

Handbook on Exempted Supplies under GST



The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

New Delhi

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Foreword

Every tax structure has few exceptions imbibed in it due to some socio-economic or other reasons, resulting into few supplies or services remained exempt from tax and Goods and Services Tax (GST) is not a devoid of it. Numerous exemptions exist in GST regime also. Exemption may be conditional or unconditional, wholly or partially, specific activity / goods, specific person etc. Merely knowing the Exemption list is not sufficient, understanding and analyzing of the intricacies involved is a prerequisite to determine its applicability and implication as wrong application may attract tax liability.

In order to facilitate members and other stakeholders in keeping abreast of available exemptions under GST, GST & Indirect Taxes Committee of the ICAI has revised its "Handbook on Exempted Supplies under GST". This handbook embraces analysis of various important elaborative exemption provisions in addition to principle and classification of exemption.

I am confident that this handbook will give a quick and apt insight of all the exemptions available under GST regime and will be of great significance to our members. I really appreciate the efforts put in by CA. Sushil Kumar Goyal, Chairman and CA. Rajendra Kumar P, Vice-Chairman and other members of the GST & Indirect Taxes Committee of ICAI for revising this exclusive publication on Exemptions under GST.

I wish the readers a fruitful and knowledge enriching experience.

Date: 04.02.2020

Place: New Delhi

CA. Prafulla P. Chhajed

President, ICAI

Preface

Supply is a taxable event in GST, which has enlarged the ambit of GST in comparison to erstwhile indirect tax law. In spite of a particular transaction is covered in definition of supply, one need to check whether such supply of goods and/or services are exempt from tax, for determining the liability to pay GST. Exempt supply has been defined as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply. Powers to grant exemption from GST are contained in section 11 of the CGST Act and section 6 of the IGST Act through notification and number of notifications has been issued under these sections.

Considering the paramount importance of exemptions under GST, GST & Indirect Taxes Committee has revised its exclusive "Handbook on Exempted Supplies under GST". The handbook contained various aspect of exemption, classification, principles of exemption, procedural aspects and detailed analysis of various exemptions available under GST along with illustrations in easy and lucid manner.

We thank CA. Prafulla Chhajed, President and CA. Atul Kumar Gupta, Vice-President, ICAI for providing support in this initiative. We appreciate the dedicated efforts of CA. D S Agarwala, CA. Arun Kumar Agarwal, CA Shubham Khaitan and CA. Abhishek Aggarwal for revising this publication. We also appreciate the efforts put in by entire Secretariat of GST & Indirect Taxes Committee.

We are sure that readers in the field would find this handbook immensely useful. The readers are encouraged to provide suggestions for the improvement of this guide at gst@icai.in.

Welcome to a professionalized learning experience in GST.

CA. Rajendra Kumar P

Vice-Chairman

GST & Indirect Taxes Committee

CA. Sushil Kumar Goyal

Chairman

GST & Indirect Taxes Committee

Date: 04.02.2020

Place: New Delhi

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Background of Exemption

1. Introduction to Exemptions

The word exemption as commonly understood means a privilege. It can also mean freedom from fetters. According to P Ramanatha Aiyar's Law Lexicon (Fourth Edition as Revised by Shri. Shakil Ahmad Khan) the word "exempt" means putting a person beyond the application of law. It further says that when the word exempt or exemption is used in taxation parlance it means – (i) precluding from being chargeable and (ii) immune from a liability, obligation or penalty.

Exemption and non-liability are normally different from each other. For instance, while computing the gross turnover :-

- (a) exempted turnovers are includible in gross turnovers and thereafter subject to a deduction; and
- (b) in case of non-liability the question of inclusion in gross turnovers does not arise.

A levy or charge to tax is imposed by a taxing statute. The very same statute could also provide for exemption. Over the last 2 to 3 decades the word exemption has been colloquially used in taxing statutes in many ways – for example – Non-Taxable, Negative list, 'NIL rated' etc. It is common for people to understand that zero-rate means exempt which is incorrect. Exemption may also be understood by some as a situation when a statute provides for certain thresholds before the taxability arises. Many a times, the tax payers confuse concessional rates with exemptions.

Normally, it is the State and / or the Central Government (or in appropriate cases Union Territories) which grant exemptions. Such, exemption can be – granted (i) conditionally (ii) generally (iii) through Government orders (iv) under special circumstances (v) through notifications (vi) by way of circulars (vii) by way of tax holidays (viii) to specific class (or kind) of goods and / or services (ix) to specific class of persons (x) for a specific time frame or with a cap on value (xi) to specified transactions etc. It can also be granted in any of the said combinations since it is the prerogative of the Government.

Exemption provisions or rules ought to be enacted / administered and also read strictly. In case of any ambiguity the intention of the Legislature ought to be strictly borne in mind and given effect to. Generally, the language employed in the construction of an exemption statute must be (i) unambiguous (ii) clear (iii) strictly interpreted (iv) within the powers of the legislating / issuing authority and (v) cater to the intent of the legislature etc.

Exemptions could be granted prospectively, or in certain situations / circumstances retrospectively. Any such enactment must be within the Constitutional framework while bearing in mind the Legislative delegation. Referential legislations in respect of grant of

exemptions must be generally avoided considering their complexity. Exemptions which commence during a year must be so enacted to take care of “pipeline transactions”. Exemptions with sunset clauses must be properly framed. The GST laws also provides for exemptions. This booklet discusses several aspects of such exemptions.

2. Brief history of exemptions under the erstwhile laws

It is important to understand the scheme of taxation of the Government (State or Central) to understand the nuances of exemptions. Normally, goods and / or services relating to traditional, social and economic importance, daily needs / necessities and Government policies qualify for the exemption. For example, under the Service Tax Regulations while clinical services and education services found favour for grant of exemption, many of the State Governments may have been granted exemption in respect of sale of life saving drugs or books meant for reading. Similarly, many States, may have granted exemptions in respect of sale of food grains while agricultural services stood exempted.

The Constitution itself provided safeguards from the levy in respect of certain goods / services from the wrath of taxation like for instance Electricity, Newspapers etc. Apart from the nature of exemptions cited in the introductory part of this Booklet, broadly, exemptions (among others) granted by the State or Centre under the erstwhile laws could be traced to the following :

- (a) Public interest or general public good.
- (b) Goods of traditional, social and cultural importance, daily needs etc.
- (c) Growth of a particular class or kind of industry in a particular area in a State or union Territory.
- (d) Development of a State / Union Territory resulted in trade wars and grant of exemptions.
- (e) Objectives or policies of a State / Union Territory resulted in grant of exemptions.
- (f) Imports of goods and / or services were granted exemptions to make exports competitive thereby resulting in foreign exchange earnings.

Exemptions were also granted to several classes of goods and / or services bearing in mind trade compulsions between Countries.

Under the erstwhile laws, exemptions provided were the subject matter of several rounds of litigations. This is because the statute (among other factors / issues) was:

- (i) ambiguous and there did not exist clarity;
- (ii) not properly drafted resulting in classification issues;
- (iii) so understood that the essence or intent of legislature was not captured correctly;
- (iv) so understood by either party that resulted in incorrect interpretation or grant of exemptions;

- (v) neither workable nor effective;
- (vi) so drafted with too many conditions paving the way for - reading down, addition or substitution of words, providing natural or grammatical meaning, too many technical terms resulting in dilution of the language employed etc;
- (vii) so drafted causing hardship, inconvenience, injustice to a class or kind of persons or infringed upon the freedom of trade;
- (viii) causing anomaly or absurdity in the basic understating warranting judicial interference.

Despite the above issues that plagued exemptions, it must be said that the Governments have played a pivotal role in the grant of exemptions resulting in growth of industry and economy. Importantly, there were several exemption provisions that were drafted by way of references to other Statutes, which resulted in uncalled for difficulty in interpretation. Compliances for the purpose of availment of exemptions was always a painful process under the erstwhile laws.

Exemptions granted under the erstwhile laws had an array of issues such as:

- (a) Exemptions with input tax credits
- (b) Exemptions without input tax credits
- (c) Exemptions with restricted input tax credits
- (d) Exemptions that came with conditions / compliances etc.

