

Chapter-III A

Classification & Exemption

Introduction

GST law does not contain a commodity classification tariff but a look at the notifications issued reveals the classification of goods and services are contained within the notification which prescribes the rate of tax. Classification therefore, is an exercise that is inevitable because identifying the specific entry in any of the 6 schedules is necessary to arrive at the rate of tax applicable.

Analysis

Reference to Classification

A screenshot of the website containing the list of notifications is provided below:

Central Tax (Rate) Notifications			
Notification No. & Date of Issue	English	हिन्दी	Subject
07/2017-Central Tax (Rate),dt. 28-06-2017	View (254 KB)	देखें (512 KB)	Exemption from CGST supplies by CSD to Unit Run Canteens and supplies by CSD / Unit Run Canteens to authorised customers notified under section 11 (1) and section 55 CSD
06/2017-Central Tax (Rate),dt. 28-06-2017	View (1142 KB)	देखें (498 KB)	Refund of 50% of CGST on supplies to CSD under section 55
05/2017-Central Tax (Rate),dt. 28-06-2017	View (289 KB)	देखें (665 KB)	Supplies of goods in respect of which no refund of unutilised input tax credit shall be allowed under section 54 (3)
04/2017-Central Tax (Rate),dt. 28-06-2017	View (263 KB)	देखें (739 KB)	Reverse charge on certain specified supplies of goods under section 9 (3)
03/2017-Central Tax (Rate),dt. 28-06-2017	View (299 KB)	देखें (859 KB)	2.5% concessional CGST rate for supplies to Exploration and Production notified under section 11 (1)
02/2017-Central Tax (Rate),dt. 28-06-2017	View (375 KB) Corrigendum (100 KB) Corrigendum (249 KB), dated 27-07-2017	देखें (856 KB) Corrigendum (100 KB) Corrigendum (234 KB), dated 27-07-2017	CGST exempt goods notified under section 11 (1)
01/2017-Central Tax (Rate),dt. 28-06-2017	View (1506 KB) Corrigendum (252 KB), dated 30-06-2017 Corrigendum (190 KB), dated 12-07-2017 Corrigendum (257 KB), dated 27-07-2017	देखें (3398 KB) Corrigendum (488 KB), dated 30-06-2017 Corrigendum (85 KB), dated 12-07-2017 Corrigendum (333 KB), dated 27-07-2017	CGST Rate Schedule notified under section 9 (1)

Viewing 41 to 47 of 47 << 1 2 3 4 5 >>

Source: <http://www.cbec.gov.in/htdocs-cbec/gst/central-tax-rate-notfns-2017>

Central Tax (Rate) Notifications			
Notification No. & Date of Issue	English	हिन्दी	Subject
18/2017-Central Tax (Rate), dt. 30-06-2017	View (139 KB)	देखें (137 KB)	Seek to reduce the rate of Central Tax, Union Territory Tax, on fertilisers from 6% to 2.5% and Integrated Tax rate on fertilisers from 12% to 5%
17/2017-Central Tax (Rate), dt. 28-06-2017	View (139 KB)	देखें (585 KB)	To notify the categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator
16/2017-Central Tax (Rate), dt. 28-06-2017	View (344 KB)	देखें (385 KB)	To notify specialised agencies entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them under CGST Act
15/2017-Central Tax (Rate), dt. 28-06-2017	View (142 KB)	देखें (431 KB)	To notify the supplies not eligible for refund of unutilized ITC under CGST Act
14/2017-Central Tax (Rate), dt. 28-06-2017	View (246 KB)	देखें (318 KB)	To notify the supplies which shall be treated neither as a supply of goods nor a supply of service under the CGST Act
13/2017-Central Tax (Rate), dt. 28-06-2017	View (274 KB)	देखें (722 KB)	To notify the categories of services on which tax will be payable under reverse charge mechanism under CGST Act
12/2017-Central Tax (Rate), dt. 28-06-2017	View (440 KB)	देखें (990 KB)	To notify the exemptions on supply of services under CGST Act
11/2017-Central Tax (Rate), dt. 28-06-2017	View (390 KB)	देखें (1.11 MB)	To notify the rates for supply of services under CGST Act
10/2017-Central Tax (Rate), dt. 28-06-2017	Annexure (252 KB)	Annexure (252 KB)	CGST exemption for dealers operating under Marginal Scheme notified under section 11 (1)
09/2017-Central Tax (Rate), dt. 28-06-2017	View (143 KB)	देखें (900 KB)	Exempting supplies to a TDS deductor by a supplier, who is not registered, under section 11 (1)

Source: <http://www.cbec.gov.in/htdocs-cbec/gst/central-tax-rate-notfns-2017>

Purpose of Notification	Supply of Goods	Supply of Services
Prescribing the rate of tax	1/2017-Central Tax (Rate)	11/2017-Central Tax (Rate)
Granting the exemption	2/1017-Central Tax (Rate)	12/2017-Central Tax (Rate)

Requirement of Classification

while it may seem like classification may not be so cumbersome and experience, logic and common sense are sufficient tools and to arrive at the interpretation of the tariff notifications, a quick look at some examples and drive home the requirement of classification. Let us consider the following examples::

- a 'watch made of gold' is an article of gold or a watches albeit an expensive one
- a confectionary product 'hajmola' an ayurvedic medicaments or remains confectionary sweets
- would a serving of 'brandy with warm water' be classified based on its curative effect on common cold or dismissed as alcoholic liquor for human consumption
- whether 'surgical gloves' are latex products or accessories to Healthcare Services
- is a 'mirror cut to size' articles of glass or as accessories to motor vehicles fitted as rear-view mirror

as can be seen from the few instances mentioned above, classification is not one that is free from doubt. When coupled with differential rates of tax when one nor the other classification is resorted to, the scope for misclassification will be reinforced with motivation to reduce the tax incidence. This motivation can work on both sides – industry as well as tax administration – so as to unit the greatest advantage to the one who is attempting the classification. Classification cannot therefore be left to the whims and fancies of each person but reference must be had to the guidance provided in the law itself.

Approach to Classification

The notifications prescribing the rate of tax both in respect of goods as well as services contains explanations as to how the classification must be undertaken. Extracts of those explanations are provided below for ease of reference:

(iii) "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

Notification 1/2017-Central Tax (Rate) dated 28 June, 2017

4. *Explanation.*- For the purposes of this notification,-

(i) Goods includes capital goods.

(ii) Reference to "Chapter", "Section" or "Heading", wherever they occur, unless the context otherwise requires, shall mean respectively as "Chapter, "Section" and "Heading" in the annexed scheme of classification of services (Annexure).

(iii) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of heading 9988.

(iv) Wherever a rate has been prescribed in this notification subject to the condition that

Notification 11/2017-Central Tax (Rate) dated 28 June, 2017

As can be seen from the above, the notification prescribing the rate of tax itself specifies the approach that is to be followed for purposes of classification, namely:

- in respect of goods, the notification requires reference to be had to the first Schedule to Customs Tariff Act 1975; and
- in respect of services, the notification requires reference to be had to the Annexure which contains the Scheme of Classification

A quick look at these helps is to recognize the approach that needs to be followed for classification.

1. THE CUSTOMS TARIFF ACT, 1975 (51 Of 1975)¹

(1)

An act to consolidate and amend the law relating to customs duties.

Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Customs Tariff Act, 1975.























(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. ^{2,3}

2. The rates at which duties of customs shall be levied under the Customs Act, 1962, are specified in the First and Second Schedules,⁴

The above table is an adaptation of the Harmonized System of Nomenclature (HSN) established for aiding in uniformity in Customs classification in international trade between member countries of World Customs Organization. It was drafted under the aegis of Customs Cooperation Council Nomenclature, Brussels. It was adopted for Customs purposes by India in 1975 and readapted (with some changes) for Central Excise in 1985 and now for purposes of GST in 2017. Please bear in mind that reference to the original HSN will be of much help in understanding the scope of any entry to understand the full extent of meaning implied in any entry found while reading Customs Tariff Act. Refer www.wcoomd.org where the HSN is available for purchase or subscription from World Customs Organization.

