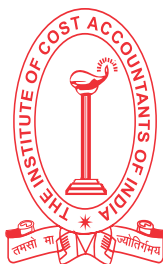


GST ON EDUCATIONAL SECTOR



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**

(Statutory body under an Act of Parliament)



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The President

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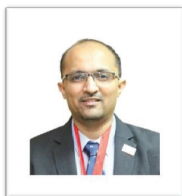
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President's Message

In the Pre- GST era, the services provided by an educational institution to its students or faculty or staff were exempt. But with the implementation of GST understanding of Tax implications on an educational institution has become important. Under GST, an “educational institution” may be defined as an institution providing services by way of:

- Pre-school education and education up to higher secondary school or equivalent;
- Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
- Education as a part of an approved vocational education course

Again taxability of Educational Institutions is required to be assessed, whether it is to be treated as a taxable supply. Taxable supply means a supply of goods or services or both which is leviable to tax under GST.

Also any service provided 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 is treated as a taxable service.

Then comes the question, like what would be the exemptions available to these institutions, do they need to be registered and a bouquet of other queries. The department with this publication has taken the initiative to analyse these issues.

I congratulate CMA Niranjana Mishra, Chairman of Taxation Committee and other members of the Taxation Committee for their commitment and dedication in publishing this handbook. I would like to acknowledge the dedicated efforts of Tax Research Department for releasing this Handbook. I wish them all the Luck!

With Warm Regards,

CMA Amit A. Apte
12th March, 2019



CHAIRMAN'S MESSAGE

"Education" is not defined in the CGST Act but as per Apex Court decision in "Loka Shikshana Trust v/s CIT", education is process of training and developing knowledge, skill and character of students by normal schooling.

Taxing the Education Sector has always been a sensitive issue, as education is seen more as a social activity than a business one. The government has a constitutional obligation to provide free and compulsory elementary education to every child. Thus, to promote education, it would be beneficial if educational services are exempted from tax. However, commercialisation of education is also a reality. The distinction between core and ancillary education is blurring and education is now an organised industry with huge revenues. The GST Act tries to maintain a fine balance whereby core educational services provided and received by educational institutions are exempt and other services are sought to be taxed at the standard rate of 18%. These intricacies need to have a clear understanding and hence this handbook.

I congratulate Team – Tax Research, commendable job by the entire Team in publication of this 'Handbook on Impact of GST on Education Sector'. I am happy and would like to congratulate other members of the Taxation Committee and knowledge contributors of the Institute for their efforts to bring this out. CMA Anil Sharma deserves a special mention here for his untiring efforts in bringing out this publication. My best wishes to all for its all future endeavours.

A handwritten signature in black ink, appearing to read 'Niranjana Mishra'.

CMA Niranjana Mishra

Chairman – Taxation Committee

14th March, 2019

PREFACE

Education is the backbone of Nation. Education is very important factor for the economic development of any country. India since the early days of independence has always focused on improving the literacy rate in our country.

In our everyday life and every sphere of our life, the importance of education is becoming so pervasive that human existence is simply inconceivable in its absence. This is why, the government runs many programs to promote Primary and Higher Education in India.

Education in India is provided by public schools as well as private schools. Under various articles of the Indian Constitution, free and compulsory education is provided as a fundamental right to children.

The purpose of education is to develop students' desire and ability to think and learn about the world around them. Further, the purpose is to learn how to develop relationships that will enable students to work with their peers, throughout their schooling and beyond.

Now, whenever any service is being provided, impact of tax on that service should be kept in mind.

The government's aim has always been to encourage the education industry which is well reflected through the various exemptions being notified through Goods and Services Tax. In this handbook, we have explained the impact of GST on Education Sector

Here, we would also like to thank and acknowledge the immense contributions of **CMA Anil Sharma** without whose hard work, toil and guidance the handbook could have never acquired its shape. The department is indebted to him for his contributions. CMA Niranjana Mishra, Chairman – Taxation Committee has been our guiding star. Thank you Sir.

Tax Research Department

The Institute of Cost Accountants of India

14th March, 2019

ACKNOWLEDGEMENTS

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Chapter 1

Introduction

The history of Indian education has its roots to the ancient ages where they followed the Gurukul system – a system where the students resided in the house of their teacher until the teacher felt that he has imparted all that he could. The subjects taught varied from Sanskrit to Scriptures to Mathematics to Metaphysics and the knowledge attained would be passed on to the future generations. However, this system was changed during the Colonial era when the British set up schools that followed a curriculum confined to subjects such as Mathematics, Science etc. While the ancient system included more interaction with the nature, the modern system was more classroom oriented.

Education is one of the most important sector for any economy. The education system of a country decides the economical growth of that country. Education promotes understanding, vision, creativity and productivity of people which helps in advancement of a country.

“Education” is not defined in the CGST Act but as per Apex Court decision education is process of training and developing knowledge, skill and character of students by normal schooling.