Trade and industry were very sceptical in availing exemptions under the erstwhile laws. This was because, denial of exemption on grounds that could be flimsy to highly technical interpretation resulted in extraordinary consequences for the trade. There are several instances where the tax consequences have been so great that the industry has failed to survive. Some of the words or phrases under the erstwhile laws that have resulted in huge litigations were “may”, “shall”, “must”, “should”, “prima facie”, “subject to”, “issue of Government order to be notified (in many cases words in GO are different from words in the notification)”, “public interest”, “promissory estoppel” etc. The list is endless.

There are several instances where the effective date of exemption notification itself has been questioned apart from questioning the intent of the Legislature. Thus, it would be fair to state that trade looked at an exemption notification with abundant caution and in several instances, had foregone the exemption simply because the consequences of availing an exemption and its denial at a later date had disastrous consequences. It was well understood that indirect tax laws contained clauses relating to collection of taxes, which were machinery in nature. So long as the consumer / customer could afford the impact of tax, or if the tax so charged was available as input tax credit in the hands of the buyer / recipient, the taxes stood passed on.

Nevertheless, it would be fair to state that despite all these, under the erstwhile laws exemptions have played a key role in the growth of several classes of industries and resulted in enormous public good.

3. Impact of exemptions on the economy

There is a raging debate going on in India and across as to whether providing exemptions be it “direct tax” or “Indirect tax” would do good to the economy. There is also another school of thought that exemptions do no public good and in fact cause harm to the economy. The fact is that, Governments across the world realise that it is the single most important problem. Some economists opine that:

- the tax to GDP ratio will not go up until exemptions are reduced;
- exemptions push up the compliance costs;
- exemptions lead to unfair practices; and cause uncalled for litigation while legitimising tax avoidance;
- exemptions help the rich and affluent and large industries and do not result in achieving the desired results;
- exemptions cost the exchequer prohibitively; and
- exemptions hinder free trade while helping very few.

Exemptions granted by one country may affect the international trade of another country thus affecting the economies of different regions and countries. While debating on the economics of exemption the questions that often arise are:

- (a) Should exemptions be restricted only for public good?
- (b) Should exemptions be granted only in case of sunrise industries or industries in backward areas?
- (c) Should exemptions be restricted to goods of daily necessities or for goods and / or services relating to traditional, social and cultural importance?
- (d) Should exemption be granted only if it meets with the national objectives – say infra projects, health and education sectors etc.

The terms “exemption” and “exclusion” both refer to provisions that exempt some or all the value of goods or services from taxation. Exemptions reduce the taxable value to zero. Exclusions can do the same, or they can reduce the taxable value by a certain percentage or by a flat value. Exemptions and Exclusions affect the taxable value and not the rate. The fact is that an exemption directly impacts the exchequer; whereas it is extremely difficult to lay down measures or mechanisms to ensure the achievement of the desired result. Any denial of exemption in respect of goods and / or services that affects the end price of a product or service of a consumer will most certainly reflect on the Government of the day. It is for this reason that economists are debating as to whether subsidy would be a better option as compared to exemption of either goods and / or service since the benefit would be traceable.

It is important to understand that an exemption provided by the Centre may not affect the State (under the erstwhile laws) but it does so in a GST regime. It is for this reason that States have been seeking trimming of exemptions. The exemption does not solely cover information held by public authorities concerned with the management of the economy or economic development. Some examples of how exemption affects the economy are:

- (i) As a major customer, employer and investor.
- (ii) Planning – at both local and national level, for example, transport policies, airports.
- (iii) Social, health, environmental policy – for example, public transport versus private car use.
- (iv) Planning or managing the economy – through setting or influencing interest rates, taxation, currency rates, controls on public spending, etc.
- (v) Political considerations – for example, trade embargos.
- (vi) Intended investment strategies.
- (vii) Finances of public corporations.

It is important to note that the Government cannot legislate for one person's prosperity by granting an exemption while taxing another. Exemptions derail the tax chain causing tax distortions and uneven economic activity. Over the years exemptions have been granted by the States / Centre depending on the pulls and pressures of politics. It has definitely a damning effect on the economy. An important aspect of exemptions that has to be borne in mind is that somebody is paying for another's gain. It is for this reason that there have been studies undertaken by the Government to provide exemptions only on a scientific and need basis rather than on the politics of the State or Centre. Given this situation one can expect that exemptions are short lived and will be pruned over a period of time.

