general physical training are taxable at 18% under GST.

Arts	Culture	Sports
Painting workshops	Classical dance programs	Swimming
Music classes	Folk art activities	Football
Dance classes	Heritage walks	Indoor games
Art exhibitions where people participate	Cultural festivals	Sports camp

# Non-Directly Linked Services Related to sports

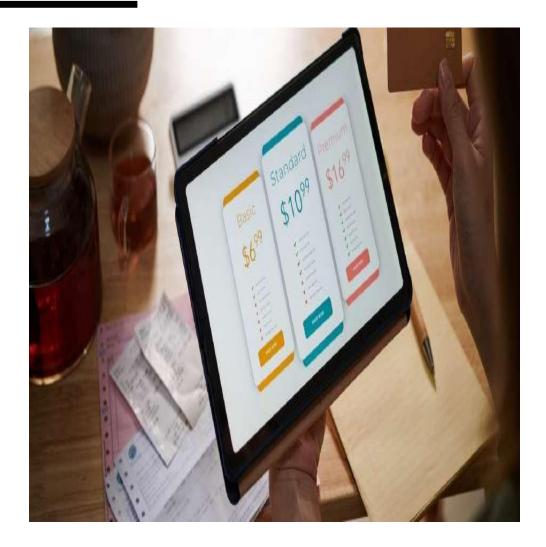
While direct services related to sports—such as event sponsorships, participation by athletes, and recognized sports events—are specifically addressed under various GST exemption entries, there are several other services and goods indirectly linked to the sports ecosystem.

These may not be covered under explicit exemptions but still play a critical role in the functioning and promotion of sporting activities. Their tax treatment under GST depends on the nature of supply, supplier status, and usage.



# GST on Membership and Annual Subscription

Many sports organizations, particularly those operating as societies or clubs, collect membership fees or annual subscriptions from their members to provide access to training, facilities, and events. Earlier, such transactions were often treated under the principle of mutuality, where no GST applied, assuming the club and its members were the same legal entity. However, with the amendment introduced in Section 7(1)(aa) of the CGST Act, the law now clearly distinguishes the club/association and its members as separate legal persons. As a result, membership fees or any contributions collected from members are now considered a "supply of service" and are liable to GST at 18%, even if no tangible benefit is given in return. This legal position was also upheld in the case of the Navi Mumbai Sports Association, where the Authority for Advance Rulings (AAR) held that even corpus fund contributions collected for coaching or facility development purposes were subject to GST, provided there was a link between the contribution and the services rendered.





## Sponsorship Fees

Sponsorship is a common source of revenue for sports foundations and NGOs, where companies or individuals financially support events, athletes, or programs in exchange for branding, publicity, or association with a cause. Under the GST regime, the applicability of tax on sponsorship income depends on the nature of the sponsor. If the sponsorship is received from a body corporate (such as a private limited company), then starting from January 16, 2025, the responsibility to pay GST lies with the sponsor itself under the forward charge mechanism. However, until January 15, 2025, if the sponsorship is provided by a non-body corporate— such as a sole proprietor or partnership firm—then the foundation receiving the sponsorship is required to pay GST under the Reverse Charge Mechanism (RCM). In both cases, the sponsorship amount is taxable at 18%, unless the sponsorship is for a recognized sporting event organized by a recognized federation, in which case it may be exempt under Heading 9985 of Notification 12/2017.



## Royalties and Branding

Many sports foundations build a recognizable brand through their logo, name, and goodwill. When such organizations license their intellectual property—like their brand name, logo, or content—to third parties for commercial purposes such as advertising, merchandising, or streaming, the revenue earned is treated as royalty income. Under GST law, such income falls under the category of "supply of services" and is taxable at 18%. This includes earnings from streaming rights, co- branded merchandise (such as T-shirts or sports accessories), or sponsored media content. Even if the foundation is a non-profit or charitable entity, these types of commercial branding arrangements are not exempt under GST and are fully taxable unless a specific exemption applies. Proper invoicing and registration are required for compliance in such cases.

Area of Operation	GST Applicability	Notes
Coaching & Training	Exempt if by 12AA/12AB entity	Otherwise taxable @18%
Sponsorship Income	Taxable, RCM or Forward Charge	RCM up to 15 Jan 2025 only
Renting Premises for Events	Taxable @18% (Non-residential use)	Residential use is exempt
Event Ticket Sales	Taxable, exempt if "recognized sporting event"	Value under ₹500 =exempt
Sale of Merchandise	Taxable @5%/18%	Based on product type
Donations	Exempt (if voluntary & unconditional)	Linked donations may be taxable
Import of Services	Exempt under RCM for charitable entities	Under Notification No. 9/2017 IGST



### Input Tax Credit (ITC) Considerations for Sports Organizations

Under the GST regime, registered entities are eligible to claim **Input Tax Credit (ITC)** on goods and services used in the course or furtherance of their business. For sports organisations and event managers, several operational expenses attract GST, and ITC eligibility plays a key role in managing overall tax liability.

## CASE LAWS

## Royal Western India Turf Club (Maharashtra AAR, 2019)

 Issue: Whether race course-related services provided by the club attract GST.

• Facts: The club organized horse racing events and provided related services including admission, training, and use of racecourse facilities.

Decision: AAR held these services are taxable under GST.

## Dream Runners Foundation Ltd., In re (GST AAR):

This ruling involved a trust organizing events like marathons for charitable causes (e.g., funding for prosthetic legs).

**Ruling:** The AAR held that the activity of conducting a marathon event did not fall under the specific "charitable activities" definition outlined in the GST exemption notification (Clause 2(r) of Notification 12/2017), making it a taxable event.

This highlights the strict interpretation of what qualifies as an exempt charitable activity under the law.

## Karnataka AAR – Private Sports Coaching (2019)

• Issue: Whether private sports coaching is exempt under GST.

 Facts: Applicant provided coaching in sports privately and claimed it should be exempt as training related to sports.

 Decision: AAR held private sports coaching is not covered under any exemption and is taxable.



## GST Implications for Religious Institutions and Activities in India

#### **Introduction**

#### "Harmonizing Spirituality and Taxation"

India, a land of diverse faiths and spiritual traditions, is home to a vast number of religious institutions—temples, mosques, churches, gurudwaras, monasteries, and spiritual centers. These institutions are not merely places of worship; they often function as centers of community welfare, spiritual development, and social cohesion.

In recognition of the role of these institutions, the Indian tax system has historically offered them various exemptions and benefits. However, with the introduction of the Goods and Services Tax (GST) regime, clarity was required regarding the tax treatment of services offered by these institutions. This article provides a detailed analysis of the GST provisions applicable to religious trusts, temples, and similar institutions, with a focus on both exempt and taxable services.

Definition of a Religious Place Under GST

#### According to GST notifications, a "religious place" refers to:

"A place which is primarily meant for the conduct of prayers or worship pertaining to a religion, or for meditation or spirituality." This definition covers traditional temples, mosques, churches, gurudwaras, spiritual ashrams, and similar institutions.



### **Eligibility for GST Exemption**

#### **Entities intending to avail GST exemption must be:**

- Registered under Section 12AA or 12AB of the Income Tax Act, 1961, or Covered under sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, or, a body or authority referred to in clause (23BBA) of section 10.
- These provisions ensure that only genuine charitable or religious organizations benefit from the exemptions, and not commercial
  enterprises disguised as religious activities.

#### **Key GST Exemptions for Religious Institutions**

Notification No. 12/2017 - Central Tax (Rate) -Several entries under this notification grant relief to religious and charitable institutions. Notable among them are:

#### Entry 13 (Heading 9963, 9972, 9995):

#### **Exempted Services:**

- Conduct of religious ceremonies
- Renting of precincts of a religious place for the general public owned and managed by Registered AS Section 12AA/12AB.

#### However organizations Not registered under 12AA/12AB can collects these rent without any GST impact:

- Room rentals must be less than ₹1,000 per day
- Community halls or open areas must be less than ₹10,000 per day Shops rented out must be less than ₹10,000 per month
- Services exceeding these amounts are liable to GST at 18%.

#### **Entry 60 (Heading 9991):**



Services by specified organizations for religious pilgrimages facilitated by the Ministry of External Affairs under a bilateral agreement are exempt.

#### Entry 14(Heading 9963)

sl. no.	<u>Service</u> <u>Code</u>	<u>Description of Services</u>	<u>GST</u> <u>Rate</u>	Conditions
14	Heading 9963	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent	NIL	NIL

However, in addition to the above sector-specific exemptions, Religious organizations, associations, or NGOs should also evaluate their eligibility under general charitable exemptions, particularly the one provided under Entry No.1 of Notification No. 12/2017-Central Tax (Rate)- Services by an entity registered under arts or culture, or section 12AA of the Income-tax Act, 1961 by way of charitable activities which includes -

#### Advancement of religion, spirituality or yoga;



## Analysis of GST Exemption



### Conduct of Religious Ceremonies

#### **Activities such as:**

Performing pujas, Ceremonies related to birth, marriage, or death Spiritual discourses or meditation sessions are fully exempt under entry 13 Point 1 when conducted by eligible religious trusts. This is in recognition of the non-commercial and community-oriented nature of these services.









## Renting of Religious Premises

Renting out premises is a common way for temples and religious trusts to generate income. The GST exemptions and taxability depend on the nature and value of rent.





Type of Property	Exemption Limit	GST Rate Beyond Limit
Rooms	₹999/day	18%
Halls/Kalyanamandapams/Open Grounds	₹9,999/day	18%
Shops	₹9,999/month	18%

#### Note:

This is not mandatory

owned or managed by a

Section 12AA/12AB

registered entity as per

entry no.13.



## Accommodation to Pilgrims

Religious places often provide low-cost lodging for devotees. Such accommodations are exempt from GST if the room rent is less than ₹1,000 per day per unit as per entry No.14. If the tariff exceeds this limit, GST at 5% or 18% is applicable depending on the type of lodging.