The government has a constitutional obligation to provide free and compulsory elementary education to every child. Thus, to promote education, it would be beneficial



if educational services are exempted from tax. However, commercialization of education is also a reality.

In India, education is provided both by public as well as private sectors. Now a days education is run by organised industry with huge revenues.

The educational institutions that have been granted the exemption from GST are pre-schools and higher secondary educational institutes – both private and Government.

To clarify the applicability of GST on Educational Sector, we have to differentiate between core and ancillary education since core educational services is exempted from GST and other education services are subject to GST @18%.

What is an Educational Institution under GST?

- ☐ Pre-school education and education up to higher secondary school or equivalent
- ☐ Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force
- ☐ Education as a part of an approved vocational education course.

What is approved vocational education course?

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



What is the meaning of Education as a part of curriculum for obtaining a qualification recognized by law?

Educational services as 'a part' of the curriculum that has been prescribed for obtaining a qualification prescribed by law and conduct of degree courses by colleges, universities or institutions which lead grant of qualifications recognized by law would be covered in negative class.

Training given by private coaching institutes would not be covered as such training does not lead to grant of a recognized qualification.

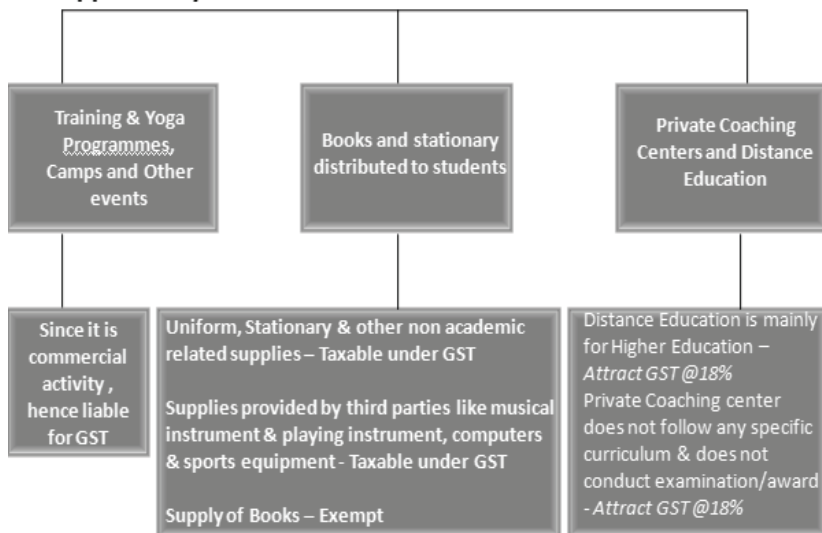
Education Services are classified in heading 9992 and are further sub-divided into six groups comprising of

1. Pre-primary education services
2. Primary education services
3. Secondary Education Services
4. Higher education services
5. Specialized education services
6. Other education & training services and educational support services

Under the GST regime, core educational services has been exempted vide Notification No. 12/2017-CT(R) dated 28 June 2017/ Notification No. 09/2017-IT(R) as amended from time to time.



Applicability of GST in different scenarios in Education Sector



Place of Supply for Educational Services

GST must be collected and remitted by the supplier of services. While levying GST, the supplier must make a distinction between inter-state and intra-state supply to levy IGST or CGST and SGST. For educational services, the place of supply can be determined as follows:

- ❑ If supply is made to a person having GST registration, the place of supply would be the location of such person.
- ❑ If supply is made to a person other than a registered person, then place of supply would be where the event is held.

Composite and Mixed Supply

If utilities for education, lodging and boarding provided by the boarding schools are combined into a single structure, it is exempted from GST. If the value of education or



lodging or boarding are attached then these services are bundled, and their taxability will be determined in terms of the principles laid down. In case the fee structure is distinct for education, lodging and boarding, then such services would be evaluated separately. Since the predominant factor of education is determined by its service, the idea of providing residence will not be considered taxable.

Charitable Trust

Charitable Trusts running educational institutions are exempt from GST. Apart from the general exemption available to all educational institutions, charitable activities of entities listed under Section 12AA of the Income Tax Act is also exempt. The term charitable activity, as defined in the notification is as follows:

If a trust involves in educating orphans, homeless children, physically/mentally challenged persons, the needy etc, residing in rural areas, it would be treated as charitable and such incomes would be excluded from GST.

Registration of Educational Institutions

Educational Institute is providing only education as a service, then fees charged by the educational institute would attract Nil rate. In that case that educational institute is not required to be registered.

Educational Institute is providing not only education , but also providing other services i.e providing books & uniforms to students, then that educational institute is liable to be registered.



Chapter 2

Exempted and Non-exempted Education Services

Services provided by an educational institution to students, faculty and staff –

- ☐ The education provided by the private school from preschool to higher secondary is exempted under GST.
- ☐ Transportation of students, faculty and staff;
- ☐ Catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
- ☐ Security or cleaning or house-keeping services performed in such educational institution;
- ☐ Services relating to admission to, or conduct of examination by, such institution up to higher secondary;
- ☐ Entrance exam fee is exempted from the GST



- ❑ Income from education is wholly exempt from GST if a charitable trust is running a school, college or education institution for abandoned, orphans, homeless children, physically or mentally abused persons, prisoners or persons over the age of 65 years or above residing in a rural area.
- ❑ Government or local authority or governmental authority carrying on the activity of education is exempted from GST as this is not included in the ambit of supply of services. *For Example* – Government schools / Municipal schools.
- ❑ GST is not leviable on foods and drinks that are supplied by schools (up to higher secondary) directly to their students.
- ❑ National skill development corporation set up by the Indian government
- ❑ National skill development corporation approved sector skill councils
- ❑ National skill development corporation approved assessment agencies
- ❑ The national skill development programs approved by NSDC
- ❑ Vocational skill development program approved under national skill certification and monetary reward scheme
- ❑ Any scheme implemented by NSDC with training partners
- ❑ Exemption has also been granted to the services provided by the IIM–
 - 2 year full-time residential PG programs in



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Management for Post Graduate Diploma in Management, admission in which is granted via CAT

- Fellowship programs in Management
- 5 Year Integrated Programs in management studies (but excludes the Executive Development Program).

Education Related Services:

- ☐ Curriculum related or course materials,
- ☐ Assessment and examination fees,
- ☐ Student administrative services such as registration, printing of academic transcripts, issuing or replacement of student cards, late fee payments, administration of the library etc
- ☐ Excursion and field trips related to the course of study or part of curriculum requirement, *except for food and accommodation supplied on those trips*

The exemption has also been granted to the services provided by the IIM–

- ☐ 2 year full-time residential PG programs in Management for Post Graduate Diploma in Management, admission in which is granted via CAT
- ☐ Fellowship programs in Management
- ☐ 5 Year Integrated Programs in management studies (but excludes the Executive Development Program)

Following are not Exempt from GST:

- ☐ Supplies provided by third parties like the musical instrument, computers, sports equipment,



- ☐ After school activities offered directly by third parties,
- ☐ Food and accommodation supplied for the excursion as described above,
- ☐ Uniform, stationery, and other non-academic related supplies
- ☐ If the school runs summer camp or coaching classes for other students apart from the school students.
- ☐ If the school rents the school premise for marriage and other functions.
- ☐ If the doctor or hospital makes earning more than Rs. 20 lakh by selling unused and other instruments.

Education by Coaching Institutes

Coaching institutes are playing a very important role in today's competitive world for the students preparing for government exams, IITs, banking, and other professional courses. Most of the students are enrolling in the coaching institutes and want to crack the competitive exams. Education by Coaching Institutes attracts 18% GST.

GST Applicability to School-provided Food and Drinks

Food items supplied by school canteens and mess are taxable at 5 % GST rate with no input tax credit.

Applicability of GST on Higher Educational Institutions

The GST exemption on procurements is available only to schools (from pre-school up to higher secondary school or its equivalent).

But the 'input' or supply of services such as transportation, catering, housekeeping, services relating to admission or conduct of examination to higher educational institutions will bear GST levy. This will have to be borne by the higher



educational institution.

Applicability of GST on Training programs, camps, yoga programs and other events

Training programs, camps, yoga programs and other events is considered a commercial activity, liable for GST.

Whether books or stationery distributed to students covered under GST?

Uniform, stationery, and other non-academic related supplies are taxable under GST. Supplies provided by third parties like the musical instrument, computers, sports equipment and after-school activities offered directly by third parties are also taxable.

Supply of books is exempt under GST.

Chargeability of GST on Private Coaching centres and Distance Education

- ☐ Private institution and coaching centres do not have any specific curriculum and do not conduct any examination or award any qualification. Hence taxable at the rate of 18 % GST.
- ☐ Distance Education is taken up generally for higher education and hence taxable at the rate of 18 % GST.

Example

1. ABC Pvt. Ltd. is a GST registered person. Gross turnover of the company for the immediately preceding financial year is ~ 50 lakh. It provides the following information pertaining to its outward supply- for the month of July 2018
 - Running a boarding school-Rs. 2,40,000 - Exempt
 - Fees from an employer for campus interview – Rs.



1,70,000 – Taxable @18%

- Education services for obtaining the qualification recognised by law of a foreign country – Rs. 3,10,000 – Taxable @18%
 - Renting of furnished flats for temporary stay different persons (rent per day is less than Rs.1,000 per person) - Rs. 1,20,000 - Exempt
 - Conducting modular employable skill course, approved by the National Council of Vocational Training – Rs. 1,40,000 -Exempt
 - Providing private tuitions – Rs. 3,00,000 Taxable @18%
2. XYZ Ltd. provides the following information relating to their gross receipts from services for the month of November 2018 –
- Running a Boarding School (including receipts for providing residential dwelling services - 12,00,000) - 28,00,000 -Exempt
 - Conducting private tuitions -16,00,000-Taxable
 - Education services for obtaining a qualification recognised by law of a foreign country - ~ 8,00,000 – Taxable as foreign law can not apply in India
 - Service under Deen Dayal Upadhyaya Grameen Kaushalya Yojana - 10,00,000 Exempt
 - Fees from prospective employers for campus interview - 6,00,000 -Taxable as 'manpower recruitment service'
 - Renting of furnished flats for temporary stay to different persons - 6,80,000. – Exempt. This should



be exempt from service tax even if for temporary period.