4. Grant of exemptions – International practices¹

Internationally, more transparent, less costly and more effective alternatives to exemptions are often made available to trade and industry. The most effective and transparent means adopted by several developed countries is that the government identifies the specific activities / goods that they deem worthy of support and provide direct subsidies. It is generally felt that the most effective method can be determined only after a careful examination on a case to case basis.

Some countries have created a special tariff or rate scheme for specified products and services. In rationalizing the exemptions regime, it is necessary to agree on some basic principles. Most countries feel that it is important to establish administrative procedures which ensure proper monitoring and control of the exemption process, without unnecessarily interfering with the facilitation of trade.

¹ Some portions in this Chapter have been extracted from internet open source

Principles for Granting Exemptions

- A. The best international practices seen are in respect of imports that are exempt from the obligation to pay import duties on:
- (i) Raw materials and intermediate products used in the production for exports.
 - (ii) Goods imported under aid-funded projects governed by international treaties and agreements banning the payment of import duties.
 - (iii) Goods imported under diplomatic privileges governed by international agreements.
- B. In addition, many countries exempt imports by:
- (a) Government departments and certain government agencies.
 - (b) Entities granted special import privileges as part of an investment promotion program.
- C. Exemptions are granted on goods and / or services in respect of tax free zones, religious bodies, education, cultural, scientific, tourism and charitable purposes etc. It depends from country to country as to the purpose for which such exemptions are granted.
- D. International experience on tax incentives reflect that :
- (i) Tax incentives / exemptions rank very low in the priorities of investors as compared to stability and certainty in the tax regime.
 - (ii) Businesses which would have invested even in the absence of the incentives / exemptions.
 - (iii) Tax incentives / exemptions are usually biased in favour of large well-established entities for whom the incentives are unnecessary when compared to smaller businesses for whom some assistance may be warranted.
 - (iv) It is understood that, WTO rules restrict the ability of governments to utilize tax incentives / exemptions in the way in which they were employed in the past.

Overall, the feeling is that grant of exemptions in the absence of clear underlying principles is to invite rent-seeking, revenue loss and distortion of economic incentives, making sustainable development a more difficult accomplishment.

5. Impact on pricing of outward supplies exempt from tax

Positive Impacts

- No GST is levied on output prices and the goods or services become cheaper for the consumer.
- The supplier is freed from the hassle of computing GST on output supplies considering its valuation, place of supply etc.

- No record of taxes is required to be maintained by the suppliers
- No hassle of matching of input tax credit to the consumer

Downside

- ITC on inputs becomes part of cost of supplier thereby becoming an invisible barrier to the seamless credit in the value chain
- GST on input supplies of the supplier is still to be borne by the consumer and thus, some GST is inherent in the price of the exempt goods or services.

Aspect of Exemption

1. Government's power to exempt specified goods and services

Exemption by Notification

As per section 11(1) of CGST Act and SGST Act, the Central Government and State Governments have the power to grant exemptions provided the following conditions are fulfilled:

- Exemption should be in public interest
- Exemptions are by way of issue of notification and on recommendation of GST Council
- Exemption may be provided for any goods or services or both
- Exemption may be absolute or conditional
- Exemption may be granted for whole or any part of the tax leviable
- Exemption shall come into force on date as may be specified in the notification

In exercise of powers conferred by section 11(1) of CGST Act and section 6(1) of IGST Act, the Central government has issued the following notifications to exempt supply of goods or services :-

Subject	Notification No. [CGST Act]	Notification No. [IGST Act]
Exemption to supplies of goods	02/ 2017–Central Tax (Rate), dated 28-Jun-2017 as amended from time to time by various notifications	02/ 2017-Integrated Tax (Rate), dated 28-Jun-2017 as amended from time to time by various notifications
Exemption to goods specified in the list annexed in connection with petroleum operations undertaken under petrol exploration licenses etc. in excess of 2.5%	03/ 2017–Central Tax (Rate), dated 28-Jun-2017	03/ 2017–Integrated Tax (Rate), dated 28-Jun-2017
Exemption to supplies of goods by CSD or unit run canteens to specified recipients	07/ 2017–Central Tax (Rate), dated 28-Jun-2017	07/ 2017–Integrated Tax (Rate), dated 28-Jun-2017