# GST Treatment of Goods and Publications

#### **Prasadam**

Exempt under Entry 98 of Notification No. 2/2017 - Prasadam supplied by religious places like temples, mosques, churches, gurudwaras, dargahs, etc.



#### Puja Samagri (Worship Materials)

Exempt under Entry 148 of Notification No. 2/2017 - Chandan tika, Rudraksha, Tulsi mala, Panchgavya, Sacred thread, Wooden khadau, Panchamrit, Kalava Roli, Vibhuti sold by institutions, Diya wick



These items, when sold unbranded or by religious trusts, are GST-free.



#### **Sale of Religious Publications**

Religious books printed and sold to institutions like Madarsas are exempt under Entry 119. Sale of yearly religious calendars is taxable.

Religious books printed and sold to institutions like Madarsas are exempt under Entry 119.

Sale of yearly religious calendars is taxable.

Description	HSN Code	GST Rate
Books	4901	NIL
Newspapers, Journals	4902	NIL
Calendars	4910	5%





## Case Law - AAR Rulings

Apart from these normal scenario we try to cover now the cases which could be directly applicable to religious institutions for same, we covered the AAR rulings:-

#### 1. Shri Digamber Jain Sidhkut Chaityalaya Trust

The trust organized darshan and religious discourses

Held: As this advances religion, the services are exempt under Notification 12/2017

#### 2.Shri Malai Mahadeshwara Swamy Kshethra Development Authority

This Ruling cover the various points related to vehicle entry fees and parking rights, now we will the related questions and answered of such questions about the taxation and exemption by AAR authority:-



#### Point no.1

Q: Auctioning for collection of vehicle entry fees.

Q: Auctioning of service of tonsuring (Mundan) the heads of devotees

Q: Auctioning of right to collect service charges

Q:-Auctioning of the right to collect charges for vahana pooja

These all are supply of services falling under SAC 9997 and are covered under the entry no.35 of Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 and are liable to CGST at the rate of 9%. Similarly, they are also liable to tax at 9% under KGST under entry no.35 of Notification (11/2017).

#### Point no.2

The sales of prasadam by the applicant, is exempt from tax as per entry no. 98 of the Notification No.2/2017 - Central Tax (Rate) dated 28.06.2017 and entry no.98 of Notification (02/2017). But if goods other than prasadam are sold, they would be liable to tax at appropriate rates applicable to those goods.

#### Point no.3

Collection of seva charges relating to the collection of special darshan charges, the same is exempt from CGST and KGST as they are not covered under supply and also exempt as they are covered under entry no 13(a) of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 and Notification (12/2017)

#### Point no.4

Collecting of entry fees providing access to the temple, the same is liable to tax at 9% under CGST Act and at 9% under KGST Act, as per entry 11(ii) of Notification No.11 / 2017- Central Tax (Rate) dated 28.06.2017 and Notification (11/2017)

#### Point no.5

Future tendering of the right to collect charges and provide services, the same is liable to tax at 9% under CGST Act advances and at 9% under KGST Act as per entry no.35 of Notification No.11/2017.

Now apart from core services, religious institutions conduct several other auxiliary services, now we will see the GST impact of taxation on these Goods and services:-





### Frequently Asked Questions (FAQs)

#### Q1: <u>Is GST applicable to temple stays (e.g., Golden Temple Serais)?</u>

Yes, if the room rent exceeds ₹1,000/day, GST applies.

#### **Q2:** Is GST levied on the construction of religious places?

Yes, services related to temple construction are taxable under Heading 9954 @ 5% GST.



## Conclusion

The GST law attempts to strike a balance between preserving the sanctity of religious institutions and ensuring uniformity in tax compliance. While the law generously provides exemptions for core religious services and charitable activities, it levies tax on services or transactions with commercial overtones such as high- value rentals, publications, and auxiliary services like tonsuring or shop rentals.

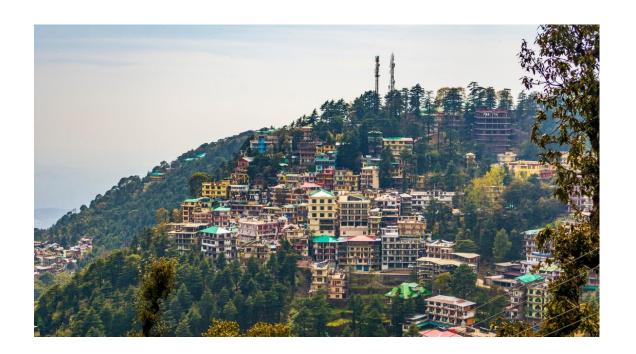
#### Religious institutions must ensure:

- Proper registration under Section 12AA/12AB
- Compliance with exemption thresholds
- Categorization of services into exempt or taxable



### GST ON DHARAMSHALA

According to Hindu usage of GST on dharamshala, which are traditional rest houses typically associated with religious and charitable trusts, several factors come into play.





### Who can run the dharamshala?

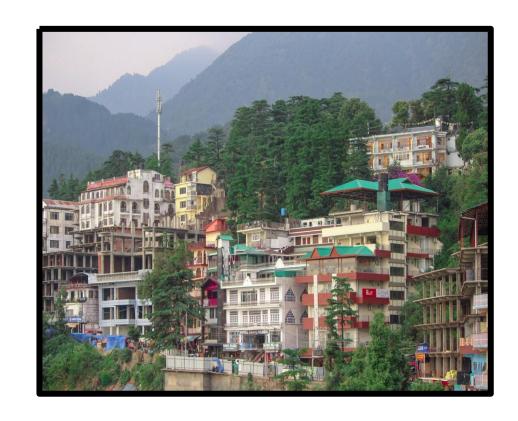
- Religious organizations like temples, churches, mosques, gurudwaras, etc.
- Religious Trusts
- Charitable Trusts
- Non-Government Organizations (NGOs)
- Caste-based or community-based organizations State governments and local bodies
- Private Trusts and Foundations



# What ACT and rules & Regulations should be followed by Dharmashala

Trusts ,Societies and Section 8 company (as per the formation). Municipal and Local Laws Shops and Establishments Acts:

- Charity Commissioner Regulations
- Religious Endowments Acts
- Foreign Contribution (Regulation) Act, 2010 (FCRA)
   Environmental Laws
- Income TAX ACT Goods and service Tax





sl. no.	<u>Service</u> <u>Code</u>	<u>Description of Services</u>	GST Rate	Conditions
14	Heading 9963	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent	NIL	NIL

Now let us understand the Case Law: Nandini Ashram Trust - AAR Gujarat

Order No.: GUJ/GAAR/R/2023/18

• Date: April 26, 2023

Applicant: Nandini Ashram Trust

• Bench: Ahmedabad AAR (Members: Milind Kavatkar & Amit Kumar Mishra)

### **Background**

- The Nandini Ashram Trust is a registered charitable trust under the Bombay Public Trust Act and holds a 12AA certificate under the Income Tax Act.
- The Trust provides accommodation to pilgrims visiting the Ambaji Temple, charging ₹1,000 per day.
- The Trust sought an advance ruling to determine:
- 1. Whether it is liable for GST registration.
- 2. Whether it is liable to pay GST on the accommodation services provided.

#### **Key Findings**

#### **GST Applicability on Accommodation Services:**

The Trust argued that its services are exempt under Notification No. 12/2017 – Central Tax (Rate), Entry No. 13, which exempts services by entities registered under Section 12AA of the Income Tax Act by way of charitable activities.

#### However, the AAR observed:

- 1. The accommodation provided is not within the precincts of the Ambaji Temple.
- 2. The room charges are ₹1,000 per day, which meets the threshold where exemption does not apply.

Therefore, the exemption under Entry No. 13 is not applicable.

Let's explore Entry No. 14 of Notification No. 12/2017 – Central Tax (Rate) and analyze why Nandini Ashram Trust could not claim exemption under it, based on the AAR ruling.

## Why Nandini Ashram Trust Could Not Claim Exemption Under Entry No. 14:



#### Reason 1: Room Tariff = ₹1,000 per day

Entry No. 14 clearly applies only if the declared tariff is below ₹1,000 per day. In the case of Nandini Ashram Trust:

- The room rent was exactly ₹1,000 per day, hence not eligible for this exemption.
- Even a ₹1 difference matters ₹999 qualifies, ₹1,000 does not.

#### **Reason 2: Declared Tariff vs. Actual Charges**

The exemption is based on declared tariff, not the discounted or subsidized rate. Even if the trust offered subsidized rates to pilgrims or poor persons, the declared tariff of ₹1,000 makes the trust ineligible under Entry 14.

#### When Entry No. 14 Would Apply

If the declared tariff was, say, ₹999 or ₹800/day, and the accommodation was for lodging purposes (irrespective of the type of entity), GST would be exempt under Entry No. 14 even when the same was not registered under 12AA/12AB.

#### **Final Notes**

Entry 13 (charitable/religious activity-based exemption) was denied because: The accommodation was not within the precincts of a religious place, and It did not meet charitable activity criteria as defined under the notification.

Entry 14 was also not applicable due to the ₹1,000/day tariff.

#### **GST Rate Applicable:**

The AAR ruled that a GST rate of 5% (CGST 2.5% + SGST 2.5%) is applicable to the accommodation services provided by the Trust.



## Conclusion

The Nandini Ashram Trust is liable to register under GST if its aggregate turnover exceeds ₹20 lakhs.

The accommodation services provided are taxable at 18%, Now 5% GST, as they do not qualify for exemption under the specified notification.