The SAC code and GST rate for educational services are as below:

SAC Code	Description of Service	Rate
9992	Education Services Non-conventional courses of short duration, training programmes for working people and educational events organised by a foreign-based entity.	18%
9992	Services provided – (A) by an educational institution to its students, faculty and staff; (B) to an educational institution, by way of, – (i) transportation of students, faculty and staff; (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory; (iii) security or cleaning or housekeeping services performed in such educational institution; (iv) services relating to admission to, or conduct of examination by, such institution; up to higher secondary;	NIL



	<p>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</p> <p><u>Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme</u></p> <p>(a) two-year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management;</p> <p>(b) fellow programme in Management;</p> <p>(c) five-year integrated programme in Management.</p>	
90 or any Chapter	Technical aids for education, rehabilitation, vocational training and employment of the blind such as Braille typewriters, braille watches, teaching and learning aids, games and other instruments and vocational aids specifically adapted for use of the blind Braille instruments, paper etc.	5%



Chapter 3

Practical Approach

A printer company supplying books directly to a nursery school and raised invoice.

Taxable Value – Rs. 40,000

CGST- NIL

SGST- NIL

.....

Invoice Value - Rs. 40,000

At the time of filling GSTR-1, this table has to be filled.

**8A, 8B, 8C, 8D – Nil Rated
Supplies** **0**

Total Nil Amt

□0.00

Total Non-GST Amt

□0.00

Total Exempted Amt

□0.00

Put Rs. 40,000 in the column “Nil Rated Supplies” in the respective row “intra state supplies to registered persons”



if service supplied to registered person or “*intra state supplies to unregistered persons*” if service supplied to unregistered person.

Similarly , if Supply made to another state, then put the amount in the respective row “*inter-state supplies to registered persons*” in case of supply to registered person or “*inter-state supplies to unregistered persons*” in case of supply to unregistered person.

Item Details

Description	Nil Rated Supplies (₹)	Exempted(Other than Nil rated/non-GST supply) (₹)	Non-GST Supplies (₹)
Intra-state supplies to registered person	₹0.00	₹0.00	₹0.00
Intra-state supplies to unregistered person	₹0.00	₹0.00	₹0.00
Inter-state supplies to registered person	₹0.00	₹0.00	₹0.00
Inter-state supplies to unregistered person	₹0.00	₹0.00	₹0.00

At the time of filling GSTR-3B, this table has to be filled.

5. Exempt, nil and Non GST inward supplies

Inter-state supplies

₹0.00

Intra-state supplies

₹0.00

Put Rs. 40,000 in the row “*from a supplier under composition scheme , exempt and nil rate supply*” in the respective column “*inter-state supplies*” or “*inter-state supplies*” as applicable.

Nature of Supplies	Inter-State Supplies (₹)	Intra-State Supplies (₹)
From a supplier under composition scheme, Exempt and Nil rated supply	₹0.00	₹0.00
Non GST supply	₹0.00	₹0.00



A Pre-School received Rs. 5000 from every student.

Taxable Value – Rs. 5,000

CGST- NIL

SGST- NIL

.....

Invoice Value - Rs. 5,000

At the time of filling GSTR-1, this table has to be filled.

**8A, 8B, 8C, 8D – Nil Rated
Supplies**

0

Total Nil Amt

□0.00

Total Non-GST Amt

□0.00

Total Exempted Amt

□0.00

Put Rs. 5,000 in the column “Exempted” in the respective row “*intra state supplies to registered persons*” or “*intra state supplies to unregistered persons*” or “*inter-state supplies to registered persons*” or “*inter-state supplies to unregistered persons*” as applicable.

Item Details

Description	Nil Rated Supplies (□)	Exempted(Other than Nil rated/non-GST supply) (□)	Non-GST Supplies (□)
Intra-state supplies to registered person	□0.00	□0.00	□0.00
Intra-state supplies to unregistered person	□0.00	□0.00	□0.00
Inter-state supplies to registered person	□0.00	□0.00	□0.00
Inter-state supplies to unregistered person	□0.00	□0.00	□0.00

At the time of filling GSTR-3B, this table has to be filled.



5. Exempt, nil and Non GST inward supplies

Inter-state supplies

₹0.00

Intra-state supplies

₹0.00

Put Rs. 5,000 in the row *“from a supplier under composition scheme , exempt and nil rate supply”* in the respective column *“inter-state supplies”* or *“inter-state supplies”* as applicable.