In respect of services, the Annexure is appended to the notification and starts with chapter 99 although there is no such chapter in the HSN

Central Tax (Rate) Notifications		
Notification No. & Date of Issue	English	हिन्दी
18/2017-Central Tax (Rate) ,dt. 30-06-2017	View  (136 KB)	देखें  (37 KB)
17/2017-Central Tax (Rate) ,dt. 28-06-2017	View  (136 KB)	देखें  (585 KB)
16/2017-Central Tax (Rate) ,dt. 28-06-2017	View  (344 KB)	देखें  (385 KB)
15/2017-Central Tax (Rate) ,dt. 28-06-2017	View  (142 KB)	देखें  (431 KB)
14/2017-Central Tax (Rate) ,dt. 28-06-2017	View  (248 KB)	देखें  (318 KB)
13/2017-Central Tax (Rate) ,dt. 28-06-2017	View  (274 KB)	देखें  (722 KB)
12/2017-Central Tax (Rate) ,dt. 28-06-2017	View  (440 KB)	देखें  (990 KB)
11/2017-Central Tax (Rate) ,dt. 28-06-2017	View  (399 KB)	देखें  (1.11 MB)
10/2017-Central Tax (Rate),dt. 28-06-2017	Annexure  (252 KB) View  (143 KB)	Annexure  (252 KB) देखें  (503 KB)
09/2017-Central Tax (Rate),dt. 28-06-2017	View  (143 KB)	देखें  (500 KB)

Viewing 1 to 10 of 18

Customs Tariff Act – Rules of Interpretation:

the rules of interpretation are contained in the customs tariff act provides guidance regarding the approach to be followed for reading and interpreting tariff entries. These rules are summarized and listed below but detailed study of the actual rules is advised. Please refer for full set of rules of interpretation at page 28 and 29 from Customs Tariff Act on <http://www.cbec.gov.in/resources/htdocs-cbec/customs/cst2012-13/cst-act-1213.pdf>

- Rule 1: heading are for reference only and do not have statutory force for classification
- Rule 2(a): reference to an article in an entry includes that article in CKD-SKD condition
- Rule 2(b): reference to articles in an entry includes mixtures or combination
- Rule 3(a): where alternate classification available, specific description to be preferred
- Rule 3(b): rely on the material that gives essential character to the article
- Rule 3(c): apply that which appears later in the tariff as later-is-better
- Rule 4: examine the function performed that is found in other akin goods
- Rule 5: cases-packaging are to be classified with the primary article
- Rule 6: when more than one entries are available, compare only if they are at same level

Role of 'Manufacture' in Classification

Classification would be well understood by applying the above rules of interpretation. Now, the process that goods are passed through can impact their classification. For example, cutting, slicing and packing pineapple in cans in sugar syrup has primary input is pineapple and the output is

canned fruit with extended shelf-life. Now, the input and output are not identical but it has held in the case of Pio Food Packers that this is not a process amounting to manufacture. But, would it be possible to regard the input and the output to retain the same classification. The answer lies in knowing the scope of each entry applicable to classification. Another example, kraft paper used to make packing boxes may be sold as it is or after laminating them. It has been held in the case of Laminated Packaging that this process is manufacture even though the input and output fall within the same classification entry. GST Law has adopted, in section 2(72), the general understanding of manufacture that is very similar to that in Central Excise. The real test from this definition – is the input and output functionally interchangeable or not in the opinion of a knowledgeable end-user – and not based on the classification entry. Change in classification entry from one to the other, that is, classification entry for input is not the same as that of the output, could only arouse suspicion about the possibility of manufacture. Please note that ‘manufacture’ is included in the definition of ‘business’ (in section 2(17)) but it is not included as a ‘form of supply’ (in section 7(1)(a) or any where else). Hence, the nature of the process that inputs are put through may not be manufacture but yet may appear to move the output into a different entry compared to the input. So, will change of classification entry be relevant or degree of change produced in the input due to the process carried out must be considered. With the adoption of HSN based classification from Custom Tariff Act, it is imperative to carefully consider whether one entry has been split and sub-divided into to categories even if they both carry the similar rate of tax. Hence, the key aspects to consider are:

- Identify the scope of an entry for classification of input or output
- Study the nature of process carried out on the inputs
- Examine by the ‘test’ (above) if result of the process is manufacture
- Now identify the classification applicable to the output

For example, is desiccating a coconut a process of manufacture. If yes, the desiccated coconut ought not to be considered as eligible to the same rate of tax as coconut. Drying grains may not appear to be a process of manufacture but frying them could be manufacture as the grains are no longer ‘seed grade’ although it resembles the grain.