We have seen deep analysis of entry 13 and 14 of notification no. 12/2017 with examples, Now we will further cover various other services which is provided by the Dharamshala to their guests:-





Type of Service	GST Applicability	
Free charitable lodging/food	Exempt	
Room rent <₹1,000/day	Exempt	
Room rent ≥ ₹1,000/day	5% GST	
Food services (charged)	5% GST (no ITC)	
Recreational coaching (charitable)	Exempt	
Book lending (library)	Exempt	
Sale of books	NIL or taxable based on HSN	
Commercial rentals/services	Fully Taxable	



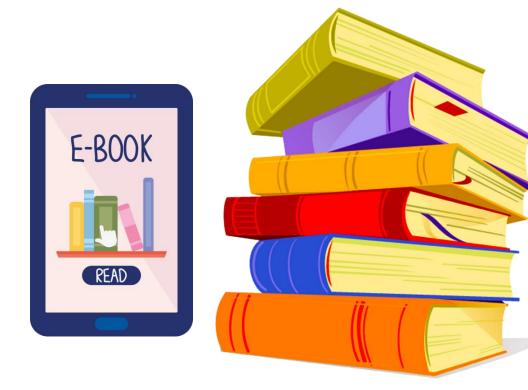
## Library Services & Impact on GST

## **What Are Library Services?**

Library services refer to the provision of access to books, journals, research material, digital databases, reading rooms, and related facilities to users. These services can be:

- Physical (access to books, periodicals, reading space)
- Digital (online access to e-books, journals, knowledge portals)
   Lending services (borrowing privileges for members)
- Subscription-based knowledge access

These may be offered by educational institutions, research centres, non-profits, or incubators to promote learning and innovation.





## **GST-Exempt Library Services**

Under Notification No. 12/2017 – Central Tax (Rate) dated 28th June 2017, Entry No. 50 provides exemption For the Following:

Public library services that involve lending books, publications, or any other knowledge-enhancing content or material

This exemption applies to: Government-run public libraries Municipal libraries Public libraries run by registered charitable trusts or societies

The key term is "public library," which typically implies a non-profit intent and open access to the general public.



## **Summary and Key Takeaways**

- Lending of physical books by public libraries is Fully exempt From GST.
- Lending of e-books, online content, or library services is NOT taxable, Until its remain and used for Public.
- Private libraries and educational coaching centers operating For profit must charge
   GST if their turnover exceeds the prescribed limit.

**Advisory: Why Libraries Should Create a Separate Entity For Taxable Services Under GST** 

In India's GST Framework, public libraries enjoy exemption For their core services, such as lending oF books and knowledge material. However, when such institutions begin offering taxable services like Food and beverage supply, laptop rentals, paid study rooms, etc., these activities may attract GST

— even iF the library is run by a charitable or government body.



## **Common Taxable Transactions in Libraries**

If a library offers Food or cafeteria services such as tea, snacks, or meals within its premises, this activity becomes subject to GST at the rate of either 5% or 18%, depending on the nature of the supply and input tax credit eligibility. Since this is considered a commercial activity separate From the library's core Function of education and reading, it is advisable to either partner with a third-party Food vendor or operate the cafeteria through a distinct Food services entity registered under GST. This separation ensures clean compliance and avoids complications in tax Filings.

In cases where the library rents out laptops or tablets to members or visitors on an hourly, daily, or monthly basis, the activity qualifies as a taxable supply under GST at the rate of 18%. The library should ideally treat this service as a separate rental business vertical, complete with Formal rental agreements, distinct invoices, and proper tax registration if the turnover crosses the mandatory threshold.

When a library charges visitors For study room access—such as private cabins or reserved seating areas on an hourly or daily basis—it is considered a commercial use of space. This service attracts GST at 18% and should be billed independently From Free reading services. The library must ensure that records are maintained, and this income is reported separately For GST purposes, especially if the total receipts exceed the registration threshold.

If the library provides Wi-Fi access, printing, or photocopying Facilities and charges For them, these Fall under taxable services and are subject to 18% GST. These auxiliary services should be run through a clearly defined service wing or unit, where billing is done separately and tax is appropriately levied. This ensures that such incidental services don't interfere with the tax-exempt status of core educational Functions.

For hosting events, workshops, or paid literary programs, where attendees are charged a Fee, the activity is considered an event management service under GST and is taxable at 18%. The library should structure this offering under a dedicated event management wing or separate business vertical, ensuring it is registered under GST and all Financial transactions are clearly recorded For compliance purposes.

Lastly, if the library engages in the sale of merchandise such as books, stationery, bookmarks, or other related items, this is a supply of goods and Falls within the GST Framework, typically taxed between 5% and 18% depending on the item. This activity should be run through a commercial bookstore or gift shop Format within the library, with proper invoicing, price segregation, and GST compliance but here we should also consider the exemption if selling of book is covered under 4901-

Under the HSN Code 4901 and 4902, the Following items are exempt From GST or zero-rated, making them tax-Free: Printed books, including storybooks, educational handbooks, and awareness manuals.

Journals, such as annual reports, research Findings, or documentation of the agency's work.

#### **Booklets and brochures that are non-commercial in nature.**

These items are considered educational and informational in purpose. Hence, even iF they are sold to the public, no GST is applicable on their sale.



# Impact of 12AA/12AB registration on such common services

If the library is registered under 12AA/12AB and provided these common services to indiviuals without any differentiation to all public (Specially to underprivileged children's) with concessional rates than it may be treated as exempt and no GST implications will be on these services.

**Advisory: Why Libraries Should Create a Separate Entity for Taxable Services Under GST?** 

In India's GST framework, **public libraries enjoy exemption** for their core services, such as lending of books and knowledge material. However, when such institutions begin offering **taxable services** like **food and beverage supply, laptop rentals, paid study rooms**, etc., these activities may attract GST—even if the library is run by a charitable or government body.

# 12A/12AB LICENSE EXEMPTION



# GST Taxability on Activities by Yoga Centers in India

## **Introduction**

Yoga centres in India, especially those functioning under the umbrella of charitable trusts registered under Section 12A/12AB of the Income Tax Act, play a pivotal role in promoting wellness, spirituality, and holistic health. The Goods and Services Tax (GST) regime acknowledges this role by providing specific exemptions for services genuinely aligned with charitable purposes—particularly those related to the advancement of yoga, spirituality, and recreation. However, as these institutions diversify into additional activities like retreats, product sales, or digital content understanding the GST applicability becomes crucial.

This article provides a comprehensive analysis of core exempt yoga services, taxable commercial components, and the nuanced treatment of other activities such as retreats, libraries, donations, and recreational programs under GST law.

#### 1. Core Exempt Activity - Yoga Instruction

As per Entry 1 of Notification No. 12/2017 - Central Tax (Rate): Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.

"(r) "charitable activities" means activities relating to - (ii) advancement of religion, spirituality or yoga.



## **Analysis:-**

- 1. If your NGO is registered under Section 12AA (or now 12AB) of the Income Tax Act,
- 2. And it provides services for advancement of yoga (like yoga training, spiritual retreats, wellness programs with yoga as the core),
- 3. Then those services qualify as "charitable activities" under GST law.

**Result:** Such services are exempt from GST under Entry 1 of Notification No. 12/2017 - Central Tax (Rate).

### **Taxability of Non-Core Commercial Activities**

Below are typical non-core activities that yoga centres may offer, along with GST implications for each:

Selling Yoga Accessories (Mats, Clothing, Blocks)

Nature of Supply: Supply of goods

HSN Codes: Vary by product (e.g., yoga mats - 9506, apparel - 6101/6204) GST Rate: 5% to 18% depending on product.

### **Taxability:**

Even charitable yoga centres cannot claim GST exemption on sale of goods. This is considered a commercial sale, not a charitable or recreational service.

Example: A yoga trust sells branded yoga mats to its students at ₹500 each - GST is applicable.



## Paid Yoga Retreats (Domestic or International)

Nature of Supply: Composite supply (accommodation + wellness) GST Rate: Typically 18%, based on service components

#### **Taxability:**

Retreats include lodging, meals, and yoga sessions—forming a composite taxable supply. Even if yoga training is exempt individually, the retreat package becomes taxable.

"The appellant Corbett Nature Reserve operates a resort, namely "Aahana-The Corbett Wilderness" and also runs an independent unit, namely "Aahana Naturopathy Centre", wherein they provide various services in the form of nature cure (drugless cure) and Yoga therapies (healthcare services), which are not restricted only to the in-house customers, but also open to all. As nature cure and yoga do not attract GST, the appellant moved to AAAR with an appeal against the AAR, which had said that no exemption will be available to the Centre. AAAR said that the applicant has advertised and marketed their accommodation service as their main service and naturopathy as an additional service. Thus, "the accommodation service and other services including naturopathy rendered during the course of said service is covered under composite service and the accommodation service constitutes the predominant element and therefore, becomes the "principal supply" and other services including naturopathy shall form the part of that composite supply," it said."



# Franchise and Brand Licensing Nature of Supply



## **Supply of Intellectual Property Rights (IPR)**

**GST Rate:** 18%

**Taxability:** Licensing a yoga brand name or franchise model is a supply of IPR in respect of service and is

fully taxable under GST.

**Case Reference:** In M/s. KPL International Ltd. [2019-VIL-275-AAAR], licensing of know-how and brand elements was treated as a taxable service under IPR provisions.



## Online Yoga Courses, Apps, Subscriptions

**Nature of Supply:** Online Information and Database Access or Retrieval (OIDAR)

**GST Rate:** 18%

### **Taxability:**

If the yoga centre provides pre-recorded online video content, subscriptions, or mobile apps, it is classified as OIDAR services, which are taxable even if supplied from outside India to Indian users.

**Rule:** As per Section 13(12) of the IGST Act, place of supply for OIDAR is the location of recipient.

Clarification via CBIC FAQs: OIDAR includes yoga courses delivered digitally without live human interaction.





## Final word for core services

Activity	GST Applicable	Tax Rate / Law Reference
Sale of yoga mats/clothing	✓Yes	Supply of Goods – 5% to 18%
Paid yoga retreats	Yes	Composite Supply – 18% (
Franchise/brand licensing	Yes	IPR in Services – 18%
Online video courses / apps	Yes	OIDAR Services – 18% (Section 13(12), IGST Act)

To remain GST-exempt: Charitable yoga centres must offer only core yoga/spiritual services independently, without mixing with taxable components. Services must be billed separately, marketed distinctly, and not clubbed with taxable elements like accommodation or product sales.

Failing these conditions, GST is applicable—usually at 18%—as clarified through multiple CBIC circulars, AAR/AAAR rulings, and case law precedents.