Nature of Supplies	Inter-State Supplies (₹)	Intra-State Supplies (₹)
From a supplier under composition scheme, Exempt and Nil rated supply	₹0.00	₹0.00
Non GST supply	₹0.00	₹0.00



Chapter 4

Relevant Notifications & Circulars

Notification No. - 45/2017- Central Tax (Rate)

Date -14/11/2017

Subject - Seeks to provide concessional GST rate of 2.5% on scientific and technical equipments supplied to public funded research institutions.

This Notification is regarding exemption of goods such as Scientific and technical instruments, apparatus, equipment (including computers), accessories, parts, consumables and live animals (experimental purpose) etc, from so much of the central tax leviable thereon under section 9 of the said Act, as in excess of the amount calculated at the rate of 2.5 per cent., when supplied to the institutions i.e. Public funded research institution other than a hospital or a University or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a National Institute Technology/ Regional Engineering College.



Notification No. - 47/2017-Integrated Tax (Rate)

Date -14/11/2017

**Subject - Seeks to provide concessional GST rate of 5%
on scientific and technical equipments supplied
to public funded research institutions**

Exemption of goods such as Scientific and technical instruments, apparatus, equipment (including computers), accessories, parts, consumables and live animals (experimental purpose) etc, from so much of the integrated tax leviable thereon under section 9 of the said Act, as in excess of the amount calculated at the rate of 5 per cent, when supplied to the institutions i.e. Public funded research institution other than a hospital or a University or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a National Institute Technology/ Regional Engineering College.

Circular No. 28/02/2018-GST

Date: 08.01.2018

Sub: Clarifications regarding GST on College Hostel Mess Fees.

The educational institutions having mess facility for providing food to their students and staff. Such facility is either run by the institution/ students themselves or is outsourced to a third person. Supply of food or drink provided by a mess or canteen is taxable at 5% without Input Tax Credit.

Circular No. 32/06/2018-GST

Dated: 12.02.2018

**Sub: Clarifications regarding GST in respect of certain
services as decided in 25th GST Council meeting.**

Clarification has been described regarding hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus,



exempt under Sl. No. 1 of notification No. 12/2017- CT (Rate). Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT (Rate). However, 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 are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt. [Sl. No. 14 of notification No. 12/2017-CT(Rate) refers].

Circular No. 55/29/2018- GST

Date- 10th August 2018

**Taxability of services provided by
Industrial Training Institutes (ITI)**

- ☐ Whether GST is payable on vocational training provided by private ITI in designated trades and in other than designated trades.
- ☐ Services provided by private ITI's in respect of designated trades (under the apprenticeship act, 1961). As a corollary services provided by such ITI's in respect of other designated trades will not be exempt.
- ☐ Whether GST is payable on service provided by private ITI's for conduct of examination against consideration in the form of entrance fees and also on services related to admission to or conduct of examination.
 - 1) For designated trades – it will be exempt
 - 2) For non-designated trades – it will not be exempt
- ☐ Services provided by a Government ITI to an individual trainees or students is exempt under s.no.6 of notification 12/2017-CT(R) dated 28.06.2017 as these are in the



nature of services provided by the Central or State Government to individuals. Such exemption would cover both – vocational training and examinations conducted by these Government ITI"s.

Circular No. 66/40/2018-GST

Date -26 Sep 2018

Subject: GST on Residential programmes or camps meant for advancement of religion, spirituality or yoga by religious and charitable trusts- reg.

- ❑ The services provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt. Fee or consideration charged in any other form from the participants for participating in a religious, Yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt.
- ❑ Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga.
- ❑ However, if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable.
- ❑ Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable.



Circular No. 82/2019

Date – 1st January 2019

Applicability of GST on various programmes conducted by the Indian Institutes of Managements (IIMs).

All the IIMs listed in the schedule to the IIM Act are “institutions of national importance” & they are empowered to

1. grant degrees, diplomas, and other academic distinctions or titles,
2. specify the criteria and process for admission to courses or programmes of study, and
3. specify the academic content of programmes.

Therefore, with effect from 31st January, 2018, all the IIMs are “educational institutions” as defined under notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017 as they provide education as a part of a curriculum for obtaining a qualification recognised by law for the time being in force.

At present, Indian Institutes of Managements are providing various long duration programs (one year or more) for which they award diploma/ degree certificate duly recommended by Board of Governors as per the power vested in them under the IIM Act, 2017. Therefore, it is clarified that services provided by Indian Institutes of Managements to their students- in all such long duration programs (one year or more) are exempt from levy of GST.

For the period from 1st July, 2017 to 30th January, 2018, IIMs were not covered by the definition of educational institutions as given in notification No. 12/ 2017 Central Tax (Rate) dated 28.06.2017. Thus, they were not entitled to exemption under Sl. No. 66 of the said notification.

However, there was specific exemption to following three programs of IIMs under Sl. No. 67 of notification No.