Manufacture need not be a very elaborate process. It can be a simple process but one that brings about a distinct new product – in the opinion of a knowledgeable end-use – and not just any person with no particular familiarity with the article. Manufacture need not be an irreversible process. It can be reversible yet until reversed it is recognized as a distinct new product, again, in the opinion of those knowledgeable in it. Processes such as assembly may be manufacture in relation to some articles but not in others. So, caution is advised in generalizing these verbs – assembly, cutting, polishing, etc. – but examining the degree of change produced and the identity secured by the output in the relevant trade as to the functional inter-changeability of the output with the input. If a knowledgeable end-use would accept either input or output albeit with some reservation, then it is unlikely to be manufacture. But, if this knowledgeable end-user would refuse to accept them to be interchangeable, then the process carried out is most likely manufacture. Usage of common description of the input and output does not assure continuity of classification for the two.

Classification for Exemptions

exemptions under section 11 of the whole of the tax payable or a part of it. In granting exemptions, it is not necessary that the exemption be made applicable to the entire entry. In other words, exemption notifications are capable of carving out a portion from an entry so as differentially alter the rate of tax applicable to goods or services within that entry. Exemptions can take any of the following forms:

- supplier may be exempt – here, regardless of the nature of outward supply, exemption apply to the supplier. Conditions specified may make such exemption be applicable to the supplier but when the supplies are made to specified recipients
- supplies may be exempt – here, the supplier is not as relevant and all supplies that are notified will enjoy the exemption. Conditions specified may help to determine the supplies that are to be allowed the exemption.

Table

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
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
28	Heading 9971	Services by way of— (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services); (b) <i>inter se</i> sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.	Nil	Nil

Role of 'Conditions' in Exemptions

it is well understood that conditions in exemption notification tend to convert the exemption into an option, that is, the exempted / concessional rate of tax would apply when the

conditions are fulfilled and by deviating from the conditions the full rate of tax would apply. This principle has been tested in the context of section 5A of the central excise act however a quick look at the explanation to section 11 of the CGST Act appears to indicate that unless an express option is granted in the exemption notification, the concessional or exempted rate of tax along with attendant conditions must be availed without any discretion to opt out of it.

Explanation.—For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

While there may be alternate views that the above explanation applies only when the exemption is 'granted absolutely' and not in all cases, such a view may find the contra-indication where one entry in an exemption notification prescribes a concessional rate of tax that applies it is restriction on input tax credit but another entry in the very same notification prescribes two rates of tax where one of them enjoins restriction on input tax credit. The detailed nature of the various styles of drafting exemption in the same notification.

And the reason for resisting the view that – exemption with the condition is an option – is when the government felt free to specify two alternate tax consequences in respect of a given entry in one case (GTA, in above illustration), there is no justification to make an assumption about the existence of an option even when in the very same notification that government opted to notify only one tax consequence. Accordingly, it would be a reasonable construction that – exemption is a condition is not an option – and all court decisions under earlier laws to the contrary are rendered otiose in view of the explanation to section 11.

Illustration below shows a style where exemption will be an 'option' and where it will 'not be option':

Table				
Sl No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
8	Heading 9964 (Passenger transport services)	(i) Transport of passengers, with or without accompanied belongings, by rail in first class or air conditioned coach.	2.5	Provided that credit of input tax charged in respect of goods used in supplying the service is not utilised for paying central tax or integrated tax on the supply of the service
		(ii) Transport of passengers with or without than economy class.		
		[[vi) Transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle), has not been taken. [Please refer to Explanation no. (iv)] or
		(vii) Passenger transport services other than (i), (ii) (iii), (iv), (v) and (vi) above.	6	-]20]21
			9	-

Other style of drafting exemption entries in the same notification be referred to note the exemption that is 'not optional'.

Conclusion

In the light of the foregoing discussion, the following points of learning can be summarized:

- transactions involving goods are, in certain cases, required to be treated as supply of services. As such, the fundamental classification to be undertaken is the differentiation between goods and services
- classification of goods and services cannot be made based on logic, experience or common sense. But, recourse to rules of interpretation in the first schedule to Customs Tariff Act is mandatory in relation to classification of goods. And reference to the scheme of classification (contained in the annexure) is inevitable in relation to classification of services. There can be no interchange in the use of the relevant classification rules between goods and services
- classification in GST requires a deep appreciation of the technical understanding of words and phrases in each domain and any urge to use the common meaning of such words and phrases must be actively discouraged. In other words, even if the common meaning of certain words and phrases appears reasonable, it must be understood that government has deliberately and mindfully words that each and in the case and specific interpretation in the relevant trade
- classification is not only required to determine the rate of tax applicable but also examine the availability of exemptions. There is no compulsion for an exemption notification to exempt” correctly what is the carveout from an entry a subset of transactions – supplies or suppliers – to attract a different rate of tax
- exemptions are not optional as are the conditions prescribed in respect of such exemption. Violation of the condition contracts consequences and not options. ‘Absolutely exempt’ does not mean ‘wholly exempt’ and it does not require to be ‘unconditionally exempt’ to be ‘absolutely exempt’.

Statutory Provision

11. Power to grant exemption from tax

- (1) *Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.*
- (2) *Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.*
- (3) *The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or*

order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

Explanation. —For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

11.1 Introduction

This provision confers powers on the Central Government to exempt either absolutely or conditionally goods or services or both of any specified description from whole or part of the central tax, on the recommendations of the Council. It also confers power on the Central Government to exempt from payment of tax any goods or services or both, by special order, on recommendation of the Council.

11.2 Analysis

The Central or the State Governments are empowered to grant exemptions from tax, subject to the following conditions:

- (i) Exemption should be in public interest
- (ii) By way of issue of notification
- (iii) On recommendation from the Council
- (iv) Absolute / conditional exemption may be for any goods and / or services
- (v) Exemption by way of special order (and not notification) may be granted by citing the circumstances which are of exceptional nature.

Central Government vide **Notification No. 09/2017-Central Tax (Rate) dated 28.06.2017** has exempted intra-State supplies of goods or services or both received by a deductor under section 51 of the said Act, from any supplier, who is not registered, from the whole of the central tax leviable thereon under sub-section (4) of section 9 of the said Act, subject to the condition that the deductor is not liable to be registered otherwise than under sub-clause (vi) of section 24 of the said Act.

Further, Central Government vide **Notification No. 10/2017-Central Tax (Rate) dated 28.06.2017** has exempted intra-State supplies of second hand goods received by a registered person, dealing in buying and selling of second hand goods and who pays the central tax on the value of outward supply of such second hand goods as determined under sub-rule (5) of rule 32 of the Central Goods and Services tax Rules,

2017, from any supplier, who is not registered, from the whole of the central tax leviable thereon under sub-section (4) of section 9 of the Central Good and Services Tax Act, 2017

- (vi) The registered person supplying the goods or services or both shall not collect the tax more than the effective rate as exempted by the Government.

With specific reference to the forth condition indicated above, it is important to note that the exemption would be in respect of goods or services or both, and not specifically for any classes of persons. E.g.: An absolute exemption could be granted in respect of supply of water. A conditional exemption could be supply of goods to canteen stores department.

From the explanation provided, there is one school of thought wherein it is opined / understood that in case of conditional exemptions, there is an option available to the taxable person to pay the tax (by which way, there would be no requirement for input tax credit reversals). However, an absolute exemption is required to be followed mandatorily. The other view is that neither of the exemptions are optional but are mandatory when the conditions relating to the exemption are satisfied.

Further, it is to be noted that an exemption issued under the CGST Act will 'automatically' exempt the same supply from the levy of tax under the SGST/UTGST Act. This is provided under the SGST/UTGST Act. But the converse is not, that is, exemption under the SGST/UTGST Act will not exempt levy of tax under the CGST Act.

Further, it is to be noted that an exemption issued under the CGST Act will 'automatically' exempt the same supply from the levy of tax under the SGST/UTGST Act. This is provided under the SGST/UTGST Act. But the converse is not, that is, exemption under the SGST/UTGST Act will not exempt levy of tax under the CGST Act.

In terms of sub-Section (2), the Government may issue a special order on a case-to-case basis exempting taxable person from payment of tax. The circumstances of exceptional nature would also have to be specified in the special order.

To provide more clarity to explain the exemption notification or the special order, it is provided that the Government may issue an "Explanation" at any time within a period of 1 year from the date of notification or special order. The effect of this "Explanation" would be retrospective, viz., from the effective date of the relevant notification or special order.

Effective date of the notification or special order:

The effective date of the notification or the special order would be date which is so mentioned in the notification or special order. However, if no date is mentioned therein, it would be:

- Date of its issue for publication in the official gazette;
- Date on which it is made available on the official website of the Government Department

Illustrations for Absolute Exemptions:

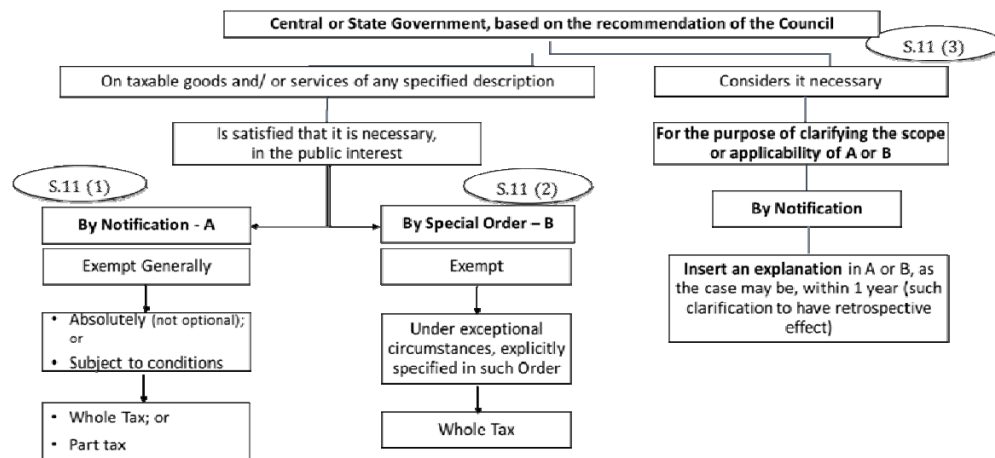
1. The Central Government has exempted the tax payable under the CGST / UTGST / IGST Acts by any taxable person on supply of "salt" with effect from 01.07.2017.
2. Transmission or distribution of electricity by an electricity transmission or distribution utility.

Illustrations for Conditional Exemptions:

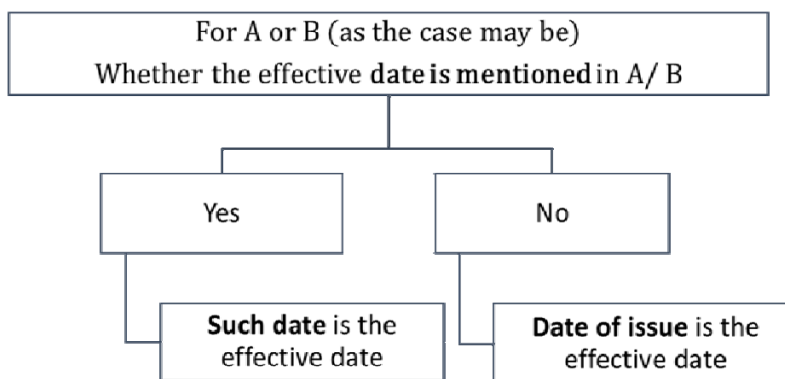
1. The Central Government has exempted the tax payable under the CGST/ UTGST/ IGST Acts by any taxable person on supply of "Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation less than ₹ 1000/- per day".

