



Summary of clarifications issued vide Circular no. 177 dated 3rd August 2022

GST applicability on supply of ice cream by ice cream parlours during the period from 01.07.2017 to 05.10.2021

Tax paid @5% without ITC shall be treated as fully GST paid to avoid unnecessary litigation. No refund if tax is paid @18% during that period. With effect from 6.10.2021 GST will levied @ 18% with ITC.

GST on entrance fees or fees charged for issuance of eligibility certificate or migration certificate by educational institutions.

All services supplied by an educational institution to its students are exempted. Fees charged for entrance exams are specifically exempted. Fees charged from prospective students for issuance of eligibility certificate or fees charged to the ex-students for issuance of migration certificate are also covered by the exemption.

Whether storage or warehousing of cotton in baled or ginned form is exempted service before 18.07.2022

Yes, it is exempted under entry 24B of NN 12/2017 CTR dated 28.06.2017 but taxable w.e.f 18.07.2022

Whether services associated with transit cargo both to and from Nepal and Bhutan are exempted?

It is clarified that exemption under sl no. 9B of NN 12/2017 CTR dated 28.06.2017 covers services associated with transit cargo both to and from Nepal & Bhutan. It is further clarified that empty containers from Nepal & Bhutan after delivery of goods are also exempted.

Applicability of GST on sanitation and conservancy services supplied to Army and Central & State Government departments

Services by Central, State Governments, Union Territory or any local authority relating to function entrusted to a panchayat under article 243G of the constitution or to a municipality under article 243W of the constitution listed in Schedule 11 & 12 have been declared neither as supply of goods nor supply of services vide NN 14/2017 CTR dated 28.06.2017. If the functions performed do not fall in the said schedules, then, are not liable for exemption.



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Whether the activity of selling of space for advertisement in souvenirs is eligible for concessional rate of 5%

As per serial number (i) of entry 21 of notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 selling of space for advertisement in print media attracts GST @ 5%. The term 'print media' has been defined in clause (zt) of notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as under:

"Print media" means, —

(i). 'book' as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867), but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes.

Accordingly, it is clarified sale of space for advertisement in souvenir book will attracts GST @ 5%.

Taxability and applicable rate of GST on transport of minerals from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time.

It is clarified that renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles with operator and not service of transportation of goods by road, hence not eligible for exemption under Sl. No. 18 of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017. On such rental services of goods carriages where the cost of fuel is included in the consideration charged from the recipient of service, GST rate has been reduced from 18% to 12% with effect from 18.07.2022. Prior to 18.07.2022, it attracted GST at the rate of 18%

Whether location charges or preferential location charges (PLC) collected in addition to the lease premium for long term lease of land constitute part of the lease premium or of upfront amount charged for long term lease of land and are eligible for the same tax treatment;

As per entry 41 of the notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 upfront amount, which is defined as "upfront amount (called as



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premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease (of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 20 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", is exempt from GST

Accordingly, it is clarified that location charges or preferential location charges (PLC) paid upfront in addition to the lease premium for long term lease of land constitute part of upfront amount charged for long term lease of land and are eligible for the same tax treatment, and thus eligible for exemption.

Applicability of GST on payment of honorarium to the Guest Anchors

Supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability. However, guest anchors whose aggregate turnover in a financial year does not exceed Rs 20 lakhs (Rs 10 lakhs in case of special category states) shall not be liable to take registration and pay GST.

Whether the additional toll fees collected in the form of higher toll charges from vehicles not having fastag is exempt from GST

It is clarified that additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and may be given the same treatment as given to toll charges

Applicability of GST on services in form of Assisted Reproductive Technology (ART)/ In vitro fertilization (IVF)

The abnormality/disease/ailment of infertility is treated using ART procedure



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such as IVF. It is clarified that services by way of IVF are also covered under the definition of health care services for the purpose of above exemption notification and hence exempted.

Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST

As per Sl no. (5) of Schedule III of the Central Goods and Services Tax Act, 2017, 'sale of land' is neither a supply of goods nor a supply of services, therefore, sale of land does not attract GST.

It is clarified that sale of such developed land is also sale of land and is covered by Sr. No. 5 of Schedule III and accordingly does not attract GST.

However, it may be noted that any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services.

Situations in which corporate recipients are liable to pay GST on renting of motor vehicles designed to carry passengers

In case of services provided by a non-body corporate to a body corporate by way of renting of any motor vehicle for transport of passengers, tax is required to be paid by the body corporate under RCM.

Clarity is needed whether RCM is applicable on service of transportation of passengers (Heading 9964) or on renting of motor vehicle designed to carry passengers (Heading 9966).

Renting of motor vehicle with operator for transport of passengers falls under Heading 9966. Renting of motor vehicle is for a period of time where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations.



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'Passenger transport services' on the other hand fall under Heading 9964 which covers passenger transport services over pre-determined routes on pre-determined schedules.

Accordingly, it is clarified that where the body corporate hires the motor vehicle (for transport of employees etc.) for a period of time, during which the motor vehicle shall be at the disposal of the body corporate, the service would fall under Heading 9966, and the body corporate shall be liable to pay GST on the same under RCM. It may be seen that reverse charge thus would apply on act of renting of vehicles by body corporate and in such a case, it is for the body corporate to use in the manner as it likes subject to agreement with the person providing vehicle on rent.

However, where the body corporate avails the passenger transport service for specific journeys or voyages and does not take vehicle on rent for any particular period of time, the service would fall under Heading 9964 and the body corporate shall not be liable to pay GST on the same under RCM.

Whether hiring of vehicles by firms for transportation of their employees to and from work is exempt under Sr. No. 15(b) of Notification No. 12/2017-Central Tax (Rate) transport of passengers by non-air conditioned contract carriage

Sr. No. 15 (b) of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 exempts "transport of passengers, with or without accompanied belongings, by non-air-conditioned contract carriage, other than radio taxi, for transport of passengers, excluding tourism, conducted tour, charter or hire."

In other words, the said exemption would apply to passenger transportation services by non-air conditioned contract carriages falling under Heading 9964 where according to explanatory notes, transportation takes place over pre-determined route on a pre-determined schedule. The exemption shall not be applicable where contract carriage is hired for a period of time, during which the



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contract carriage is at the disposal of the service recipient and the recipient is thus free to decide the manner of usage (route and schedule) subject to conditions of agreement entered into with the service provider.

Whether supply of service of construction, supply, installation and commissioning of dairy plant on turn-key basis constitutes a composite supply of works contract service and is eligible for concessional rate of GST prior to 18.07.2022.

It has been held by Advance Ruling Authorities of Bihar and Gujarat that the same does not result into an immovable property and is therefore not a supply of works contract. This being so, such supply is not eligible for concessional rate of 12% applicable on works contract supplied by way of construction, erection, commissioning, or installation of original works pertaining to mechanized food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages.

It is clarified that a contract of the nature described here for construction, installation and commissioning of a dairy plant constitutes supply of works contract. There is no doubt that dairy plant which comes into existence as a result of such contracts is an immovable property

It is also clarified that such works contract services were eligible for concessional rate of 12% GST under serial number 3(v)(f) of notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 prior to 18.07.2022. With effect from 18.07.2022, such works contract services would attract GST at the rate of 18% in view of amendment carried out in notification No. 11/2017- Central Tax (Rate) vide notification No. 03/2022- Central Tax (Rate).

Applicability of GST on tickets of private ferry used for passenger transportation

As per Sl. No 17 (d) of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 "transportation of passengers by public transport, other than



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predominantly for tourism purpose, in a vessel between places located in India” is exempted.

It is clarified that this exemption would apply to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/government.

It is further clarified that, the expression ‘public transport’ used in the exemption notification only means that the transport should be open to public. It can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism.