

Chapter III

Classification and Exemption

FAQ's

Classification of Goods or Services

Q1. Why do we need to determine classification of supply and how?

Ans. Classification of Supply is required to determine the rate of supply-

In order to apply a particular rate of tax, a taxable person need to determine the classification of his supply as to whether supply constitute a supply of goods or services. Once the same is determined, further classification in terms of HSN in case of goods and SAC in terms of service is to be made by the assessee so as to arrive at the rate of tax at which he is required to pay tax. At the outset, it is important to note that HSN for goods are contained in Chapters 1 to 98 and HSN for Services are contained in Chapter 99. Since Classification of Goods is older and is based on knowledge gathered from precedents on HSN classification, we shall discuss the steps for classification of goods. The steps for determination of proper classification is as under:

1. It is important to note that classification of each product supplied has to made separately if supply of such product is independent. This shall include all by products, scraps etc.
2. Identify the description and nature of the goods being supplied. One must confirm that the product is also similarly or more specifically covered in the Customs Tariff. The Section, Notes and Chapter Notes to the Schedule to be read.
3. If there is ambiguity, first reference shall be made to the Rules for interpretation of the Customs Tariff, which are:
 - 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

- 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

Q2. How will you classify supply of goods or services under GST?

Ans. GST law does not contain a commodity classification tariff but 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. Explanatory notes to the scheme of classification of services is also available at http://www.cbic.gov.in/resources//htdocs-cbec/gst/Explanatory_notes.pdf

Q3. How will Terracotta idols be classification under GST and at what rate GST will apply?

Ans. Terracotta is clay based, terracotta idols will be eligible for Nil rate under Sl. No.135A of Notification 2/2017- Central Tax (Rate) dated 28-06-2017. However, GST may be, leviable on repairs and maintenance done for terracotta idols.

Q4. How will supply of lottery tickets be classified under GST and rate applicable?

Ans. Supply of lottery tickets is a good classified as 'Any Chapter' of the First Schedule to the Customs Tariff Act, 1975 and rate of tax on lottery is 12% and 28% under CGST and IGST respectively.

Q5. How will supply of Cut pieces of Fabrics be classified under GST?

Ans. Mere cutting and packing of fabrics into pieces of different lengths from bundles or thans, will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric and attract 5% GST rate.

Further, Fabrics are classifiable under Chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials and attract a uniform GST rate of 5% with no refund of the unutilized input tax credit. However, as per Notification No. 20/2018-Central Tax (Rate) and Notification No. 21/2018-Integrated Tax (Rate) both dated 26-07-2018, the refund of unutilized ITC will be allowed with effect from 1st August 2018. The accumulated input tax credit lying unutilized in balance, after payment of tax for and upto the month of July 2018, on the inward supplies received up to 31st day of July 2018, shall lapse.

Q6. Whether Supply of food by Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms is Taxable ?

Ans The Government *vide Notification No 13/2018- Central Tax (Rate) dated 26-07-2018* has notified that Supply, of goods, being food or any other article for human consumption or any drink, by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platform is taxable at the rate of 2.5 % CGST and 2.5% of SGST provided that credit of input tax charged on goods and services used in supplying the service has not been taken.

Q7. What is the applicable rate of GST on activity of bus body building?

Ans The Government *vide Circular No.52/26/2018-GST dated 9-08-2018* has provided the following clarification Buses [motor vehicles for the transport of ten or more persons, including the driver] fall under headings 8702 and attract 28% GST. Further, chassis fitted with engines [8705] and whole bodies (including cabs) for buses [8707] also attract 28% GST. In this context, it is mentioned that the services of bus body fabrication on job work basis attracts 18% GST on such service [9988]. Thus, fabrication of buses may involve the following two situations:

- a) Bus body builder builds a bus, working on the chassis owned by him and supplies the built-up bus to the customer, and charges the customer for the value of the bus.
- b) Bus body builder builds body on chassis provided by the principal for body building, and charges fabrication charges (including certain material that was consumed during the process of job-work).

In the above context, it is hereby clarified that in case as mentioned at Para (a) above, the supply made is that of bus, and accordingly supply would attract GST @28%. In the case as mentioned at Para (b) above, fabrication of body on chassis provided by the principal (not on account of body builder), the supply would merit classification as service, and 18% GST as applicable will be charged accordingly.

Q8. What is the applicable rate of GST on Fortified Toned Milk?

Ans: Milk is classified under heading 0401 and as per S.No. 25 of Notification No.2/2017 - Central Tax (Rate) dated 28-06-2017, fresh milk and pasteurized milk, including separated milk, milk and cream, not concentrated nor containing added sugar or other sweetening matter, excluding Ultra High Temperature (UHT) milk falling under tariff head 0401 attracts NIL rate of GST. Further, as per HSN Explanatory Notes, milk enriched with vitamins and minerals is classifiable under HSN code 0401. Thus, it is clarified that toned milk fortified (with vitamins 'A' and 'D') attracts NIL rate of GST under HSN code 0401.

Source : Circular No.52/26/2018-GST dated 9-08-2018

Q9. What is the applicable GST rate on refined beet and cane sugar?

Ans: Vide S. No. 91 of Schedule I of Notification No. 1/2017-Central Tax (Rate) dated 28-06-2017, 5% GST rate has been prescribed on all kinds of beet and cane sugar falling under heading 1701. Doubts have arisen in view of S. No. 32 A of the Schedule II of notification No. 1/2017-Central Tax (Rate) dated 28-06-2017, which prescribes 12% GST rate on "All goods, falling under tariff items 1701 91 and 1701 99 including refined sugar containing added flavouring or colouring matter, sugar cubes (other than those which attract 5% or Nil GST)".

It is clarified that by virtue of specific exclusion in S. No. 32 A, any sugar that falls under 5% category [at the said S. No. 91 of Schedule I of Notification No.1/2017-Central Tax (Rate) dated 28-06-2017] gets excluded from the S. No. 32 A of Schedule II. As all kinds of beet and cane sugar falling under heading 1701 are covered by the said entry at S. No. 91 of Schedule I, these would get excluded from S. No. 32 A of Schedule II, and thus would attract GST @ 5%.

Accordingly, it is clarified that beet and cane sugar, including refined beet and cane sugar, will fall under heading 1701 and attract 5% GST rate.

Source : Circular No.52/26/2018-GST dated 9-08-2018

Q10. What is the applicable rate of GST on supply of safe drinking water for public purpose?

Ans: Attention is drawn to the entry at S. No. 99 of Notification No. 2/2017-Central Tax (Rate) dated 28-06-2017, by virtue of which water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container] falling under HS code 2201 attracts NIL rate of GST.

Accordingly, supply of water, other than those excluded from S.No. 99 of Notification No. 2/2017-Central Tax (Rate) dated 28-06-2017, would attract GST at "NIL" rate. Therefore, it is clarified that supply of drinking water for public purposes, if it is not supplied in a sealed container, is exempt from GST.

Source : Circular No.52/26/2018-GST dated 09th August 2018

Q11. What is the applicable GST rate on Human Blood Plasma?

Ans: Plasma is the clear, straw colored liquid portion of blood that remains after red blood cells, white blood cells, platelets and other cellular components have been removed. As per the explanatory notes to the Harmonized System of Nomenclature (HSN), plasma would fall under the description antisera and other blood fractions, whether or not modified or obtained by means of biotechnological processes and would fall under HSN code 3002.

Normal human plasma is specifically mentioned at S. No. 186 of List I under S. No. 180 of Schedule I of the Notification No. 1/2017-Central Tax (Rate) dated 28-06-2017, and

attracts 5% GST. Other items falling under HS Code 3002 (including plasma products) would attract 12% GST under S. No. 61 of Schedule II of the said Notification, not specifically covered in the said List I.

Thus, a harmonious reading of the two entries would mean that normal human plasma would attract 5% GST rate under List I (S. No. 186), whereas plasma products would attract 12% GST rate, if otherwise not specifically covered under the said List.

Source : Circular No.52/26/2018-GST dated 9.08.2018

Power to Grant Exemption from Tax (Section 11)

Q12. Whether Council has powers to grant exemption from payment of taxes?

Ans. No, the power to grant exemption is vested with the Government. In other words, the Government by notification on the recommendations of the Council may grant exemption from tax generally, either absolutely or subject to such conditions as may be notified from the whole or any part of the tax leviable thereon.

Exemption - General FAQ's

Q13. Does exemption from CGST automatically operate as exemption from SGST?

Ans. Yes, notification issued under section 11(1) or 11(2) of the CGST Act will be deemed to be issued under the SGST Act / UTGST Act, reference can be taken from section 11(4) of SGST Act and section 8(4) of UTGST Act.

Q14. Does exemption from IGST automatically operate as exemption from CGST?

Ans. No, there is no such correlated sections in the two Acts. Separate exemption notification is required to the extent relevant under IGST Act.

Q15. Does exemption from IGST automatically operate as exemption from GST on imports?

Ans. Yes, as GST on import of goods is levied under proviso to section 5(1) of IGST Act which provides that IGST will be levied 'at the point' when customs duties are leviable. Accordingly, to determine the IGST applicable under section 3(7) of Customs Tariff Act, reference must be made to the IGST rate prevailing on the date of levy of such IGST. Hence, any exemption issued under IGST Act will apply to import of goods.

Q16. Is it possible for SGST to be exempted but not CGST for any supply?

Ans. Yes, it is possible since exemption in SGST Act does not apply to CGST Act. As a corollary, please also refer to Q13.

Q17. Exemption applies from date of notification or date of publication of notification?

Ans. Exemption notifications will apply from the date of publication of the same or any special start date specified in the said notification as the effective date.

Q18. Is exemption applicable for entire HSN code or not?

Ans. Exemption issued will make specific reference to HSN code along with description of the goods to be exempted. Exemption must be jointly read so as to apply to the goods described and falling within the specific HSN code. Other goods that may also be classified in the same HSN but not matching the description will not enjoy the exemption.

Q19. What is the effect of violating condition of exemption?

Ans. In case of violation, exemption will stand withdrawn and consequences of non-conformance with conditions will follow and from the date when the said departure occurred.

Q20. What is the effect of mistaken claim of exemption?

Ans. GST applicable will be recovered with benefit of ITC available only to the limited extent of the time available within section 16(4) when this mistake is realized. There is no estoppel that ITC must be availed because claim of credit is through the return filed under section 39 (section 16(2) refers) and not from the receipt of tax paid supplies.

Q21. What is the effect of omitting to avail exemption?

Ans. GST would have been charged, collected and deposited along with claim of ITC. If the exemption was absolute, explanation to section 11 makes it clear that the exemption must be availed. In case of omission to avail exemption, the tax charged and collected being '*in the name of GST*' is liable to be paid to the Government under section 76. More importantly, the ITC availed in error will also be denied. Please note the double-impact of this omission.

Q22. What is the difference between exemption and exclusion from GST?

Ans. Exemption is where tax is leviable but exempted from the payment of the tax. Exclusion from GST is stating that GST will not apply either by treating it neither as supply of goods nor as services or by excluding it from section 9.

Q23. What is implication of exemption becoming available due to Court interpretation?

Ans. If a *bona fide* belief about availability of exemption is reversed by a Court, then tax charged and collected from customer must be paid and the ITC availed, discovered to be in error, will also be recoverable. In the interest of equity, the Courts may need to interfere and avoid this double impact.

Q24. What is implication of mistake by taxable person and tax department about exemption?

Ans. When both the taxable person and tax department have made a mistake, the same consequences will flow, that is, rightful amount of tax will be demanded along with ITC, subject to 16(4). Although equity demands that a suitable remedy be provided which is not yet available.

Q25. How to interpret meaning of an article in an exemption notification?

Ans. An article in an exemption notification may be interpreted by reference to the Rules of Interpretation of Customs Tariff if the notification permits. If not, the article must be interpreted based on principle emanating from judicial decisions.

Q26. Where do we find exemption for high sea sales?

Ans. All import of goods are liable to IGST under the Customs Act for determination of the liability. Government vide Circular No. 33 /2017-Customs dt 01-08-2017 has clarified that IGST on high sea sale (s) transactions of imported goods, whether one or multiple, shall be levied and collected only at the time of importation i.e. when the import declarations are filed before the Customs authorities for the customs clearance purposes for the first time. Further, value addition accruing in each such high sea sale shall form part of the value on which IGST is collected at the time of clearance

Hence, IGST will be levied at '*the point*' when bill of entry for home consumption is filed and in case of high sea sales, such bill of entry is filed only by the final recipient.

Q27. Are words used in exemption notification exactly the same as used in Schedules to Notification 1/2017 -Central Tax (Rate) dated 28-06-2017?