## CASE LAWS RELATED TO YOGA

## Art of Living Foundation (Kar. AAR, 2019)

- Issue: Whether life-skills and meditation programs qualify as yoga-based services.
- Ruling: Only Yoga programs notified under GST exemption were exempt.
- Life-skills & meditation programs held taxable at 18%.
- Key Reason: Not covered under 'yoga under a systematized discipline' exemption.

## **Life-Skills**

- Classroom-style teaching.
- Activity-based (role play, discussions, problem solving).
- Examples: communication skills, confidence building, anger management.

## Isha Foundation (Tamil Nadu AAR, 2018)

- • Issue: Taxability of spiritual & self-development programs.
- • Ruling: Programs not strictly yoga-based are taxable.
- Only yoga programs as defined under GST exemption are nontaxable.
- Key Reason: Other spiritual activities considered commercial services.



# Gst implication on Environmental organization

## **INTRODUCTION**

Before we talking GST exemption we must understand what all are covered under the preservation of environment including watershed, forests and wildlife activities:-





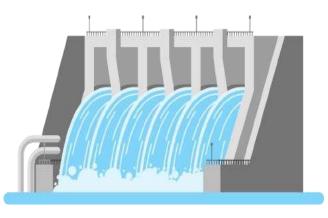
## **Watershed Management**

Watershed preservation refers to protecting the entire catchment area that channels rainfall and snowmelt into creeks, streams, and rivers.

### Covered Activities:

- Construction of check dams, contour bunding, trenches, and percolation tanks. Rainwater harvesting systems.
- Promotion of micro-irrigation (drip/sprinkler).
- Training programs for farmers on soil and water conservation.
- Restoration of degraded watershed areas. Community-based water budgeting and planning.







## Forest Conservation



Activities that aim to protect existing forests and promote afforestation and reforestation.

### Covered Activities:

- Tree plantation drives (urban and rural). Creation and maintenance of urban green belts.
- Protection of biodiversity hotspots. Prevention of illegal logging and poaching. Establishing nurseries and promoting native plant species.
- Promotion of agroforestry and social forestry.
   Collaborations with forest departments for community forest management.



## Wildlife Protection

This includes all efforts toward protecting wild animals, their habitats, and endangered species. The covered activities are:

- Establishment of wildlife rescue and rehabilitation centers.
- Anti-poaching patrols and enforcement support.
- Research and conservation of endangered flora and fauna.
- Wildlife awareness and education campaigns. Habitat restoration for migratory species.
- Installation of camera traps, GPS monitoring, and conservation technologies.





## General Environmental Preservation

Broader activities that aim at sustaining the ecosystem and reducing environmental degradation.

## **Covered Activities:**

- Solid and liquid waste management programs.
- Anti-pollution drives (air, water, soil). Renewable energy projects (solar lighting, biogas).
- Climate change mitigation and carbon footprint reduction.
- Awareness programs on sustainable living, eco-friendly products.
- Cleaning of rivers, lakes, beaches (like the Swachh Bharat campaign extensions).
- Plastic ban enforcement campaigns.





## Whether Environmental organization are exempted under GST?

Notification No. 12/2017-Central Tax (Rate), dated 28 June 2017 exempts services provided by entity registered under section 12AA of the Income Tax Act, 1961 by way of charitable activities from whole of GST vide entry No. 1 of the notification, which specifies that "Services by an entity registered under section 12AA of Income Tax Act, 1961 by way of charitable activities" are exempt from whole of the GST. Thus, as per this notification, exemption is given to the charitable trusts, only if the following conditions are satisfied.

(a)Entities must be registered under section 12AA of the Income Tax Act, and (b)Such services or activities by the entity are by way of charitable activities.

Thus, it is essential that the activities must conform to the term "charitable activities" which has been defined in the notification as under "charitable activities", means activities relating to:

preservation of environment including watershed, forests and wildlife.

This notification makes the exemption to charitable trusts available for charitable activities more specific.



## Conclusion

India's GST regime recognizes the unique role played by charitable environmental organizations and provides thoughtful exemptions aligned with their objectives.

Activities such as awareness generation, public education, community training, and sheltering eco-volunteers often qualify for GST relief when carried out by entities registered under Section 12AA/12AB.

Nevertheless, any activity that introduces a profit motive or serves commercial interests—whether directly or through collaboration—must be carefully reviewed to determine its GST liability. Clear documentation, intent alignment, and financial separation of charitable vs. commercial activities are essential to maintain compliance and transparency.



## GST on wildlife Welfare Organizations in India

## Introduction

Preservation of wildlife means protecting wild animals, birds, insects, and plants in their natural habitats to ensure they survive and thrive without interference or harm from human activities. It focuses on preventing extinction, maintaining biodiversity, and keeping ecosystems balanced.

### In simple terms:

It's about saving nature—making sure animals and plants stay safe, healthy, and protected for future generations. Key aspects include:

- Protecting endangered species
- Saving natural habitats like forests and wetlands
- Preventing illegal hunting and poaching
- Avoiding pollution and deforestation

#### Why it's important:

- Maintains ecological balance
- Supports human survival by preserving clean air, water, and food sources
- Helps in climate regulation
- Preserves the beauty and richness of our planet

These are typically non-commercial and charitable in nature.

### **GST Exemption on Wildlife Activities**

> Services Related to Rearing of Animals (Excluding Horses)

Entry No. 54(a) under the same Notification No. 12/2017-Central Tax (Rate) (dated 28 June 2017)

Covers: "Services by way of rearing of all life forms of animals ... except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce."- Rate: Nil 0%

## > Admission to Wildlife Sanctuaries, National Parks, Zoos, Tiger Reserves

Entry No. 79 under Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017 (applicable to CGST/SGST): 9996, specifically "Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo"- Nil (0%)

## Charitable/Environmental Work by NGOs

Preservation of wildlife or forests—undertaken by tax-exempt NGOs under Section 12AA are GST-exempt under entry no.1 of notification no. 12/2017 under charitable activities.







## Wildlife Rescue and Rehabilitation

Wildlife NGOs like Wildlife SOS, RESQ Charitable Trust, and Wildlife Trust of India are actively engaged in rescuing injured, orphaned, or displaced wild animals. These organizations run dedicated helplines and deploy trained rescue teams for emergencies involving leopards, snakes, birds, elephants, and bears.

They also run rehabilitation centres and sanctuaries where rescued animals are provided with long-term care, medical attention, and a safe environment to recover.



## Veterinary services

Veterinary services provided by organisation are squarely covered under the GST exemption available to charitable trusts under Entry 1 of Notification No. 12/2017 (Central Tax Rate). These services are provided in furtherance of the NGO's charitable objective of advancing animal welfare, and no commercial motive is involved.

Animal welfare organizations, NGOs, and even certain commercial entities providing non-profit pet-related services enjoy GST relief under the Indian GST framework.

There are various exemption has been provided to the Animal Husbandry services, before exemption we should understand the meaning of it:





## **Conclusion for Core Exemption:**

Animal welfare organizations engaging in services like pet accommodation, training, grooming, or veterinary care are largely GST-exempt, especially when services are provided: Without a profit motive, For charitable or rescue purposes, And (ideally) by a 12AA/12AB-registered trust or NGO.

This exemption structure supports the non-profit animal care sector and encourages greater participation in pet rehabilitation, stray care, and veterinary outreach.

## **When GST Becomes Applicable**

**Animal Welfare NGOs must charge GST if:** 

- They are not registered under 12AA/12AB.
- They provide commercial services like: Selling pet-related products.
- Charging for veterinary services to the public at market rates.
- Their aggregate turnover exceeds ₹20 lakhs (₹10 lakhs for NE states).
- They must register and charge GST @18% (or applicable rates) on taxable supplies.



## KEY NOTIFICATIONS & CIRCULARS FOR WILDLIFE ORGANISATIONS UNDER GST

**Under Notification No. 12/2017-Central Tax (Rate) and relevant circulars, the following key takeaways emerge:** 

### **GST Exemptions are widely available for:**

- Animal rescue and rehabilitation services,
- Veterinary care and pet accommodation provided without profit motive,
- Environmental education, awareness workshops, and library services,
- Publications like field guides, journals, and manuals on conservation (under HSN 4901/4902),
- Donations received without any commercial return,
- Services provided by Section 12AA/12AB registered entities in furtherance of "charitable purpose".

#### **GST Liability arises when:**

- Services are commercial in nature, such as eco-tourism, training camps with entry fees, consultancy, or sale of branded merchandise,
- The NGO is not registered under Section 12AA/12AB of the Income Tax Act,
- Input Tax Credit (ITC) is not available for exempt supplies but can be availed for taxable outputs, provided all
  compliance requirements are met.

## CASE LAWS

## Animal Feed Analytical & Quality Assurance Lab (TN AAR)

- Issue: Whether testing services for animal feed qualify as healthcare services and are exempt under GST.
- Facts: The lab performed testing and analytical services on animal feed. The applicant claimed exemption on the grounds of healthcare-related activities.
- Decision: NOT EXEMPT under veterinary services.
- The AAR held that the applicant is not providing treatment or care to animals, but only laboratory testing services.
- Testing of animal feed is treated as a technical testing and analysis service, which is taxable at 18% GST.

# Maharashtra Appellate Authority for Advance Ruling (AAAR)

- **Issue**: Whether the sale of books and CDs by a charitable trust was exempt.
- Ruling: The AAAR ruled that the sale of goods, even if incidental to the main charitable object, is a business activity and taxable under GST.
- Implication for Wildlife Organizations: Any sale of merchandise, nature books, or other products by a wildlife organization's gift shop is generally a taxable supply, separate from the core exempt conservation activities.

## Chhattisgarh State Renewable Energy Development Agency (CG AAAR, 2020)

#### **Facts of the Case**

- •CREDA is a government agency under the Department of Energy, Government of Chhattisgarh, dealing with renewable energy and energy conservation programs.
- •It was registered as a charitable entity under Section 12AA of the Income Tax Act, 1961.
- CREDA was involved in various activities including:
  - •Implementing renewable energy schemes.
  - Engaging contractors for civil and electrical works.
  - •Collecting fees/charges from channel partners, contractors, and consumers (e.g., for tender forms, scrap battery sales).