12/2017- Central Tax (Rate): –

- i. 2 year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management,
- ii. fellow programme in Management,
- iii. 5 years integrated programme in Management.

Therefore, for the period from 1st July, 2017 to 30th January, 2018, GST exemption would be available only to three long duration programs specified above.

It is further, clarified that with effect from 31st January, 2018, all IIMs have become eligible for exemption benefit under Sl. No. 66 of notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017.

As such, specific exemption granted to IIMs vide Sl. No. 67 has become redundant. The same has been deleted vide notification No. 28/2018- Central Tax (Rate) dated, 31st December, 2018 w.e.f. 1st January 2019.

For the period from 31st January, 2018 to 31st December, 2018, two exemptions, i.e. under Sl. No. 66 and under Sl. No. 67 of notification No. 12/ 2017- Central Tax (Rate), dated 28.06.2017 are available to the IIMs.

The legal position in such situation has been clarified by Hon'ble Supreme Court in many cases that if there are two or more exemption notifications available to an assessee, the assessee can claim the one that is more beneficial to him. Therefore, from 31st January, 2018 to 31st December, 2018, IIMs can avail exemption either under Sl. No 66 or Sl. No. 67 of the said notification for the eligible programmes.

Indian Institutes of Managements also provide various short duration/ short term programs for which they award



participation certificate to the executives/ professionals as they are considered as “participants” of the said programmes. These participation certificates are not any qualification recognized by law. Such participants are also not considered as students of Indian Institutes of Management. Services provided by IIMs as an educational institution to such participants is not exempt from GST. Such short duration executive programs attract standard rate of GST @ 18% (CGST 9% + SGST 9%).

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

Periods	Programmes offered by Indian Institutes of Management	Whether exempt from GST
1 st July, 2017 to 30 th January, 2018	i. two-year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management, ii. fellow programme in Management, iii. five years integrated programme in Management	Exempt from GST
	i. One- year Post Graduate Programs for Executives, ii. Any programs other than those mentioned at Sl. No. 67 of notification No. 12/2017- Central Tax (Rate), dated 28.06.2017. iii. All short duration executive development programs or need based specially designed programs (less than one year).	Not exempt from GST



31 st January, 2018 onwards	All long duration programs (one year or more) conferring degree/ diploma as recommended by Board of Governors as per the power vested in them under the IIM Act, 2017 including one- year Post Graduate Programs for Executives.	Exempt from GST
	All short duration executive development programs or need based specially designed programs (less than one year) which are not a qualification recognized by law.	Not exempt from GST

This clarification applies, mutatis mutandis, to corresponding entries of respective IGST, UTGST, SGST exemption notifications.

Circular No. 85/2019

Date – 1st January 2019

Clarification on GST rate applicable on supply of food and beverage services by educational institution.

Representations have been received seeking clarification as to the rate of GST applicable on supply of food and beverages services by educational institution to its students.

It has been stated that the words “school, college” appearing in Explanation 1 to Entry 7 (i) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 give rise to doubt whether supply of food and drinks by an educational institution to its students is eligible for exemption under Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 Sl. No 66, which exempts services provided by an educational institution to its students, faculty and staff.

Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, Sl. No. 7(i) prescribes GST rate of 5% on supply



of food and beverages services.

Explanation 1 to the said entry states that such supply can take place at canteen, mess, cafeteria of an institution such as school, college, hospitals etc. On the other hand, Notification No. 12/2017-Central Tax (Rate), Sl. No. 66 (a) exempts services provided by an educational institution to its students, faculty and staff.

There is no conflict between the two entries. Entries in Notification No. 11/2017-Central Tax (Rate) prescribing GST rates on service have to be read together with entries in exemption Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

A supply which is specifically covered by any entry of Notification No. 12/2017-Central Tax (Rate) dated 28-06-2017 is exempt from GST notwithstanding the fact that GST rate has been prescribed for the same under Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017.

Supply of all services by an educational institution to its students, faculty and staff is exempt under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, Sl. No. 66. Such services include supply of food and beverages by an educational institution to its students, faculty and staff. As stated in explanation 3 (ii) to Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 Chapter, Section, Heading, Group or Service Codes mentioned in column (2) of the table in Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 are only indicative.

Accordingly, it is clarified that supply of food and beverages by an educational institution to its students, faculty and staff, where such supply is made by the educational institution itself, is exempt under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, vide Sl. No. 66 w.e.f. 01-07-2017 itself.



However, such supply of food and beverages by any person other than the educational institutions based on a contractual arrangement with such institution is leviable to GST@ 5%.

In order to remove any doubts on the issue, Explanation 1 to Entry 7(i) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 has been amended vide Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018 to omit from it the words "school, college".

Further, heading 9963 has been added in Column (2) against entry at Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, vide Notification No. 28/2018-Central Tax (Rate) dated 31.12.2018.