Aspect of Exemption

Exemption granted from levy of CGST under RCM on supplies received from unregistered persons (if value of supplies doesn't exceed Rs. 5,000/- from any or all the suppliers in a day)	08/ 2017–Central Tax (Rate), dated 28-Jun-2017	No corresponding notification under IGST Act
Exemption granted to supplies under RCM to a tax deductor by an unregistered supplier if deductor is not liable to be registered otherwise than under section 24(vi) of CGST Act	09/ 2017–Central Tax (Rate), dated 28-Jun-2017	No corresponding notification under IGST Act
Exemption to supplies of second hand goods received by registered persons dealing in buying & selling of second hand goods from unregistered persons provided the dealer pays central tax on supply of such second-hand goods as per valuation rules [Rule 32(5)]	10/ 2017–Central Tax (Rate), dated 28-Jun-2017	No corresponding notification under IGST Act
Exemption to supply of services	12/ 2017–Central Tax (Rate), dated 28-Jun-2017 as amended from time to time by various notifications	09/ 2017-Integrated Tax (Rate), dated 28-Jun-2017 as amended from time to time by various notifications
Exemption to heavy water and nuclear fuels supplied by department of atomic energy to the Nuclear Power Corporation of India Ltd.	26/ 2017– Central Tax (Rate), dated 21-Sep-2017	26/ 2017-Integrated Tax (Rate), dated 21-Sep-2017
Exemption to inter-State supply of skimmed milk powder or concentrated milk, subject to certain conditions	No corresponding notification under CGST Act	30/ 2017-Integrated Tax (Rate), dated 22-Sep-2017 as amended from time to time by various notifications
Exemption relating to supplies under RCM from unregistered suppliers extended without any threshold limit till 31-Mar-2018. It has further been extended till 30-Sep-2019 (This has been rescinded in view of amendments regarding RCM on supplies by unregistered persons)	38/ 2017–Central Tax (Rate), dated 13-Oct-2017 as amended from time to time by various notifications	32/ 2017–Central Tax (Rate), dated 13-Oct-2017 as amended from time to time by various notifications

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Exemption to supplies by registered suppliers to registered recipients for exports in excess of 0.05% CGST or 0.01% IGST	40/ 2017–Central Tax (Rate), dated 23-Oct-2017	41/ 2017–Integrated Tax (Rate), dated 23-Oct-2017
Exemption to scientific and technical equipment supplied to public funded research institutions etc. in excess of CGST rate 2.5%	45/ 2017–Central Tax (Rate), dated 14-Nov-2017 as amended from time to time by various notifications	47/ 2017–Integrated Tax (Rate), dated 14-Nov-2017 as amended from time to time by various notifications
Exemption to Central Government's share of profit out of services by way of grant of license to explore petroleum crude etc.	05/ 2018– Central Tax (Rate), dated 25-Jan-2018	05/ 2018-Integrated Tax (Rate), dated 25-Jan-2018
Exemption from levy of IGST on royalty and license fee in case of import of temporary transfer of intellectual property right if the transaction value as per Customs Valuation Rules includes consideration towards royalty and license fee and appropriate duties have also been paid	No notification under CGST Act	06/ 2018-Integrated Tax (Rate), dated 25-Jan-2018
Exemption from hiring of Electric buses by local authorities from GST.	13/ 2019– Central Tax (Rate), dated 31-Jul-2019	13/ 2019– Integrated Tax (Rate), dated 31-Jul-2019
Exemption of supply of goods for specified projects under FAO	19/ 2019– Central Tax (Rate), dated 30-Sep-2019	19/ 2019– Integrated Tax (Rate), dated 30-Sep-2019

Exemption by Special Order

As per section 11(2) of CGST Act and SGST Act, the Central Government and State Governments have power to grant exemptions provided the following conditions are fulfilled:

- Exemption should be in public interest
- Exemptions are by way of special order in each case and on the recommendations of GST council
- Order should mention the circumstances of exceptional nature
- Exemption to any goods or services or both from payment of tax wholly

Retrospective Clarification

As per section 11(3) of CGST Act and SGST Act, the Central Government and State Governments may, with a view, to explain the scope of notification or order -:

- insert an explanation
- for the purpose of clarifying scope or applicability of any notification issued or order issued
- by way of notification
- within 1 year of issue of notification or order
- such Notification shall have retrospective effect

Registered person shall not collect tax in excess of the effective rate

The explanation provided under section 11, provides as follows:

- Grant of absolute exemption from whole or part of tax
- Registered person not to collect tax in excess of the effective rate
- It provides a mandatory requirement to follow absolute exemptions

Effective Date of Exemption

The effective date of the notification would be the date which is mentioned in the notification as per section 11(1). However, GST law does not have any provision in cases where no date is mentioned in the notification. Section 5A of Central Excise Act, 1944 provide for such a situation which says that unless otherwise provided, the effective date of notification shall be:

- The date of its issue for publication in the official gazette
- The date on which it is made available on the official website of the Government Department.

Applicability of exemption notifications issued under CGST/ IGST to SGST/ UTGST and vice-versa

As per section 11(4) of SGST Act and section 8(4) of UTGST Act, any notification issued by the Central Government, on the recommendations of the Council, under section 11(1) or order issued section 11(2) of the CGST Act shall be deemed to be a notification or, as the case may be, an order issued under SGST/ UTGST Act.

Applicability of Exemption Notification:

<i>Issued under</i>	<i>Applicable to</i>	<i>Yes/ No</i>
CGST Act	SGST/ UTGST Act	Yes
SGST/ UTGST Act	CGST Act	No
IGST Act	CGST/ SGST/ UTGST Act	No
SGST/ UTGST Act	IGST Act	No

Comparative provisions under the erstwhile laws

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

2. Supplies that lack consideration – Whether exempted?

At the very beginning it is stated that the discussions in this Chapter are in respect of those activities which are not listed in Schedule I to the CGST Act, 2017. Before we commence discussion on the various issues it is important to understand the meaning of the term 'consideration'.

Consideration – Service Tax	Consideration – GST
<p>Section 65B (44) of the Finance Act, 1994 (hereinafter referred to as 'The Act') defines 'service' as "an activity carried out for another for consideration.", but what constitutes "consideration" has not been elaborately defined in the Act. The meaning of the term 'consideration' was provided in Explanation (a) to Section 67 of the Act which stated that:</p> <p><i>'Consideration includes any amount that is payable for the services provided or to be provided'.</i></p>	<p>As per Section 2(31) of the CGST Act the term consideration has been defined thus :</p> <p><i>"Consideration in relation to the supply of goods and/or services includes:</i></p> <p><i>any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.</i></p> <p><i>the monetary value of any act or forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the person or by any other person but shall not include any subsidy given by the Central Government or a State Government:</i></p> <p><i>Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the Supplier applies such deposit as consideration for the said supply;</i></p>
<p>Any sum paid or payable for supply of goods and / or services may form part of the consideration. The second part of the definition of 'consideration' may include monetary value of any forbearance, which is brought under the purview of the definition of the word 'consideration'. This provision is in line with the provisions of Section 66E of the Finance Act 1994 i.e. declared services, for example, an amount paid as contractual penalty for non-supply of goods could still be treated as "monetary value of forbearance" and therefore could be considered as consideration.</p>	

Supply without consideration

It was well understood that while a service provided without any consideration was excluded from the levy of service tax; similarly, sale made without a consideration was outside the purview for the purpose of levy under the Value-Added Tax Laws. Although the concept of supply without consideration existed under the indirect tax framework for e.g. under Central Excise, there existed a valuation mechanism for goods cleared as free samples. While several business situations can be thought of we will proceed to discuss the following two critical issues.