#### **Issue Before the Authorities**

The primary issue was whether the supply of goods or services by CREDA under its various schemes and activities was exempt from GST under Entry No. 1 of Notification No. 12/2017-Central Tax (Rate). The applicant argued that since it was registered under Section 12AA and engaged in activities like "preservation of the environment," its services should be exempt as "charitable activities".

#### Decision of the AAR and AAAR

Both the AAR and the AAAR ruled against CREDA, finding the services taxable.

- •Rationale: The authorities held that the fees and charges collected by CREDA from channel partners, contractors, and consumers constituted a "consideration" for the supply of goods and services.
- •These activities were deemed commercial in nature and not purely "charitable activities" as strictly envisaged under the GST statute.
- •The AAAR upheld the AAR's decision, concluding that the supply of goods or services by CREDA were not exempt under the said notification. The appeal was dismissed on all accounts

# GST ON ADOPTION AGENICES



## GST Exemptions Applicable to Adoption-Related Services

#### **General Exemption Clause**

While adoption per se has no specific exemption under GST, NGOs/NPOs registered under Section 12AA/12AB of the Income Tax Act benefit from exemptions provided under Notification No. 12/2017-Central Tax (Rate). This includes:

- Shelter
- Food
- Clothing
- Foster care
- Medical treatment
- Primary education & basic computer skills

When such services are rendered by adoption agencies, they are generally exempt From GST if the primary purpose is charitable and the agency maintains proper records and registrations. GST on Ancillary Activities of adoption agencies



#### 1. Children of the World (India) Trust — AAR, Maharashtra, 04 October 2019

**Citation:** GST-ARA-15/2019-20/B (Mumbai, 04.10.2019)

**Facts:** The trust is a charitable trust registered under Section 12AA of the Income Tax Act, and acts as a "Specialised Adoption Agency (SAA)" under the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) and the Adoption Regulations, 2017. It houses orphaned/abandoned children, provides shelter, clothing, food, medical treatment, schooling till adoption, and receives "adoption fees" from prospective adoptive parents under Regulation 46 of the Adoption Regulations.

**Issue:** Whether the receipt of adoption fees from prospective adoptive parents is exempt from GST (i.e., whether the activities of the Trust are "charitable activities" exempted under Notification No. 12/2017-CT(Rate) dated 28.06.2017.

**Holding / Decision:** The AAR held that the activities conducted by the Trust are "charitable activities" under the definition in the exemption notification (specifically "advancement of educational programmes or skill development relating to abandoned, orphaned or homeless children"). Accordingly, the receipt of adoption fees by the Trust from the prospective adoptive parents is exempt from GST.

#### **Key Points / Observations:**

- •The AAR stressed that the Trust is registered under Section 12AA (i.e., qualifies as a charitable entity) and the objects align with orphan/abandoned children.
- •The adoption activity is tightly regulated under the JJ Act & Adoption Regulations meaning it is not a normal "business" supply of children (which would be prohibited) and the children are not treated as "goods". The AAR pointed out that children are not "goods".
- •Because of the above, the fee (though charged) was treated as part of the exempt charitable activity.



## **Donations**

#### A. When the organization is Registered under Section 12AA/12AB.

If the **organization** is registered under **Section 12A of the Income Tax Act**, it enjoys **income tax exemption** for income used towards its **charitable objectives**, such as promoting education and literacy.

Donations received without any commercial quid pro quo (i.e., not in exchange for a service or benefit) are considered voluntary contributions.

#### B. When the organization is Not Registered under Section 12AA/12AB

If the **organization** (whether a trust, society, or company) **does not have 12A registration**, it is **not eligible for income tax exemption**, and the taxation changes significantly.

All donations, even if voluntary, are treated as **income** and are **fully taxable** under the head "Income from Other Sources" or "Income from Business or Profession".

The institution must pay income tax at the **applicable slab rate**, and **no exemption under Section 11 or 12** is available.



## SPECIAL MECHANISM

# GST ON RWA /AOA



# GST Applicability on Income of RWA/AOA (Resident Welfare Associations)



## **INTRODUCTION**

Resident Welfare Associations (RWAs) or Apartment Owners Associations (AOAs) collect various forms of income from their members and external sources for maintaining residential complexes. This Chapter discusses the GST implications on different types of core income including membership fees, advertisement income, club fees and various penalty fees. We will also cover the other income event participation fees, recreational activities, sale of publications, and library services, with reference to exemptions, abatements, and available deductions.



## Membership Fees / Monthly Maintenance Charges

As per CBIC Circular No. 109/28/2019-GST and Notification No. 12/2017 – Central Tax (Rate), **Entry No. 77**, maintenance charges collected by RWAs are exempt from GST if:

- -The monthly contribution per member does not exceed ₹7,500.
- The housing society's aggregate turnover is below the GST registration threshold (₹20 lakhs or ₹10 lakhs for special category states).

If the monthly contribution exceeds ₹7,500 per member, then GST is applicable on the full amount, not just the excess, provided the RWA is registered under GST.

#### ✓ Legal Basis:

As per CBIC Circular No. 109/28/2019-GST and Notification No. 12/2017 – Central Tax (Rate), Entry No. 77, monthly maintenance charges collected by RWAs from members are exempt from GST if:

 The individual contribution per member per month does not exceed ₹7,500, and The RWA is registered under Section 12AA/12AB (in case charitable exemption is also being claimed) or is otherwise not liable to register (aggregate turnover < ₹20 lakhs).</li>



S.No.	Charges/Collections	Included in ₹7,500 Limit?	
1	Monthly Maintenance Charges	✓Yes	Items included and exercises are included with GST exemption on measurements welfare Associations (Important Notes:  If ₹7,500 is exceeded, amount, not just the exemption on measurements are included with the form is a societies commercial unit collections are gardless of limit.
2	Security Charges	✓Yes	
3	Housekeeping/Cleaning	✓Yes	
4	Lift Maintenance	✓Yes	
5	Common Area Electricity	✓Yes	
6	Water Supply through Tankers	✓Yes	
7	Generator/Diesel Charges	✓Yes	
8	Garden/Park Maintenance	✓Yes	
9	Garbage Disposal	✓Yes	
10	Sinking Fund (if voluntary)	×No	
11	Major Repair Fund (one-time)	×No	
12	Parking Charges (separate)	×No	Non-members (e.g., to
13	Club Membership Fees	×No	this exemption.
14	Party Hall/Guest Room Rent	×No	
15	Penalty or Late Fees	×No	
16	Interest on Delayed Payment	×No	
17	Commercial Unit Maintenance	×No	



tems included and excluded in ₹7,500 monthly limit for RWA GST exemption. The following table outlines which charges are included within the ₹7,500 monthly limit for GST exemption on member contributions to Resident Welfare Associations (RWAs), and which are not:

If ₹7,500 is exceeded, GST is applicable on the entire amount, not just the extra portion.

For mixed-use societies (residential + commercial), commercial unit collections are always taxable, regardless of limit.

Non-members (e.g., tenants, shops) are not eligible for this exemption.



## Circulars/Notifications:-

Tabular Summary of Circular No. 109/28/2019-GST

S. No.	Topic	Clarification by CBIC
1	Taxability of maintenance charges collected by RWA	Services by RWA to its own members are exempt under Notification 12/2017, Entry No. 77, if contribution does not exceed ₹7,500 per month per member.
2	Applicability of GST when monthly contribution exceeds ₹7,500	If monthly maintenance charges exceed ₹7,500, entire amount becomes taxable, not just the excess.
3	GST registration requirement for RWA	GST registration is required only if the aggregate turnover exceeds ₹20 lakh in a financial year. Below this limit, even if some members pay above ₹7,500, GST is not applicable.
4	Availability of Input Tax Credit (ITC)	If RWA is registered and paying GST, it can avail ITC on input goods and services used for maintenance (e.g., security, cleaning, electricity).
5	Taxability of sinking fund or corpus fund	Any contribution collected for common use, including corpus/sinking/repair funds, is considered advance for services and taxable if the monthly contribution limit is breached.
6	Clarification through an example	If a member pays ₹9,000/month, full ₹9,000 is taxable, not just ₹1,500 (i.e., amount above ₹7,500).

## ITC ELIGIBILITY IN MIXED-USE SOCIETIES





ITC Eligibility in Mixed-Use Societies (Residential + Commercial)

As per CBIC Circular No. 109/28/2019-GST dated 22-07-2019 Societies / RWA can avail ITC only if the output services are taxable.

If maintenance charges are exempt (e.g., for residential units ≤ ₹7,500/month per member), then ITC related to those exempt supplies cannot be claimed.

## How to Claim ITC

#### XYZ Mixed Society (FY 2024-25)

- •80 residential flats × ₹6,000/month = ₹57.6 L (exempt)
- •10 shops × ₹10,000/month = ₹12 L (taxable)
- •Total turnover = ₹69.6 L → Registered under GST.
- Maintenance of common areas benefits both.
- Total GST paid on inputs = ₹3 L.

#### Then ITC apportionment:

- •Residential share =  $80/90 = 88.9\% \rightarrow \text{not eligible}$
- •Commercial share =  $11.1\% \rightarrow \text{eligible}$
- •Allowed ITC = ₹3 L × 11.1% = ₹33,000 approx.

111% of Following -RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services.

## ITC ELIGIBILITY IN MIXED-USE SOCIETIES



RESIDENTIAL TAXABLE

ITC ALLOWED
CAM >7500 P.M.



SHOPS TAXABLE

ITC ALLOWED
NO EXEMPTION

RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services.

