



**Circulars issued on 17<sup>th</sup> June 2021.**

**Circular no. 149/05/2021-GST:**

**Clarification regarding applicability of GST on supply of food in Anganwadis and Schools**

Entry 66 clause (b)(ii) of notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017, exempts *Services provided to an educational institution, by way of catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory*. This entry applies to pre-school and schools. According to entry 66 clause b (ii) of notification No. 12/2017-Central Tax (Rate) exempts “catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory” This is applicable to pre-school and schools.

Accordingly, as per said entry 66, any catering service provided to an educational institution is exempt from GST. The entry further mention that such exempt service includes mid- day meal service as specified in the entry. The scope of this entry is thus wide enough to cover any serving of any food to a school, including pre-school. Further, an Anganwadi *interalia* provides pre-school non-formal education. Hence, aganwadi is covered by the definition of educational institution (as pre-school)

Accordingly, as per recommendation of the GST Council, it is clarified that services provided to an educational institution by way of serving of food (catering including mid- day meals) is exempt from levy of GST irrespective of its funding from government grants or corporate donations [under said entry 66 (b)(ii)]. Educational institutions as defined in the notification include aganwadi. Hence, serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates.

**Circular no.150/06/2021-GST:**

*Clarification regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment (annuity)*

GST is exempt on service, falling under heading 9967 (service code), by way of access to a road or a bridge on payment of annuity [**entry 23A of notification No. 12/2017-Central Tax**].

- Heading 9967 - Supporting services in transport under code 996742
- HSN 996742 - Operation services of National Highways, State Highways, Expressways, Roads & streets; bridges and tunnel operation services.



- Entry 23 of said notification exempts “service by way of access to a road or a bridge on payment of toll”.

Together the entries 23 and 23A exempt access to road or bridge, whether the consideration are in the form of toll or annuity.

- HSN 9954 - General construction services of highways, streets, roads railways, airfield runways, bridges and tunnels.

Services by way of construction of road fall under heading 9954. This heading *inter alia* covers general construction services of highways, streets, roads railways, airfield runways, bridges and tunnels. Consideration for construction of road service may be paid partially upfront and partially in deferred annual payments (and may be called annuities). Said entry 23A does not apply to services falling under heading 9954 (it specifically covers heading 9967 only). Therefore, plain reading of entry 23A makes it clear that it does not cover construction of road services (falling under heading 9954), even if deferred payment is made by way of instalments (annuities).

Accordingly, as recommended by the GST Council, it is hereby clarified that entry 23A of notification No. 12/2017-CT(R) does not exempt GST on the annuity (deferred payments) paid for construction of roads.

### **Circular no. 151/07/2021-GST:**

*Clarification regarding GST on supply of various services by Central and State Board (such as National Board of Examination)*

Certain representations have been received seeking clarification in respect of taxability of various services supplied by Centre and State Boards such as National Board of Examination (NBE). These services include entrance examination (on charging a fee) for admission to educational institution, input services for conducting such entrance examination for students, accreditation of educational institutions or professional so as to authorise them to provide their respective services. The issue was examined by GST Council in its 43rd meeting held on 28th May, 2021.

*Illustratively*, NBE provides services of conducting entrance examinations for admission to courses including Diplomat National Board (DNB) and Fellow of National Board (FNB), prescribes courses and curricula for PG medical studies, holds examinations and grant degrees, diplomas and other academic distinctions. It carries out all functions as are normally carried out by central or state educational boards and is thus a central educational board.



According to *explanation 3(iv)* of the notification No. 12/ 2017 CTR, “Central and State Educational Boards” are treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students. Therefore, NBE is an ‘Educational Institution’ in so far as it provides services by way of conduct of examination, including any entrance examination, to the students.

Following services supplied by an educational institution are exempt from GST vide sl. No. 66 of the notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017,

Services provided-

- (a) by an educational institution to its students, faculty and staff;
- (b) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;

Similarly, services provided to an educational institution, relating to admission to, or conduct of examination is also exempt from GST [sl. No. 66 (b)(iv)-12/2017-CT(r)].

Educational institutions are defined at 2(y) of the said notification as follows-

*“(y) educational institution” means an institution providing services by way of, -*

- (i) pre-school education and education up to higher secondary school or equivalent;*
- (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;*
- (iii) education as a part of an approved vocational education course;”;*

Further, clause (iv) of Explanation of said notification reads as below:

*“(iv) For removal of doubts, it is clarified that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students”*

Taking into account the above, the GST Council has recommended, to clarify as below:

- (i) GST is exempt on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution [**under S. No. 66 (aa) of notif No. 12/2017-CT(R)**]. Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.
- (ii) GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination,



admit card and questions papers etc, when provided to such Boards [**under S. No. 66 (b) (iv) of notif No. 12/2017-CT(R)**].

- (iii) GST at the rate of 18% applies to other services provided by such Boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorise them to provide their respective services.

### **Circular no.152/08/2021:**

*Clarification regarding rate of tax applicable on construction services provided to a Government Entity, in relation to construction such as of a Ropeway on turnkey basis-reg*

According to entry No. 3(vi) of notification No. 11/2017-CT (R) dated 28.06.2017, GST rate of 12% is applicable to –

- “(vi) Composite supply of works contracts as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, (other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above) provided to the Central Government, State Government, Union Territory, a local authority a Governmental Authority or a Government Entity, by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –
  - A civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;

Thus, said entry No 3 (vi) does not apply to any works contract that is meant for the purposes of commerce, industry, business of profession. The doubt seems to have arisen in the instant cases as Explanation to the said entry states, the term ‘business’ shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities. However, this explanation **does not apply** to Governmental Authority or Government Entity, as defined in clause (ix) and (x). Further, civil constructions, such as rope way for tourism development shall not be covered by said entry 3(vi) not being a structure that is meant predominantly for purposes other than business. While road, bridge, terminal, or railways are covered by entry No. 3(iv) and 3(v) of said notification, structures like ropeway are not covered by these entries too. Therefore, works contract service provided by way of construction such as of rope way shall fall under entry at sl. No. 3(xii) of notification 11/2017-(CTR) and attract **GST at the rate of 18%**.



### **Circular no.153/09/2021:**

*GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS*

Certain representations have been received seeking clarification whether composite supply of service by way of milling of wheat into wheat flour, alongwith fortification, by any person to a State Government for distribution of such wheat flour under Public Distribution System is eligible for exemption under entry No. 3A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, and also as regards the rate of GST on such milling, if it does not fall in said entry No. 3A. The issue has been examined by GST Council in its 43rd meeting held on 28th May, 2021.

- Entry at Sl. No. 3A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 exempts composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply provided to the Government in relation to any function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article 243W of the Constitution.
- Said entry No. 3A would apply to composite supply of milling of wheat and fortification thereof by miller, or of paddy into rice, provided that value of goods supplied in such composite supply (goods used for fortification, packing material etc) does not exceed 25% of the value of composite supply. It is a matter of fact as to whether the value of goods in such composite supply is up to 25% and requires ascertainment on case-to-case basis.
- 5% GST is applicable on the above composite supply of service provided to registered person if the value of goods supply exceeds 25%.
- Combined reading of the definition of job-work makes it clear that a person registered only for the purpose of deduction of tax under section 51 of the CGST Act is also a registered person for the purposes of the said entry No. 26, and thus said supply to such person is also entitled for 5% rate.

### **Circular no.154/10/2021:**

*GST on service supplied by State Govt. to their undertakings or PSUs by way of guaranteeing loans taken by them*

Entry No. 34A of Notification no. 12/2017-Central Tax (Rate) dated 28.06.2017 exempts “Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions.”



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Accordingly, as recommended by the Council, it is re-iterated that guaranteeing of loans by Central or State Government for their undertaking or PSU is specifically exempt under said entry No. 34A.

**Circular No. 155/11/2021-GST:**

*Clarification regarding GST rate on laterals/parts of Sprinklers or Drip Irrigation System*

The GST rate on Sprinklers or Drip Irrigation System along with their laterals/parts are governed by 195B, and reads as below:

SL. No	HSN	Description of Goods	CGST rate
195B	8424	Sprinklers; drip irrigation systems including laterals; mechanical sprayer	6%

The intention of this entry has been to cover laterals (pipes to be used solely with sprinklers/drip irrigation system) and such parts that are suitable for use solely or principally with 'sprinklers or drip irrigation system', Hence, laterals/parts to be used solely or principally with sprinklers or drip irrigation system, would attract a GST of **12%**, even if supplied separately. However, any part of general use, which gets classified in a heading other than 8424, in terms of Section Note and Chapter Notes to HSN, shall attract GST as applicable to the respective heading.