(i) **Supply without consideration such as Free Samples and Free Goods / Promotional items, Samples of Medicines etc.**

GST Input Tax Credit shall not be allowed for goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Accordingly, input tax credit is required to be reversed in respect of goods which have been disposed of by way of free samples. If free promotional items are provided with the taxable product, then the consideration for the same will be the value charged from the consumer.

(ii) **Supply of free materials by Contractee**

- This was one of *the* most vexed issues under the erstwhile laws and it is going to be one under the GST laws as well. The Tax Department contended that the materials are supplied by the contractee as part of the impugned contract and therefore the value was, to be included in the gross amount charged for the levy of Service Tax treating the same as “Non-monetary consideration” and hence, includible in the value under Section 67(ii) of Chapter V the Finance Act, 1994. There were several judgements in this regard.
- It is a settled position under the Sales Tax / VAT Laws that free supply would be construed as sale liable to Sales Tax / VAT when the value of the contractee supplied goods was deducted from the contract price payable which was inclusive of the value of the material.
- The Customs Law vide Rule 10(1) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 specifically provides that-

The value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of imported goods, to the extent that such value has not been included in the price actually paid or payable, namely-

 - (a) Materials, components, parts and similar items incorporated in the imported goods;
 - (b) Tools, dies, moulds and similar items used in the production of the Imported goods;
 - (c) Materials consumed in the production of the imported goods;

shall be includible in the assessable value.

- Similarly, under the Central excise law based on Section 4, Rule 6 [similar to Rule 10(1) above] and interpretations, an argument may be put forth that the value of free supplies made by the buyer shall be includable in the Assessable Value.

- *GST law on free supplies*

Section 15(2) of the CGST Act reads “the value of supply shall include any amount that the Supplier is liable to pay in relation to such supply but which has been incurred by the recipient of supply and not included in the price actually paid or payable for the goods or services or both”.

This is the provision which the tax authorities could invoke on the following basis:

- (a) Contract value included the value of goods that are being issued free of cost;
- (b) Such goods are now being supplied by the contractee (recipient) whereas it ought to be supplied by the contractor (supplier);
- (c) Such value is not included in the supply price of the supplier; and
- (d) Therefore, it ought to be subjected to taxes under the GST laws.

In order to overcome this situation, and considering the fact that Input Tax Credit (ITC) may be available in respect of the tax paid by the contractor, the whole exercise may end up becoming revenue neutral to both parties, the takeaway being procedural compliance relating to raising invoice by the contractor / contractee on such free supplies and the contractor also including the same for valuation of his outward supply.

Valuation of such free supplies, whether the same value is to be adopted by both parties or whether valuation is to be done independently, is another vexed issue that may arise.

- *Conclusion : Free Supplies GST*

Considering the several implications the trade and industry believes that it would be advisable for the Government to have a re-look at these provisions to avoid unnecessary litigation in the future. The registered persons should sensitise their vendors, customers and stake holders in general so that they are made aware of the above implications well in advance, and be prepared to take necessary corrective actions if required.

3. Supply of exempted goods and services

Supply of exempted goods and services is simple to understand. For eg., sale of fruits by a fruit seller shall require no further examination. However, when such exempt supply is a part of other supplies which might be taxable, one has to be cautious as to the determination of the classification. If such exempt supply is an integral part of two or more supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply, then such package shall be classified as a composite supply. The principal supply

shall decide the nature of the entire package and if such supply is taxable, the entire package shall be taxed at such rate but if the principal supply is exempt, then, the entire supply shall be exempted. For eg., a shop owner sells one box of glass bangles to a customer for Rs 10,000 and charges Rs. 150 as packing charges. Individually, packing services are taxable @18%, but, since they are incidental to a principal supply of goods, they (being part of composite supply) shall also be exempt from GST. However, in case an exempt supply is part of a customised package which is not a composite supply and consists of two or more individual supplies of goods or services, or any combination thereof, when made in conjunction with each other for a single price shall form part of a mixed supply. In case of a mixed supply, the highest rate supply determines the rate for the entire package. For eg., if a person sells a combo of fruits and chocolates for Rs 1000, then the entire package shall be taxed at the rate applicable for chocolates and value of fruits cannot be exempted in any manner.

