

No registration required for trust carrying out 'charitable activities' exempt under GST

The Hon'ble AAR, Gujarat in ***Re: All India Disaster Mitigation Institute [Advance Ruling No. GUJ/GAAR/R/20/2019 dated September 11, 2019]*** wherein the charitable trust registered under Section 12AA and 80G of Income-tax Act, 1961 ("**Income Tax Act**") carrying out charitable activities for preservation of environment, held that since the activities were exempt from tax under GST, there was no need to take GST registration.

Facts:

All India Disaster Mitigation Institute ("**the Applicant**") is a trust duly registered as a charitable trust under Section 12AA and 80G of Income-tax Act. It is engaged in carrying out activities relating to disaster prevention, disaster mitigation and disaster management.

Issue:

Whether the Applicant is liable for registration under the Central Goods and Services Tax Act, 2017 ("**CGST Act**").

Held:

The Hon'ble AAR, Gujarat in ***Advance Ruling No. GUJ/GAAR/R/20/2019 dated September 11, 2019*** held as under:

- The Authority observed from the objectives of the Applicant as described in the Memorandum of Association as well as from the bye-laws of the Applicant, which laid down the modes by which the Applicant can raise funds for its activities as mentioned in foregoing paras that the applicant is a charitable trust registered under the Bombay Public Trust Act, 1950. It was established for community-based research, policy analysis, planning and technical assistance for the purpose of enhancing prevention, mitigation and management of disasters and reorientation of relief and reconstruction to local initiatives. Thus, the Applicant is engaged in training/research relating to disaster prevention, mitigation and management.
- Further, the Applicant is duly registered as a charitable trust under Section 12AA and Section 80G of the Income Tax Act. Therefore, the entire income of the

Applicant is exempt from Income Tax, even the donations made to the Applicant are admissible deductions for the donors under Section 80G of the Income Tax Act.

- Furthermore, serial no. 1 of the **Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017** (“Services Exemption Notification”) clearly provides exemption to services by an entity registered under Section 12AA of the Income-tax Act by way of charitable activities and clause 2(r)(iv) of the Services Exemption Notification includes activities relating to preservation of environment including watershed, forests and wildlife.
- Since the activities of the Applicant relating to disaster prevention, disaster mitigation and disaster management are activities relating to “preservation of environment”, the activities of the Applicant are considered as charitable activities. Hence, activities of the Applicant, being registered under Section 12AA of the Income Tax Act are exempt from tax under the CGST Act, by virtue of serial no. 1 of the Service Exemption Notification.
- Consequently, the Applicant is not liable to registration in respect of charitable activities relating to preservation of environment which attracts nil rate of GST, by virtue of Section 23(1)(a) of the CGST Act.

Relevant provisions:

Persons not liable for registration under GST under Section 23(1)(a) of the CGST Act:

“23. Persons not liable for registration

(1) The following persons shall not be liable to registration, namely:

(a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;”

Serial no. 1 of the Service Exemption Notification:

Sl. No.	Chapter	Description of Services	Rate	Condition
1	Chapter 99	Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.	Nil	Nil

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