Ans. No, they are not exactly same. The words used in exemption notification may be understood exactly as stated in exemption notification. Any reliance on the schedule to Notification 1/2017 -Central Tax (Rate) dated 28-06-2017 is permissible if:

- (i) the exemption notification expressly states that reference may be had to the schedule or
- (ii) the words in exemption notification are exactly same as the words in the schedule or
- (iii) the words in exemption notification appear to require reliance on the words in schedule or
- (iv) there is nothing the exemption notification to indicate deviation from the understanding of the words in the schedule.

If none of these circumstances exist, then the exemption notification must be interpreted strictly as per its own words and no other (BMW AAR/12-Cus. 2005)

Q28. Where is the entire scope of an entry provided in detail?

Ans. Scope of an entry is to be found by referring to First Schedule to the Customs Tariff Act in case of goods and Service Classification Scheme in case of services read with Explanation Statement.

Q29. Why GST rate is first notified and then another notification issued granting exemption?

Ans. Rate of GST is required to prescribe the applicable tax and then exemption would be to derive the effective rate at which tax is to be discharged.

Q30. Does value reduction allowed in the CGST Rules amount to exemption? Whether it affect input tax credit (ITC) under section 17(2)?

Ans. Valuation adjustments prescribed either in the CGST Rules or in any Rate Notification will not affect ITC because ITC adjustment is only possible under section 17(2) read with the expanded definition of exempt supply under 17(3).

Exemptions on Supply of Goods

Q31. Is supply of exempt goods considered taxable or non-taxable supply?

Ans. Supply of exempt goods is not the same as non-taxable goods. If only exempt goods are supplied, then registration requirement under section 22 stands overruled by section 23. And in view of the credit restriction in 17(2), exempt goods do not enjoy any unmerited advantage. Non-taxable goods means goods that are not leviable to GST such as alcoholic liquor and five petro-products. But existence of exemption itself indicates that there was a levy of tax, but the exemption granted.

Q32. Whether Petrol is exempted goods or non-taxable goods?

Ans. Five petroleum products i.e., petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel are excluded from levy for the time being and as such petrol is non-taxable good.

Q33. Is alcohol (human consumption) exempted goods?

Ans. Yes, alcohol is exempted goods though it is not leviable to tax. It is required to treat all goods whether non-leviable or leviable-but-non-taxable, to be classified as exempt goods in order to restrict input tax credit.

Q34. Even within the same HSN code, why are certain goods exempt from GST?

Ans. This is because exemption is sought to be extended only to a small sub-set of goods within that HSN heading.

Q35. Exemption to food products states 'fresh or chilled', does it apply if 'frozen'?

Ans. No, it does not apply to 'frozen'. Freezing is a deliberate process of rapid cooling to preserve the product for an unnaturally long duration of time. Exemption that is to be allowed for normal storage duration is identified by attaching such a qualification – fresh or chilled but not frozen.

Q36. What does 'goods of seed quality' mean?

Ans. Seeds are those parts of the plant that can germinate without debris, without infections and give rise to another plant of same species and sold ultimately to farmers. The seeds are often consumed. In order to differentiate between grain that is not suitable for germination or not intended for germination, exemption entries qualify the grain with the

words 'of seed quality'. Putting them through any process such as drying, frying, etc., permanently impairs their capacity to germinate. So, the key test would be to examine 'preservation of capacity to germinate' while admitting if the goods are 'seed quality' or not.

Q37. Why are exemptions to fruits and vegetables given HSN chapter-wise instead of blanket exemption?

Ans. Since HSN based classification is adopted, exemption must be clearly provided so that even minor differences do not cause distortion in the scope of any exemption. For example, leguminous vegetables may need to be exempted when dried and supplied but other vegetables may need to be exempted when they are fresh or chilled.

Q38. Why are there repetitions of similar nature of articles?

Ans. There is no repetition except where there is a variation in the form in which it is being presented – fresh or dried – and in case where exemption is to be extended only in certain forms. In case any repetition is noted, it only requires more careful consideration of the scope and coverage of each entry and identify their differences and its implications.

Q39. Why is Rupee note exempted, it is already excluded from definition of goods and services?

Ans. Rupee note is money which is neither goods nor services but when the Government Press supplies currency notes to (say) RBI, there is a supply and tax needs to be discharged. Printing of currency is a taxable supply of the paper and ink but not of the currency. Rupee note is issued by Government of India and not by Reserve Bank.