The analysis of above provision in a pictorial form is summarised as follows:

Power to grant exemptions: Sec. 11



For the purpose Section 11, the effective date or date of issue of the Notification or Order, is determined as under:



Notification No.	Particulars	Comments
02/2017 - Central Tax (Rate) dated 28.06.2017	Exempted supplies of around 149 items of goods in terms of Section 11(1) of the CGST Act, 2017. Ex. Electricity, Salt, fresh fruits, plastic bangles, passenger baggage etc. Amended vide Notification No. 28/2017, 35/2017 and 42/2017-Central Tax (Rate)	Parallel notification under IGST also. Notification no. is also same Amended vide Notification No. 28/2017, 36/2017 and 44/2017-Integrated Tax (Rate)
Notification No. 03/2017-Central Tax (Rate) dated 28.06.2017	Goods specified in the List annexed required in connection with various kinds of petroleum operations undertaken are given concessional rate i.e. at the rate of 2.5% under CGST i.e. 5% IGST.	Parallel notification under IGST also. Notification no. is also same.
Notification No. 07/2017-Central Tax (Rate) dated 28.06.2017	Exemption to supplies by CSD to Unit Run Canteens and supplies by CSD / Unit Run Canteens to authorised customers	Parallel notification under IGST also. Notification No. is also same.
Notification No. 08/2017-Central Tax (Rate) dated 28.06.2017	Exemption granted from levy of CGST under RCM on supplies received from unregistered persons. (if value of supplies does not exceed ₹ 5000 from any or all the suppliers in a day) Scope of exemption enhanced to	Exemption in respect of all supplies has been granted up to 31.03.2018 by Notification No.32/2017 dtd.13.10.2017

	exclude all supplies without monetary limit up-to 31.03.2018	
Notification No. 09/2017-Central Tax (Rate) dated 28.06.2017	Exemption granted to supplies to a TDS deductor by a unregistered supplier	This exemption notification is not available under IGST (Rate).
Notification No. 10/2017 - Central Tax (Rate) dated 28.06.2017	Exemption to Supplies of second hand goods received by registered person dealing in buying & selling of second hand goods from unregistered person provided the dealer pays central tax on supply of such second-hand goods as per CGST Rules	This exemption notification is not available under IGST (Rate).
Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017	Exemption to supply of 81 services under CGST Act. More or less, all the exemptions were available earlier also in service tax law Amended vide Notification No. 21/2017, 25/2017, 32/2017 and 47/2017- Central Tax (Rate)	This Notification No. 9/2017- IGST (Rate) dated 28.06.2017. Under IGST Exemption to supply 84 services. Amended vide Notification No. 21/2017, 25/2017, 33/2017 and 42/2017, 49/2017- Integrated Tax (Rate)
Notification No.26/2017-Central Tax (Rate) dtd.21.09.2017	Exemption to supply of heavy water and nuclear fuels falling in Chapter 28 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd	Similar Exemption under IGST Act (Refer Notification No.26/2017 – Integrated Tax (Rate) dtd.21.09.2017

Sec. 11 – Illustration I

Notification issued u/s 11(1): Conditional, partial exemption

- Intra state supplies of goods or services or both received by a registered person from an unregistered person is exempted from payment of tax under reverse charge provided the aggregate value of such supplies received by a registered person from all or any of the suppliers does not exceed ₹ 5000/- in a day.

Notification No. 08/2017-Central Tax (Rate) dated 28.06.2017

Sec. 11 – Illustration II

Notification issued u/s 11(1): Absolute exemption

Exemption to following taxable services from tax leviable thereon:

- Services by way of renting of residential dwelling for use as residence.

- Services by Reserve Bank of India.
- Services by a veterinary clinic in relation to health care of animals or birds.