## Case: Vishal Cooperative Housing Society Ltd. – AAR Maharashtra (Order dated 2 Nov 2021)

- Facts:
- The applicant was a **Co-operative Housing Society** having both **residential flats and commercial shops**.
- The society collected maintenance charges from all members (residential and commercial).
- The question before AAR was whether **GST** is applicable on maintenance charges and whether **ITC** (Input Tax Credit) can be claimed on common input services (like repairs, security, housekeeping, etc.).
- Key Issues:
- Whether maintenance charges collected from **residential members** are exempt from GST?
- Whether maintenance charges collected from **commercial members (shops)** are taxable?
- Whether ITC can be claimed on common input services used for both types of units?
- AAR Findings:
- Residential Members:
  - Exemption available under Entry 77 of Notification No. 12/2017–CT (Rate).
  - If contribution per member ≤ ₹7,500 per month, no GST.
  - If it exceeds ₹7,500 per month, GST is applicable on the full amount (as per Circular No. 109/28/2019-GST).
  - When entire activity is exempt, no ITC is available.
- Commercial Members (Shops):
  - Maintenance services provided to shops are **taxable**, irrespective of contribution amount.
  - Society is liable to charge GST @18% on such maintenance amounts.
  - ITC is available on inputs/input services attributable to these taxable services.
- Mixed-Use Society (Both Residential + Commercial):
  - The society must segregate input services used for taxable (commercial) and exempt (residential) purposes.
  - Proportionate ITC can be claimed only for inputs/input services used in providing taxable output services (as per Rule 42 of CGST Rules, 2017).
  - ITC related to exempt (residential) portion must be reversed.



## **Advertisement Fees**

Advertisement income received by RWAs from third parties (such as local businesses, vendors, or product promoters) for displaying ads within the society premises is fully taxable under GST. It is treated as a commercial activity and attracts GST at 18%. No exemption or abatement is available.





## GST on club facilities run by NGOs

## Introduction

NGOs that run clubs and provide facilities that aim to communicate the needs of society and provide fostering services that have a positive impact on society. There are some types of club facilities that are managed by NGOs for the benefit of society, like youth clubs, community centers, educational facilities, health clinics, etc.

NGOs that engage in charitable activities may be eligible for exemptions or concessions from Goods and services tax on certain services they offer with respect to their club facilities. These exemptions apply to only those who are not for the purpose of commercial gain or providing benefit to society.

NGO that is providing club facilities and has also registered for Goods and services tax. They also have the opportunity to claim input tax liability on Goods and Services Tax paid for purchases and expenses related to their taxable activities.



# Here is a list of GST-specific taxability for club facilities





## Membership Fees

The principle of mutuality will not apply to the services rendered by a club or association to its members against membership or subscription fees by virtue of an amendment to Section 7 of the CGST Act, 2017 by way of the insertion of a new sub clause S.7(1)(aa).

Section **7(1)(aa)** of the **Central Goods and Services Tax (CGST) Act, 2017** was introduced via amendment by the **Finance Act, 2021** and came into effect from **1st July 2021**. It specifically **overrides the mutuality principle** for taxability of transactions between clubs/associations and their members under **GST**.

### Text of Section 7(1)(aa) - CGST Act, 2017:

"(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration. Explanation.—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another."



# Purpose and Effect of Section 7(1)(aa)

That a club and its members are **distinct persons** for the purpose of GST.

Now, Any **supply of goods or services** by a club/society to its members is now **taxable under GST.** 



## Here's a clear overview of the Poona Club AAR ruling (GST-ARA-123/2019-20/B-12, dated January 31, 2022)

## **Background Applicant**:

Poona Club Ltd., a membership-based social & sports club in Pune.

**Query**: Are the **one-time membership fees**, **annual subscriptions**, and **annual game fees** payable by members subject to GST?

#### **Legal Framework**

**Section 7(1)(aa), CGST Act** (effective retrospectively from July 1, 2017): Treats any activity between a person (other than an individual) and its members as a "supply," establishing that the club and its members are legally distinct

<u>Section 2(17)(e), CGST Act</u>: Defines "business" to include clubs providing facilities or benefits to members in exchange for subscriptions or fees.





**Distinct legal entities**: The club and its members are separate "persons" under GST law—mutuality does **not** apply **Consideration & Supply**: Membership and annual fees are paid as consideration for access to club facilities and administrative services, satisfying the definitions under GST

**Business under GST**: Providing facilities or benefits to members in return for payment qualifies as a business activity that attracts GST, regardless of profit motive

#### **Conclusion**

All the following collected by Poona Club are **taxable under GST**:

- One-time membership fee
- Recurring annual subscriptions
- Annual game fees

### Income Tax Officer v. Cawnpore Club Ltd. (2005) 92 ITD 287 (ITAT Delhi)

Issue: Whether guest room rent received from members' guests was taxable.

Held: Since guests are non-members, this part of income is taxable as mutuality

is broken.

**Significance**: Reinforces that dealings with **non-members break mutuality**, making income taxable.

## GST ON CLUBS



# GST Applicability on Activities and Operations of Clubs and Club-Run NGOs

Clubs and their affiliated NGOs often engage in a diverse range of recreational, educational, and cultural activities. While many of these services are intended for the welfare of members or the broader community, the Goods and Services Tax (GST) framework in India necessitates a careful evaluation of whether these services qualify as taxable supplies or enjoy exemptions. This section outlines the GST treatment of various services offered and received by clubs, especially those structured as or operating under non-profit or charitable institutions.





# Training and Coaching in Recreational Activities

When a club or its associated NGO conducts training sessions, coaching programs, or workshops for recreational activities—such as art classes, dance sessions, or sports training—these services are generally treated as taxable under GST and attract an 18% tax rate.

Generally exemption available for this activity for NGO or charitable organisations under Entry 80 of Notification No. 12/2017 If the training or coaching relates specifically to arts, culture, or sports, and is provided by an entity registered under Section 12AA or 12AB of the Income Tax Act will not be applicable to Club or such mutual organisations as they are not providing any charitable services and cannot registered therefore under 12AA/12AB.



## Sports, Fitness, and Health Services

Clubs frequently provide access to gyms, yoga centres, fitness studios, and sports complexes as part of their membership benefits. These amenities, while often aimed at promoting health and well-being, fall under commercial service provision in the eyes of GST law. As such, they attract a GST of 18%. The charitable or non-profit status of the club does not automatically grant exemption here, especially if the facility is not open to the general public. If access is restricted to members or based on a fee-for-service model, the club must charge and remit GST accordingly.





## **Indoor Games and Recreational Activities**

Recreational games and indoor amusement services offered by clubs are subject to GST based on their classification under the HSN tariff system. Items and activities falling under HSN 9504—such as video game consoles, amusement machines, billiards, pinball, and other parlor or fairground games—are taxable at 18%. However, traditional indoor games like carom boards, chess sets, Ludo, and similar board games attract a lower GST rate of 12%. Even when such games are offered by a club NGO, the tax is applicable unless the activity meets the exemption criteria of being a public service offered by a registered charitable trust.





## **Entertainment and Festive Services**

Clubs that organize entertainment-based events or offer festive articles such as magic shows, novelty tricks, or seasonal decorations fall under HSN 9505. These are considered taxable entertainment services and attract 18% GST. The intent or charitable background of the entity does not influence taxability unless the event is a public charitable function open to all without a profit motive. Most such cluborganized activities, especially when ticketed or member-only, do not qualify for any exemption.





## Participation Fees in Events and Training Programs

In scenarios where clubs, particularly those not registered under Section 12A or 12AB, conduct public training events or workshops, the GST applicability hinges on the fee structure and the nature of the event. If the participation fee per person does not exceed ₹500, the event is not commercial in nature, and it is open to the public, then it may be exempt from GST under Entry 81. However, if the entry fee exceeds ₹500 or involves sponsorships, advertising, or ticketing, the exemption does not apply, and the activity is taxable.



## Conclusion: GST on Club Facilities Run by NGOs

The Goods and Services Tax (GST) regime in India introduces a comprehensive framework for taxation of services, including those rendered by clubs, societies, and NGOs. While NGOs play a pivotal role in societal upliftment by managing clubs and community centers that offer educational, health, and recreational services, the mere not-for-profit intent does not automatically confer exemption from GST. The applicability of tax depends heavily on the nature of the activity, motive behind the service, the registration status of the NGO under Section 12AA/12AB, and how the service is structured and offered.

### **Override of Mutuality Principle:**

- With the introduction of Section 7(1)(aa) in the CGST Act, 2017, the time-tested doctrine of mutuality has been statutorily nullified for GST purposes.
- All transactions between a club/NGO and its members are treated as "supply," making them taxable even if operated without a profit motive.

## GST ON INCUBATOR



## GST IMPLICATION ON INCUBATOR

#### **INTRODUCTION**

An incubator is typically an organization or facility that supports early-stage startups and entrepreneurs by providing services such as:

- Offering co-working space, internet, legal support, accounting, and other shared services.
- Providing access to mentors, investors, and technical advisors. Conducting startup bootcamps, pitch events, investor demos.

Helping with go-to-market strategy, product development, and scaling. They are often run by educational institutions, government bodies, or private entities, and may be recognized by authorities like the Department for Promotion of Industry and Internal Trade (DPIIT).



#### **Beneficiaries**

Startups, entrepreneurs, and early-stage companies. Often industry-focused (e.g., FinTech, AgriTech, HealthTech).



Can be non-profit or for-profit. Often backed by universities (like IIT incubators), government (like Atal Incubation Centres), or private corporates.





## **GST Exemption For Incubators (Service Providers)**

**GST Notification:** Legal Basis

The key notification granting exemption is: Notification No. 12/2017 – Central Tax (Rate) dated 28th June 2017, Entry 48 (as amended)

**Entry 48:** "Services by Technology Business Incubator(TBI) or Science and Technology Entrepreneurship Park (**STEP**) recognized by the National Science and Technology Entrepreneurship Development Board (**NSTEDB**) or Bio-incubators recognized by BIRAC under Department of Biotechnology, Government of India."

<u>Analysis of the exemption:</u> To avail this GST exemption, ALL the Following conditions must be met:

	Criteria	Description
•	Recognition	The incubator must be recognized by NSTEDB (under DST) or BIRAC (under DBT).
•	Type of Services	The service must be related to incubation support: workspace, training, business planning, mentoring, technical assistance.
•	Nature of Entity	Usually a Section 8 Company, Trust, Society, or a public-private initiative run with R&D or academic backing.