Chapter 5

Case Laws

Recruitment services rendered by an intermediary to students of foreign universities are not 'export of services' Global Reach Education Services (P.) Ltd. vs. AAR West Bengal

Fact of the Case

1. The assessee provided recruitment services to the students seeking admission in foreign universities and the consideration for such receives was received in convertible foreign exchange from such foreign universities.
2. It filed an application for advance ruling to decide if such services should be treated as an export of service.
3. The applicant contended that as per Section 13(2) the place of such supply should be deemed to be outside India as location of service recipient is outside India.

Decision of the Case

1. The Authority for Advance Ruling (AAR) held that such services would be provided only as a representative of the University and not as an independent service provider.
2. Being an intermediary service provider, the place of supply shall be determined as per section 13(8)(b) of



the IGST Act and not under section 13(2) of the IGST Act.

3. Therefore, the place of supply shall be the location of service provider. 4. As the condition for export of service was not satisfied, the assessee's service to the foreign universities would not qualify as 'Export of Services'. Hence, such service would be taxable under the GST Act.

No GST on Educational Institutions providing Degree courses under Related Curriculums to Students:

Karnataka AAR M/s Emerge Vocational Skills Private Ltd. vs. Karnataka AAR

Case No. - Advance Ruling No. KAR ADRG 20 / 2018

Date – 13.08.2018

Fact of the Case

1. A private limited company engaged in providing specified educational services in the field of Hotel management is the applicant in the present case.
2. They propose to obtain an affiliation with the university in the state of Karnataka.
3. They contended before the authority of advance ruling that they are affiliated to a university in the state of Karnataka. The examination would be conducted by the university and successful candidates would be issued certificate which are recognized by law.
4. So, the institution would be treated as "Educational Institution".

Decision of the Case

1. Services provided by an educational institution to the students, faculty & staff is exempted from GST by



Notification No 66 – 12/2017 dt. 28.06.2017.

2. The Authority for Advance Ruling, Karnataka has held that service providing degree course by educational institution to the students are exempted from GST.
3. The authority noted that the applicant is not imparting pre-school education or education up to higher secondary school or equivalent and hence can be exempt.

**GST payable on Executive PG Programme at IIM:
Madhya Pradesh AAR Indian Institute of Management**

Prabandh Shikhar vs. Madhya Pradesh AAR

Case No. – 10/2018

Date – 10.08.2018

Fact of the Case

1. In the present case IIM-Indore is the applicant.
2. They are providing executive post graduate program (EPGP) as an educational institution and issue certificate of qualification which is recognized by any law. They contended this being covered under IIM Act qualifies for exemption under GST.
3. They extended that they should get benefit of the exemption from liability of paying GST on EPGP since they are providing education as a part of curriculum for obtaining a qualification recognized by law.

Decision of the Case

1. There is a notification of exemption for two years full time post graduation programmes, Fellow Program and Five years integrated program.
2. The authority also clarified that the notification for exemption of various education programmes



conducted by IIMS except the executive development programme and EPGP.

3. Exemption shall be applicable to only the flagship programs of the IIMS irrespective of the enactment of IIMS Act 2017. 4. So the applicant in the instant case shall be chargeable to GST for EPGP.

Whether on Sale of religious books or DVDs in Satsang would attract GST or it is exempt under any notification:

Facts of the case:

1. In the given case, assessee sales religious books and DVD in the Sansang.
2. He is contented that organisation's principal activity was the advancement of religious. And spiritual activities and not carrying out a business as contemplated under section 2(17) of the GST Act.
3. Hence the ancillary services such as sale of religious books or DVD in satsang or accommodation services provided by such organisation would not be attract GST

Decision of the Case

1. Authority held that there is no specific exemption under the GST Act.
2. Also held that if primary services are exempted then it does not mean that incidental or ancillary services related to main services are also exempt.
3. The sale of spiritual products which was incidental or ancillary to main charitable object of assessee could be said to be business.
4. Such transaction done by charitable trust or organisation registered u/s 12AA of the income tax



would qualify as Supply. GST would be attracted and required to pay by the organisation.

**IIM Kolkata is 'Educational Institution',
Eligible for GST Exemption: West Bengal AAR**

IIM Kolkata vs. West Bengal AAR

Case no. - WBAAR 22 OF 2018

Date - 06/08/2018

Facts of the case:

1. Indian Institute of Management, Kolkata sought for a clarification that whether they should be treated as an "Educational Institution" after the enactment of the IIM Act w.e.f 31.01.2018 and whether they are eligible for the GST Exemption under Notification No. 12/2017 Central Tax (Rate).
2. The applicant submitted that they are eligible to grant degrees, diplomas and other academic distinctions or titles and to institute and award fellowships, scholarships, prizes and medals, honorary awards and other distinctions .
3. Therefore they are eligible for exemption under entry no. 66(a) of the Exemption Notification No. 12/2017 dt 28.06.2017.

Decision of the Case

Since the IIM is eligible to grant degree, diplomas & other academic distinctions, so the West Bengal Advance Ruling Authority (AAR) has held that the Indian Institute of Management (IIM) should be treated as an 'educational institution' for the purpose of getting the GST exemption.