Q40. Are University text books exempted?

Ans. Exemption is granted to printed books [sl.no.119 of 2/2017-CT] and this would cover University books.

Q41. What about articles not listed under exemption entry 148, 'puja samagri' ?

Ans. Articles given for consumption or adornment (food or flower) are exempted. But, various articles are also given after oblation to be worn or tied or carried along. These are not exempted due to the nature of the article and the limited extent when it qualifies as supply. Articles used for worship will be puja samagri but general articles that are occasionally used in a worship will not enjoy this exemption. For example, candles used in a Church will not enjoy this exemption but, vermilion will be puja samagri because it is only used for worship.

Q42. If Mr X gets his house constructed on a vacant land, whether such construction is eligible for exemption under GST?

Ans. Yes, construction in the instance case, qualifies as original work so exempt by virtue of S No.11 of exemption *Notification No. 12/2017-Central Tax (Rate) dated 28-06-2017* provided it is a single residential unit and not a multi-dwelling residential accommodation. Please note this exemption applies only if it is 'only labour' (pure service only) and not 'material plus labour' contract.

Q43. Whether GST is applicable on warehousing of agricultural produce such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc.?

Ans.

Notification No. dated 28.06.2017	Serial No.	Notification No. dated 28.06.2017	Serial No.
11/2017-Central Tax (Rate)	24	8/2017-Integrated Tax (Rate)	24
12/2017-Central Tax (Rate)	54	9/2017-Integrated Tax (Rate)	54

Pursuant to aforesaid Notification, the GST rate on loading, unloading, packing, storage or warehousing of agricultural produce is Nil.

Further, agricultural produce mean "any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done, or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market"

Since processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce, the exemption from GST is not available to their loading, packing, warehousing etc. and thereby they are exigible to GST.

Q44. Is supply of safe drinking water for public purpose is exempt.?

Ans As per the entry at S. No. 99 of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, by virtue of which water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container] falling under HS code 2201 attracts NIL rate of GST.

(Source *Circular No.52/26/2018-GST dated 09th August 2018*)

Exemptions on Supply of Services

Q45. Whether GST leviable on General Insurance policies provided by a State Govt. to employees of the State Govt./ Police personnel, employees of Electricity Department or students of colleges/ private schools etc.

- (a) where premium is paid by State Govt. and
- (b) where premium is paid by employees, students etc.?

Ans. Yes. The Government vide Circular No. 16/16/2017-GST dated 15.11.2017 has clarified that:

- Services provided to the Central Govt., State Govt., Union territory under any insurance scheme for which total premium is paid by the Central Govt., State Govt., Union territory are exempt from GST under Sl. No. 40 of *Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017*/ Sl. No. 41 of *Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017*
- Services provided by State Government by way of general insurance (managed by government) to employees of the State government/ Police personnel, employees of Electricity Department or students are exempt vide entry 6 of *Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017*/ Sl. No. 6 of *Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017*, which exempts Services by Central Government, State Government, Union territory or local authority to individuals.

Q46. Whether custom milling of paddy by Rice millers for Civil Supplies Corporation is liable to GST or is exempted under *S. No 55 of Notification 12/2017 - Central Tax (Rate) dated 28.06.2017*?

Ans. S. No 55 of Notification 12/2017- Central Tax (Rate) dated 28.06.2017/ Sl. No. 58 of Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017, exempts carrying out an intermediate production process as job work in relation to cultivation of plants and 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.

Milling of paddy is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators but by rice millers. Milling of paddy into rice also changes its essential characteristics. Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce. Thus, not eligible for exemption and thereby GST will be levied.

Further, in terms of section 2 (68) of the CGST Act, Job work means any treatment or process undertaken by a person on goods belonging to another registered person. And

any treatment or process which is applied to another person's goods is a supply of service, as per para 3 of Schedule II of the CGST Act. Moreover, in terms of Notification No. 31/2017-CT(R) dated 13.10.2017 [Notification No. 11/2017-Central Tax (Rate) dated 28.6.2017, S.No. 26 refers], GST rate on services by way of job work in relation to all food and food products falling under Chapters 1 to 22 has been reduced from 18% to 5%. Therefore, it is hereby clarified that milling of paddy into rice on job work basis, is liable to GST at the rate of 5%, on the processing charges (and not on the entire value of rice).