#### **Interpretation: What Services Are Covered?**

#### **Exempt incubation services include:**

- Renting space to startups at concessional rates
- Organizing startup training,
- bootcamps,
- hackathons Business support and
- R&D help seed funding assistance,
- Demo days and investor introductions

#### These services are exempt from GST, meaning:

- No GST is to be charged on the invoice.
- The incubator cannot claim input tax credit (ITC) on inward supplies related to the exempt service.

### **NOT Covered (Taxable if offered commercially):**

- Renting space to corporates not under incubation Hosting paid conferences for the public Selling goods/products or
- commercial advertisements

<u>Practical Example:</u> IIT Madras Incubation Cell – A recognized Technology Business Incubator by DST, offers office space, labs, and startup mentoring. All these services offered to recognized incubatees are GST-exempt.





## GST Exemption for Incubatees (Service Recipients / Startups)

#### 1. Who is an Incubatee?

An incubatee is a startup or individual entrepreneur admitted into the premises and program of a recognized incubator through a Formal agreement For a Fixed period. They typically:

- Operate From the incubator premises Use their services
- Work on developing products/services under guidance

#### 2. <u>Services</u> Provided by Incubatees

As per Entry 44 of the same notification, services provided by an incubatee are exempt from GST, subject to the following conditions:

- The total turnover of the incubatee does not exceed ₹50 lakh in the financial year
- The incubatee has not exceeded this turnover in the preceding financial year.
- A period of three years has not elapsed since the date of entering into an agreement as an incubatee with the recognized incubator.
- An "incubatee" refers to an entrepreneur located within the premises of a recognized TBI or STEP, engaged in developing innovative products or services.





## **A Important Considerations**

- **Recognition Requirement:** The incubator must be recognized by NSTEDB or BIRAC for the exemptions to apply.
- **Nature of Services:** Only services directly related to incubation activities are exempt. Other commercial services may attract GST.
- **Turnover Threshold:** Incubatees must monitor their turnover to ensure it remains within the specified limit to avail the exemption.
- **Time Limit:** The exemption for incubatees is available for a maximum of three years from the date of entering into the incubation agreement.

**GST Notification:** Legal Basis

### Notification No. 12/2017 – Central Tax (Rate), Entry 44 (as amended):

"Services provided by an incubatee up to a total turnover of fifty lakh rupees in a financial year subject to the following conditions..."

(a)the total turnover had not exceeded fifty lakh rupees during the preceding financial year; (b)a period of three years has not elapsed from the date of entering into an agreement as an incubatee.





## Conditions for Incubatee Exemption

#### All of the following must be satisfied for GST exemption:

Condition	<u>Explanation</u>
Registered with an incubator	Must have a valid agreement with a recognized TBI or STEP or Bio-incubator.
Turnover limit	Turnover in current FY should not exceed ₹50 lakh.
No past breach	In the preceding FY, the incubatee should not have exceeded ₹50 lakh turnover either.
Time limit	Exemption available only for 3 years from the date of signing incubation agreement.
Startup activity	Should involve innovation, research, or entrepreneurship – not routine trading or consultancy.



## What Services Can Incubatees Provide (Tax-Free)

#### **What Services Can Incubatees Provide (Tax-Free)?**

#### If conditions are met, incubatees can provide GST-exempt services such as:

- App development for clients Freelance software or analytics services Business consulting Prototypes and
- MVPs for other firms

**NOT Exempt If:** Annual Turnover crosses ₹50 lakh Incubation agreement older than 3 years Startup operates outside the incubator premises No formal link with a recognized incubator

<u>Practical Example:</u> ABC Startup in a DST-recognized incubator provides digital marketing solutions to clients and has a ₹40 lakh turnover. For the first three years, its services are GST- exempt, provided all conditions are met.



#### Summary Comparison: Incubator vs Incubatee (Under GST & Tax Provisions)

Criteria	Incubator	Incubatee (Startup)
Who?	An organization that hosts and supports startups	A startup receiving incubation services and support
Entity Type	Non-profit entities (e.g., Section 8 Company, Trust, Society)	For-profit business entities (e.g., Pvt Ltd, LLP, Partnership)
Core Role	Facilitating business incubation and mentoring	Leveraging support for business development and scaling
Recognition Needed Mandatory	Mandatory recognition from authorities like <b>DST, BIRAC</b>	Must be registered with <b>DPIIT</b> under Startup India and have a recognized incubator
GST Status	Exempt under Entry 48 (for services to incubatees)	<b>Exempt under Entry 44</b> , subject to conditions
Turnover Limit?	Not applicable	Must <b>not exceed ₹50 lakh</b> in a financial year
Time Limit for Exemption?	No specific time limit; valid as long as incubator is recognized	GST exemption is allowed <b>only for first 3 years</b> from date of incorporation
Input Tax Credit (ITC)	Not available on exempt services	Not applicable unless the incubatee opts for registration under GST
Income Tax Benefit	Eligible for <b>Section 12AA/80G</b> (for charitable trust status)	Eligible for <b>Section 80-IAC</b> if DPIIT- recognized startup

## GST ON RESARCH INSITUTIONS



## GST ON RESARCH INSTITUTIONS

#### Introduction

Research and development form the backbone of innovation and progress in any nation. In India, scientific and industrial research institutions often operate on limited public funding, grants, or charitable donations, making cost optimization crucial to their mission. To support such institutions and reduce the financial strain associated with procuring scientific equipment and materials, the Government of India introduced Notification No. 45/2017 – Central Tax (Rate), dated 14th November 2017, along with its IGST counterpart Notification No. 47/2017. These notifications aim to exempt certain goods from Goods and Services Tax (GST) when supplied to eligible public-funded or DSIR-recognized research institutions, universities, and technical institutes. By eliminating GST on vital research apparatus, the government encourages growth in scientific innovation, enhances accessibility to advanced technology, and reinforces India's research ecosystem. This article explores the scope, eligibility criteria, procedural requirements, and key judicial rulings associated with this exemption in detail.



## GST Exemption for Research Institutions under Notification No. 45/2017 – A Detailed Overview

#### Scientific and industrial research institutions play a critical role in national development

by fostering innovation, technology advancement, and evidence-based policymaking. Recognizing the financial burden imposed by indirect taxation on such institutions, especially those dependent on public funding or grants, the Government of India issued Notification No. 45/2017 – Central Tax (Rate) dated 14th November 2017. This notification provides a significant Goods and Services Tax (GST) exemption on the supply of specified goods to eligible research institutions, thereby supporting and promoting research and development activities across the country.

#### **Objective of the Notification**

The primary aim of Notification No. 45/2017 is to reduce the cost of scientific

#### equipment and consumables for research institutions. These institutions often

rely on grants, donations, and limited public resources. Imposing GST on scientific and technical instruments increases their operational cost and restricts their ability to conduct cutting-edge research. Therefore, the exemption granted under this notification is meant to ensure that such essential goods reach research institutions at a reduced cost, allowing them to focus their resources on core research activities.



# Applicability to Inter-State Supplies

While Notification No. 45/2017 deals with central tax (CGST) for intra-state supplies, a corresponding notification, i.e., Notification No. 47/2017 – Integrated Tax (Rate), dated the same day (14th November 2017), extends similar benefits for inter-state supplies by exempting IGST on the supply of the same category of goods to the same class of institutions. Thus, whether the supply is local or inter-state, institutions can benefit from GST exemption, provided they comply with the notification requirements.



### **Scope of Exemption and Covered Goods**

The notification exempts central tax (CGST) on the supply of specific categories of goods supplied to recognized research institutions. These goods include:

- Scientific and technical instruments,
- Laboratory apparatus and equipment,
- Accessories, components, spare parts, and consumables
- Computer software required for research,
- Prototypes and models used for experimental purposes not exceed Rs. 50K``
- Live animals imported or procured for experimental research.

These items must be used exclusively for research purposes by the eligible institutions. The exemption applies only when the supplier receives a certificate from the purchasing institution confirming such intended usage.



## **Eligible Institutions under the Notification**

The benefit of GST exemption under this notification is restricted to specific categories of institutions, which include:

- Public funded research institutions, typically financed by the Government of India or State Governments.
   Universities, including both central and state universities, recognized by law.
- Indian Institutes of Technology (IITs) and the Indian Institute of Science (IISC), which are premier national institutions.
- Regional Engineering Colleges (RECs), which are now known as National Institutes of Technology (NITs).
   Departments and laboratories under the Central or State Government that are involved in scientific or industrial research.
- Institutions registered with the Department of Scientific and Industrial Research (DSIR), provided such registration is current and valid at the time of procurement.

#### **Key Notification and Circulars**

#### • Exemption Notification:

- Notification No. 08/2024-Central Tax (Rate), dated October 8, 2024.
- This notification inserted a new entry (Sl. No. 44A) into the principal **Notification No. 12/2017-Central Tax** (Rate).
- The new entry exempts R&D services supplied by government entities, research associations, universities, colleges, or other institutions notified under Section 35(1)(ii) or (iii) of the Income Tax Act, 1961, when the consideration is received in the form of grants.
- This exemption came into effect from October 10, 2024.

#### Clarification Circular:

- Circular No. 245/02/2025-GST, dated January 28, 2025.
- This circular provided clarification on various issues, including the treatment of R&D services for the past period.
- It regularized the payment of GST on R&D services provided by these entities against grants for the period from July 1, 2017, to October 9, 2024, on an "as is where is" basis. This means institutions that already paid GST will not get a refund, and those that did not pay will not be pursued for past dues, effectively resolving the show-cause notices sent to institutions like IIT Madras

These institutions are required to comply with documentation requirements and must not use the exempted goods for any commercial or non-research-related purposes.



## **Mandatory Conditions and Documentation**

The exemption under Notification No. 45/2017 is not automatic. It is subject to the fulfilment of strict documentary requirements, including the submission of a certificate at the time of supply. This certificate must be issued by the head of the institution and should state:

- The complete name and address of the institution,
- GSTIN (if applicable),
- PAN of the institution,
- Nature of research activities,
- Description and purpose of the goods being procured,
- Confirmation that the goods are to be used exclusively for research,
- Reference to the institution's public funding status or DSIR registration.

This certificate ensures that the exemption is used only for genuine research purposes and by eligible institutions. Suppliers must retain this certificate as proof during audits or assessments.



## **Restrictions and Limitations**

It is important to note that **commercial institutions**, private companies, and institutions that do not have public funding or DSIR registration are **not eligible** for this exemption.

Furthermore, if the exempted goods are later diverted for

**non-research or commercial purposes**, the institution may be liable for tax along with penalties. The exemption is strictly intended for the advancement of genuine research and not for any commercial exploitation.

Additionally, suppliers cannot claim Input Tax Credit (ITC) on inputs used in making these exempt supplies, since exempted outward supplies restrict ITC under Section 17(2) of the CGST Act, 2017.



## Various issues under the GST for Research Institution

#### Issue 1

IIT Madras, a premier government-funded institute, undertook sponsored research projects funded by both government and private parties. It charged overheads and professional fees for such projects and wanted to know whether these services were exempt under Entry 66 of Notification 12/2017.

#### **Solution:-**

Services provided by IIT Madras to students and faculty were exempt.

However, sponsored research projects executed for private organizations or commercial entities were taxable under GST.

The AAR clarified that such activities are **not covered under education-related exemptions**.

## Thermo Fisher Scientific India Pvt. Ltd. vs AAR (Maharashtra)

- Issue: Whether supply of imported equipment along with installation and commissioning qualifies as a composite supply or separate supplies under GST.
- Facts: The applicant imported scientific/measuring instruments and supplied them to customers. They also undertook installation and commissioning at customer sites. The question was whether the entire transaction constituted a composite supply with the principal supply being goods.
- Decision: AAR held that supply of scientific equipment and installation/commissioning were naturally bundled. Thus, it was a composite supply, and GST was applicable at the rate applicable to the principal supply (goods).

#### Case: M/s. AIGGPA - Madhya Pradesh AAR (MP/AAR/07/2020, 02-Mar-2020)



#### Issue

Is GST applicable on services (policy research, evaluation, governance advisory, training) provided by AIGGPA to various **State Government departments and public bodies**, or are such services **exempt** as services provided by a Government Authority / Government Entity performing functions under **Article 243G/243W**?

#### **Facts**

- AIGGPA is a **society fully owned and controlled** by the Government of Madhya Pradesh.
- Engaged in **policy analysis, impact assessment, research, capacity building, governance reforms**, and evaluation of government schemes.
- Provides services to various state departments, PSUs, autonomous bodies, and universities.
- Claimed exemption on the basis that it is a Government Entity, and its activities support governance functions.

#### **Decision**

AAR held AIGGPA is a Government Entity, but its services do NOT relate to functions listed under Article 243G/243W.

Activities such as consultancy, research, impact assessment, policy advisory, and training are **not sovereign or municipal/panchayat functions**.

- Therefore, no exemption under Notification 12/2017-CTR applies.
- **GST is payable** on all service fees received from Government departments or other bodies.



#### Case: M/s VE Commercial Vehicles Ltd – Karnataka AAR (KAR ADRG-95/2019 - 27 September 2019)

<u>Issue</u>: Whether trucks and spare parts supplied to public-funded research institutions qualify for GST exemption under Notification No. 45/2017 – Central Tax (Rate) (exempt goods for research institutions)?

#### **Facts**

- VE supplied trucks and parts to entities including Satish Dhawan Space Centre, a public-funded research institute.
- They sought exemption under Notification 45/2017, which generally covers scientific instruments, apparatus, etc.

#### <u>Ruling</u>

- The AAR ruled Notification 45/2017 does not extend to trucks or their spare parts—even if supplied to research institutions
- The notification's scope is limited to scientific and technical instruments, apparatus, accessories, parts, etc., not vehicles.

## World Researchers Association- Madhya Pradesh Authority for Advance Ruling (MP AAR)

Did the activities qualify as "Charitable Activities" under **Notification No. 12/2017-CT (Rate)**, making them exempt from GST?

MP AAR ruled that "promotion of research" and publishing research journals did not fit into the specific, narrow definitions of exempt "charitable activities" listed in the GST notification (e.g., public health, education for vulnerable groups, environment preservation,



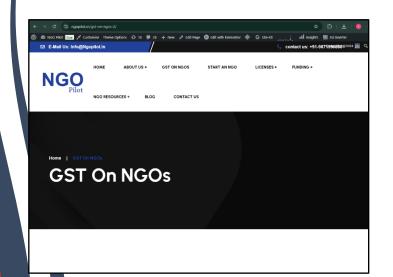
### **Key Principles Evolving from These Rulings**

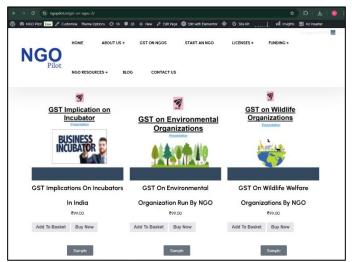
<u>Legal Principle</u>	<u>Summary</u>
Research for private clients	Taxable @18%
Education-linked research	May be exempt under Entry 66
DSIR or public-funded goods procurement	Exempt under 45/2017 if certificate is provided
Pure services to Government	Exempt under Entry 3 of 12/2017
Grants with no quid pro quo	Not subject to GST
CSR activities with deliverables	Taxable supply

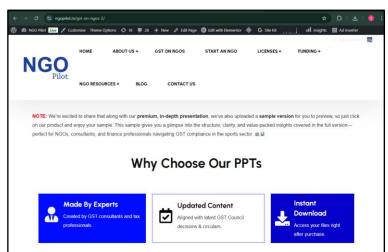


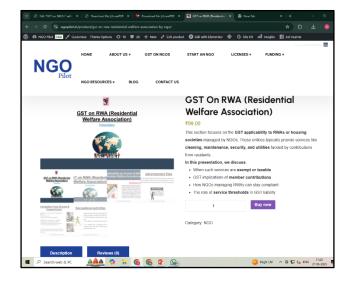
### **NGO LAUNCHING-DIGITAL PPT STORE**

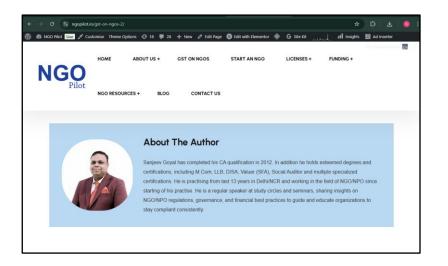






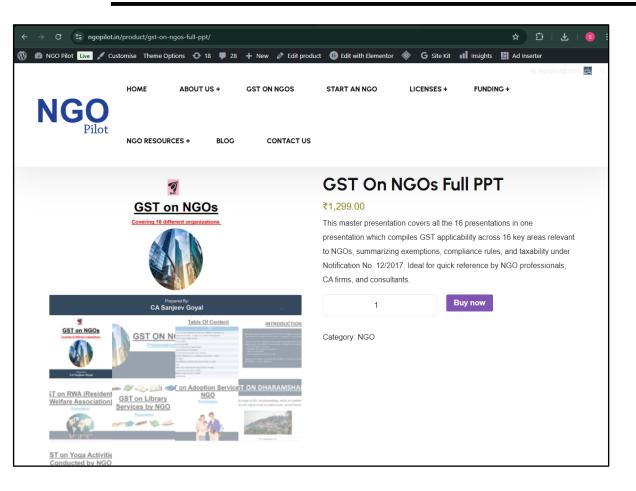


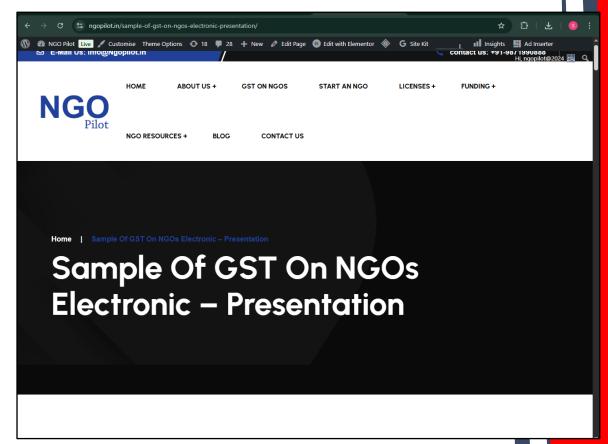






### **BOOK OF GST ON NGO -16 TYPE OF NGO**



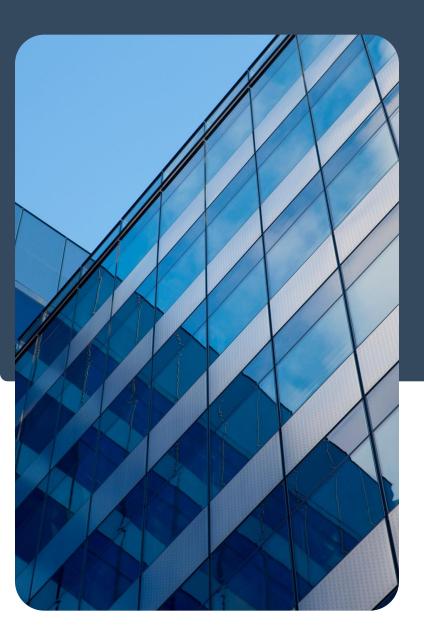


We launched a book on GST on NGOs where we covered 16 different organizations. You can purchase and access the digital PDF version of this presentation through the

following link and we've also uploaded a sample version for you to preview, so just click on our product and enjoy your sample: https://ngopilot.in/sample-of-gst-on-ngos-

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## THANK YOU!

LET'S GET IN TOUCH



**Message Us** +919871990666



Mailing Address info@ngopilot.in



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