Notification No. 12/2017 - Central Tax (Rate) dt.28.06.2017

11.3 Exemptions to Goods

Exemption has been given to Intra State Supplies of certain goods vide Notification No. 02/2017-Central Tax (Rate), db. 28-06-2017 as rectified vide Corrigendum dated July 12, 2017 and July 27, 2017 and Inter State Supplies of Goods vide 02/2017-Integrated Tax (Rate), dt. 28-06-2017 as rectified vide Corrigendum dated July 12, 2017 and July 27, 2017. Exemption under UTGST Act to Intra State Supplies has been given vide Notification No. 02/2017-Union Territory Tax (Rate), dt. 28-06-2017 as rectified vide Corrigendum dated July 12, 2017 and July 27, 2017. Respective States have also issued their exemption Notifications to notify exempted goods. The list of Exempted goods is appended as Annexure I to this Chapter:

The Central Government vide Notification No. 40/2017-Central Tax (Rate) dated 23rd October, 2017 exempts the intra-State supply of taxable goods in excess of the amount calculated @0.05 % by a registered supplier to a registered recipient w.e.f. 23rd October, 2017 for export is subject to fulfilment of the following conditions namely:

- Supplier shall supply the goods to the Recipient on a tax invoice.
- Recipient shall export the said goods within a period of 90 days from the date of issue of a tax invoice by the Supplier.
- Recipient shall indicate the GSTIN of the Supplier and the tax invoice number issued by the Supplier in respect of the said goods in the shipping bill or bill of export.
- Recipient shall be registered with an Export Promotion Council or a Commodity Board recognized by the Department of Commerce.
- Recipient shall place an order on Supplier for procuring goods at concessional rate and a copy of the same shall also be provided to the jurisdictional tax officer of the Supplier.
- Recipient shall move the said goods from place of Supplier –
 - directly to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported; or
 - directly to a warehouse from where the said goods shall be move to the Port, Inland Container Depot, Airport or Land Customs Station from where the said goods are to be exported;
- If the Recipient intends to aggregate supplies from multiple Suppliers and then export, the goods from each Supplier shall move to a warehouse and after aggregation, the Recipient shall move goods to the Port, Inland Container Depot, Airport or Land Customs Station from where they shall be exported;
- In case of situation referred to in condition (vii), the Recipient shall endorse receipt of goods on the tax invoice and also obtain acknowledgement of receipt of goods in the

warehouse from the warehouse operator and the endorsed tax invoice and the acknowledgment of the warehouse operator shall be provided to the Supplier as well as to the jurisdictional tax officer of such supplier; and

- ix. When goods have been exported, the Recipient shall provide copy of shipping bill or bill of export containing details of Goods and Services Tax Identification Number (GSTIN) and tax invoice of the Supplier along with proof of export general manifest or export report having been filed to the Supplier as well as jurisdictional tax officer of such supplier.

11.4 Exemptions to Services

Exemption has been given to Intra State Supplies of certain Services vide Notification No. 12/2017-Central Tax (Rate), dt. 28-06-2017 and Inter State Supplies of Goods vide 09/2017-Integrated Tax (Rate), dt. 28-06-2017. Exemption under UTGST Act to Intra State Supplies has been given vide Notification No. 12/2017-Union Territory Tax (Rate), dt. 28-06-2017. Respective States have also issued their exemption Notifications to notify exempted services. The list of Exempted Services is appended as Annexure II to this Chapter

11.5 Comparative review

The provisions relating to exemption are broadly similar to the exemption provisions under the erstwhile tax regime. There are no significant differences.

11.6 FAQ

Q1. When exemption from whole of tax leviable on goods and/or services has been granted unconditionally, can taxable person pay tax?

Ans. No, the taxable person providing goods and/or services shall not pay the tax on such goods and/or services in respect of those supplies which are notified for absolute exemptions.

Q2. Under what circumstances can a special order be issued?

Ans. The Government may in public interest, issue a special order on recommendation of GST council, to exempt from payment of tax, any goods and/or services on which tax is leviable. The circumstances of exceptional nature would also have to be specified in the special order.

11.7 MCQ

Q1. Which of the following can be issued by Central Government/ State Government to exempt goods and/or services on which tax is leviable in exceptional cases?

- (a) Exemption Notification
- (b) Special order
- (c) Other notifications
- (d) None of the above

Ans. (b) Special Order