Q47. Is immovable property exempt from GST?

Ans. Yes, but only land and building as per entry 6 in schedule III. Immovable property comprises of various other forms other than just land and buildings and they may not be exempt from GST. They could be taxable as 'services' in the cases specified in para 2(a) of Schedule II.

Q48. Is lease of exempt goods treated as supply of exempt services?

Ans. Yes, lease is liable to tax at the same rate at which the goods are liable. In case of lease of goods that are exempted, then by the same provision prescribing such a rate of tax for lease would also stand exempted.

Q49. What is the scope of exemption to education?

Ans. Entry 66 of the Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017 /Entry 69 of the Notification No.9/2017-Integrated Tax (Rate), dated 28-06-2017 exempts 'educational institution' from tax on services provided 'to student, faculty or staff'. As such any income flowing to the institution must bear a direct nexus to the relationship of 'student, faculty or staff' whatever may be the service that is provided. But, if the income is indicated to be otherwise than under this relationship, even though between same persons, exemption will abate and those supplies being taxable. For example, payment towards building fund by a student admittedly is not in pursuance of that relationship because it is not towards tuition or any associated service.

Q50. What is the extent to which 'health care' exempt?

Ans. Entry 74 of the Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017 /Entry 77 of the Notification No.9/2017-Integrated Tax (Rate), dated 28-06-2017, exempts health care to the extent it is not cosmetic in nature. Cosmetic treatment even if conducted in a hospital by a medical doctor would be taxable. Trails and opinions given by medical professionals on specimen or facts provided are taxable as the supply of services by the medical professional is not in respect of a patient or patient's report for diagnosis or treatment.

Q51. Is ITC liable to be reversed due to 1/3rd reduction in taxable value of construction services?

Ans. Any reduction in ITC must arise under section 17 and this 1/3rd reduction in value that is explained in note 2 below the Notification 8/2017-Integrated Tax (Rate) dated 28-06-2017, it is not stated to be an 'exempt supply' for the purposes of section 17. As such, though it appears logical to reverse ITC, there is no provision to require this reversal of ITC.

Q52. Is GST applicable on the interest component of financial leasing arrangements?

Ans. Yes, as there is no exclusion from valuation as provided for special cases in Rule 32.

Q53. Is exemption available on one-time payment towards land on long-term lease (allotted by State Industrial Board)?

Ans. No, tax is payable when consideration for lease is on one-time payment towards land on long term. Serial no 41 in exemption *Notification 12/2017-Central Tax (Rate) dated 28-06-2017 as amended by NN 32/2017 dated 13-10-2017* specifically exempts such one-time payments but only to land lease by State Government Industrial Development Corporations or Undertakings or by any other entity having 50 per cent or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area. As such, all others are liable to GST.

Q54. What do you mean by Governmental Authority?

Ans. Governmental Authority means an authority or a board or any other body, -

- (i) set up by an Act of Parliament or a State Legislature; or
- (ii) established by any Government, with 90 per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under Article 243 W of the Constitution or to a Panchayat under Article 243 G of the Constitution.

Q55. What do you mean by Governmental Entity?

Ans. Government Entity means an authority or a board or any other body including a society, trust, corporation,

- (i) set up by an Act of Parliament or State Legislature; or
- (ii) established by any Government, with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.

Q56. Whether services provided by senior doctors/consultants/technicians hired by the hospitals covered under health care services or not?

Ans. The Government *vide Circular 32/2018 dated 12th February 2018* has provided that the services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt.

Q57. What is the taxability of foods supplied by the hospitals and clinics?

Ans. The Government *vide Circular 32/2018-GST dated 12-02-2018* has provided that food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.

Q58. Whether services provided by Industrial Training Institutes on account of vocational training or conduct of examination for a fee/consideration or services in relation to conduct of examination are taxable under GST?

Ans. As per *Circular No. 55/29/2018 dated 10-08-2018*, if the education provided by these ITI's is approved as vocational educational course, then private ITI's would qualify as educational institutions as defined under *Para 2(y) of Notification No. 12/2017 -Central Tax (Rate) dated 28-06-2017* and shall not be liable to GST. Such approved vocational courses have been defined under *Para 2(h) of the said notification*. However, if the services provided are in respect of other than designated trades, such services would be liable to GST.

If such ITI's are providing services in relation to conduct of examination or admission to an examination for a fee/consideration in case of designated services for self or to any other educational institution, such services shall be exempt *vide Entry (aa) and (b(iv)) under S. No. 66 of Notification No. 12/2017 Central Tax (Rate) dated 28-06-2017 respectively*. If these services or admission to or conduct of examination is provided for other than designated trades, such services are liable to GST.

In case of Government ITI's, services provided shall be exempt as these are provided by Central or State Government to individuals [*S. No. 6 of Notification No.12/2017 CT (Rate) dated 28.06.2017*] and would cover both vocational training and examinations.

MCQ's

Exemption

Q1. Which one of the following is true?

- (a) Entire income of any trust is exempted from GST
- (b) Entire income of a registered trust is exempted from GST
- (c) Incomes from specified/defined charitable activities of a trust are exempted from GST

- (d) Incomes from specified/defined charitable activities of a registered trust (u/s 12AA of Income Tax Act) are exempted from GST

Ans. (d) *Incomes from specified/defined charitable activities of a registered trust (u/s 12AA of Income Tax Act) are exempted from GST*

Q2. Select the correct statement?

- (a) Transfer of a going concern wholly is not exempt from GST
- (b) Transfer of a going concern is partly exempt from GST
- (c) Transfer partly as going concern is exempted from GST
- (d) Transfer of a going concern is exempt from GST

Ans. (d) Transfer of a going concern is exempt from GST

Q3. Service by whom, by way of any activity in relation to any function entrusted to a municipality under Article 243 W of the Constitution, is exempted?

- (a) Central Government or State Government or Union territory or Local authority
- (b) Governmental authority
- (c) Municipality under Article 243 W of the Constitution
- (d) All of above

Ans. (d) *All of Above [vide NN 16/2018 dated 27-07-2018]*

Q4. Which is a wrong statement?

- (a) All services of Department of Post are exempted
- (b) All services by State/Central Governments/local authorities in relation to an aircraft or a vessel in a Port or an Airport are exempted
- (c) All services by State/Central Governments/local authorities in relation to transport of passengers are exempted
- (d) All the above mentioned

Ans. (d) *All the above mentioned*

Q5. Services to a single residential unit is, exempted if:

- (a) It is pure labour service only
- (b) It is works contract only
- (c) It is a part of residential complex only
- (d) It is on ground floor without further super structure

Ans. (a) *It is pure labour service only*

Q6. Which exemption option is right from the following?

- (a) For letting out any immovable property
- (b) For letting out any residential dwelling for use as residence
- (c) For letting out any residential property irrespective of its use
- (d) For none of the above

Ans. (b) *For letting out any residential dwelling property for use as residence*

Q7. Services by a hotel, inn, guest house, club or campsite are exempted for residential / lodging purposes -

- (a) If the ~~declared~~ actual tariff for a unit of accommodation is below ` 10,000
- (b) If the ~~declared~~ actual tariff for a unit of accommodation is below ` 1,000
- (c) If the ~~declared~~ actual tariff for a unit of accommodation is exactly ` 1,000
- (d) If the ~~declared~~ actual tariff for a unit of accommodation is above ` 1,000

Ans. (b) *If the ~~declared~~ actual tariff for a unit of accommodation is below ` 1,000*

Q8. Transportation of passengers exempted if -

- (a) It is by air-conditioned stage carriage
- (b) It is by air-conditioned contract carriage
- (c) It is by non-air-conditioned stage carriage for tourism, charter or hire
- (d) None of the above

Ans. (d) *None of the above*

Q9. Transportation of passengers is exempted -

- (a) In an air-conditioned railway coach
- (b) In a vessel for public tourism purpose between places in India
- (c) In a metered cab/auto rickshaw / e rickshaw
- (d) In all the above mentioned

Ans. (c) *In a metered cab/auto rickshaw / e rickshaw*

Q10. Transportation of goods is not exempted if it is -

- (a) by a goods transport agency / courier agency
- (b) by inland waterways

- (c) by an aircraft from a place outside India upto the customs station of clearance in India
- (d) by all the above mentioned

Ans. (a) *by a goods transport agency / courier agency*

Q11. Transportation of agricultural produces, milk, salt and food grain including flour, pulses and rice, 'relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap', newspaper or magazines registered with the Registrar of Newspapers - is exempted –

- (a) If it is by a goods transport agency
- (b) If it is by a rail - within India
- (c) If it is by a vessel - within India
- (d) If it is by all of the above

Ans. (d) *If it is by all of the above*

Q12. Which of the following is exempted –

- (a) Services by way of loading, unloading, packing, storage or warehousing of rice
- (b) Services by way of loading and unloading of jute
- (c) Services by way of packing and storage or warehousing of rubber
- (d) None of the above

Ans. (a) *Services by way of loading, unloading, packing, storage or warehousing of rice*

Q13. Core services of which organization is not exempted -

- (a) Services provided by the Insurance Regulatory and Development Authority of India to insurers
- (b) Services provided by the Securities and Exchange Board of India set up under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by way of protecting the interests of investors
- (c) Services by Port Trusts
- (d) Services by the Reserve Bank of India

Ans. (c) *Services by Port Trusts*

Q14. If the aggregate turnover of in FY 2016-17 of M/s ABCD Enterprises, Kanchipuram, Tamil Nadu, India was Rs 18 lakh, exemption is available for the following services rendered to ABCD Enterprises -

- (a) Arbitral Tribunal services

- (b) Legal services by firm of advocates
- (c) Legal services by senior advocate
- (d) All of the above

Ans. (d) *All of the above*

Q15. Which of the following is exempted?

- (a) All kinds of long term (30 or more years) leases of industrial plots
- (b) Long term (30 or more years) leases of industrial plots or plots for development of infrastructure for financial business by State Government Industrial Development Corporations or Undertakings to industrial units
- (c) Short term (up to 30 years) leases of industrial plots by State Government Industrial Development Corporations or Undertakings to industrial units
- (d) All kinds of short term (up to 30 years) lease of industrial plots

Ans. (b) *Long term (30 or more years) leases of industrial plots or plots for development of infrastructure for financial business by State Government Industrial Development Corporations or Undertakings to industrial units [vide NN 32/2017, dated 13.10.2017]*

Q16. One of the following is exempted from GST -

- (a) Any business exhibition
- (b) A business exhibition in India
- (c) A business exhibition outside India
- (d) None of the above

Ans. (c) *A business exhibition outside India*

Q17. Which of the following is not exempted -?

- (a) Health care service to human beings by authorized medical practitioners / para medics
- (b) Health care services to Animals/Birds
- (c) Slaughtering of animals
- (d) Rearing horses

Ans. (a) *Rearing horses*

Q18. Services by educational institution is exempted if the services are to -

- (a) Any common man

- (b) Its own students, faculty / staff
- (c) Both a & b
- (d) None of the above

Ans. (b) *Its own students, faculty / staff*

Q19. Services by a Non-Profit entity (Registered or Unregistered) are exempted -

- (a) If they are to its own members provided the contribution received is up to ` 7500 , per month from a member
- (b) If they are to its own members, provided the contribution received is up to ` 7500 per month from a member towards sourcing goods/services from any third person for common use of members
- (c) If they are to its own members, provided the contribution is less than ` 7500 per month from a member towards sourcing goods/services from any third person for common use of members
- (d) If they are to its own members, provided the contribution is up to ` 7500 per month per member for common use specified members

Ans. (b) *If they are to its own members, provided the contribution received is up to ` 7500 per month from a member towards sourcing goods/services from any third person for common use of members [vide NN 02/2018 dated 25-01-2018]*

Q20. Which of the following are exempted services?

- (a) Services by an artist by way of a performance in folk or classical art forms of music/ dance / theatre with consideration therefor not exceeding ` 1 lakh
- (b) Services by an artist by way of a performance in folk or classical art forms of music/ dance with consideration therefor not exceeding ` 1.5 lakh
- (c) Services by an artist by way of a performance in folk or classical art forms of music/ dance / theatre with consideration therefor not exceeding ` 1.5 lakh
- (d) Services by an artist as a brand ambassador by way of a performance in folk or classical art forms of music/ dance / theatre with consideration therefor not exceeding ` 1.5 lakh

Ans. (c) *Services by an artist by way of a performance in folk or classical art forms of music/ dance / theatre with consideration therefor not exceeding ` 1.5 lakh*

Q21. Whether Service by way of access to a road or a bridge on payment of annuity is exempt ?

- (a) True
- (b) False

Ans. (a) *True [With effect from 13.10.2017 vide NN`32/2017]*