Food supplied in Canteens of Office & Colleges on Contractual Basis attracts 5% GST: AAR

M/S prism hospitality services pvt. Ltd. Vs. telangana AAR

Case No. – TSAAR Order No. 12/2018

Date -26.09.2018

Facts of the case:

The applicant is engaged in the business of Cleaning Services, maintenance of canteens in Industries, Educational establishments, providing food to student mess/s, training institutes and so on since the year 2005.

They provide transportation services to a training institute for carting food from one building to another for service/sale and applicant charges separate transport charges, the applicant needs to discharge GST on gross amount (cost of Food + cost of Transportation) at the rate of 18% GST.

It was said that the food promoted by the applicant is of a working nature such as working lunch etc by saving the time of the employee and increase productivity.

The menu served for the outdoor Catering in almost all the cases is of a superior nature befitting the event such as a wedding/party/conference.

Decision of the Case

The authority held that the activity of supply of food in canteens of office, factory, hospital, college, industrial unit etc. on contractual basis is taxable at rate of 2.5% CGST + 2.5% SGST and the supplier is not eligible for the input tax credit under amended notification.



Chapter 6 FAQs

Should educational institutions be registered under GST?

Educational institution providing only education as a service - Fees received by that educational institution are chargeable at NIL rate and also such educational institutions are not required to be registered.

Educational institutions are providing other supplies or other services, i.e., providing books to students, providing shoes or uniforms etc to students –That Educational Institutions are liable to get themselves registered.

Are services provided by way of education as a part of a prescribed curriculum for obtaining a qualification recognized by a law of a foreign country covered in the negative list entry?

No. Education service provided as per recognition of Indian law are eligible to be included in negative list only.

What is the Rate of GST on Services Provided by an Education Institution to its Students, Staff and Faculty?

As per the Entry at S. No. 66 of Notification No. 12/2017 – Central Tax (Rate), Services Provided by an Education Institution to its Students, Staff and Faculty are liable to NIL Rate of GST.



Is this exemption includes Catering Service, Supply of Food and Transportation Service by an education institution to its Student, Staff & Faculty?

All services provided by an Education Institution directly to its Students, Staff and Faculty are exempted including Catering Service, Supply of Food and Transportation Service.

Is the services provided by Higher Education Institution (i.e. College and University) to its Students, Staff & Faculty are exempted?

YES

There is a confusion from Clarification of TRU of CBIC vide Circular No. 28/02/2018 dated 08-01-2018 that GST is payable @ 5% on Mess & Canteen Services for Supply of Food & Drinks?

This was an interpretation error and the same has been rectified on 18-01-2018 by way of a Corrigendum to Circular No. 28/02/2018 in which it has been clarified as below:-

“2.1 If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered by the definition given under para 2(y) of notification No. 12/2017-Central Tax (Rate), then the same is exempt. [Sl. No. 66(a) of notification No. 12/2017-Central Tax (Rate) refers]

2.2 If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, then it is a supply of service at entry 7(i) of notification No. 11/2017-CT (Rate) [as amended vide notification No. 46/2017-CT (Rate) dated 14.11.2017] to the concerned educational institution and attracts GST



of 5% provided that credit of input tax charged on goods and services used in supplying the service has not been taken, effective from 15.11.2017."

Are services provided by way of education as a part of a prescribed curriculum for obtaining a qualification recognized by a law of a foreign country covered in the negative list entry?

No. To be covered in the negative list a course should be recognized by an Indian law.

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

Boarding schools provide service of education coupled with other services like providing dwelling units for residence and food. This may be a case of bundled services if the charges for education and lodging and boarding are inseparable.

Such services in the case of boarding schools are naturally bundled and supplied in the ordinary course of business. Therefore, the bundle of services will be treated as consisting entirely of the principal supply, which means these service forms the predominant element of such a bundle. In this case since the predominant nature is determined by the service of education, the other service of providing residential dwelling will not be considered for the purpose of determining the tax liability and in this case the entire consideration for the supply will be exempt.

Where a course in a college leads to dual qualification only one of which is recognized by law, would service provided by the college by way of such education be covered by the exemption notification?

Provision of dual qualifications is in the nature of two



separate services as the curriculum and fees for each of such qualifications are prescribed separately. Service in respect of each qualification would, therefore, be assessed separately.

If an artificial bundle of service is created by clubbing two courses together, only one of which leads to a qualification recognized by law, then by application of the rule of determination of taxability of a supply which is not bundled in the ordinary course of business, it shall be treated as a mixed supply as per provisions contained in section 2(74) read with section 8 of the CGST Act, 2017. The taxability will be determined by the supply which attracts highest rate of GST.

However incidental auxiliary courses provided by way of hobby classes or extra-curricular activities in furtherance of overall well-being will be an example of naturally bundled course, and therefore treated as composite supply.

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



NOTE



NOTE



NOTE