4. Zero-rated supplies and exemptions

A person making exempt supplies is not supposed to pay tax on the value of his output. He is also not eligible to claim input tax credit on his inward supply of goods and services used in providing such output exempt supplies. However, an exception has been carved out by law in case of zero rated supplies. The provisions as contained under section 16 of the Integrated Goods and Services Tax Act, 2017 ("IGST Act") provides that while no tax shall be levied on certain categories of supplies termed as 'zero rated supplies', refund of input taxes, shall be allowed in such cases. Thus, while the output of such supplies remains exempt from payment of tax, such supplies can be distinguished from exempt supplies as input tax on goods and services used in providing such services has been allowed to the supplier. Following supplies shall be treated as zero rated supplies-

- (a) Export of goods or services or both;
- (b) Supply of goods or services or both to a SEZ developer or SEZ unit.

Can I claim refund of input tax if I export exempted goods?

Any zero-rated supply is eligible for refund of input tax paid by such supplier. Even if the output is exempt, the law allows the benefit of refund of input taxes to such supplier also. For eg. Chanchan (P) Ltd. is exporting plastic bangles to Canada which is exempt under GST vide Notification No. 1/ 2017-Central Tax (Rate), dated 28-Jun-2017. For manufacturing plastic bangles, it bought plastic as raw material and other decorative items and paid tax amounting to Rs. 1,50,000/- on it. Since it is exporting an exempt item, Chanchan (P) Ltd. can claim refund of unutilized input tax credit paid on such inward supplies. Thereby, export of exempted goods or services will also be treated as zero rated supplies.

5. Exempt supplies and availability of input tax credit

If a person is supplying exempt goods / services, he cannot opt Input Tax Credit as available on his purchase of goods and services used for supply of such exempt output. For eg., a person who is selling banana and uses a warehouse for which rent is paid on which GST is

levied. Since supply of banana is exempt, such person would not get Input tax credit of the GST paid on warehouse.

If my supply is exempt, can I get the refund of my Input tax credit?

If a person is supplying 'nil' rated or fully exempted goods / services, he cannot avail refund of the credit accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. The position has been clarified in Section 54(3) of the CGST Act.

If a supply of service is exempt, will the recipient who is required to pay GST under reverse charge, be also exempted?

If a supply is 'nil' rated or fully exempt, even the recipient is not required to pay the tax under reverse charge. For eg., when service of transportation of rice is exempt, even the person responsible for payment of tax under reverse charge is not required to pay tax under reverse charge.

If a supplier supplies both taxable as well as exempted supplies, can he avail his entire input tax credit?

If a supplier is supplying both taxable (including zero rated) as well as exempted goods then, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies. Input tax credit is available on inputs, input services and capital goods procured by the supplier for supplying taxable supplies. One may refer to the formula for reversal of input tax credit as per Rule 42 and 43 of the CGST Rules 2017 which has been given as below.

Determination of Input Tax Credit on Inputs and Input services as per Rule 42

For determining such amount, the law has provided the following procedure in respect of inputs and input services:

- Such person shall avail entire input tax credit on inputs and input services used for provision of exclusively taxable supplies.
- Such person shall not avail entire input tax credit on inputs and input services used for provision of exclusively exempt supplies or for making supplies for the purposes other than business.
- Such persons shall avail proportionate Input tax credit in relation to inputs and input services which are used for provision of both taxable as well exempt supplies. The proportion of Input tax credit attributable towards exempt supplies, be denoted as 'D1' and calculated as -

$$D1 = (E \div F) \times C2$$

where,

'E' is the aggregate value of exempt supplies during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period:

Further, the amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D2', and shall be equal to five per cent. of C2.

Thus, the available common credit shall be as under:

ITC on inputs and input services used exclusively for provision of taxable services + Common ITC minus D1 minus D2

The above formulae need to recomputed for the entire year considering the total exempted and taxable supplies for the year for all tax periods before the due date for furnishing of the return for the month of September following the end of the financial year to which such credit relates.

Determination of Input Tax Credit on Capital Goods under Rule 43

'Capital goods' is defined in section 2(19) of CGST Act to mean goods which have been capitalised in the books of accounts. In respect of capital goods, the entire ITC is available at the time of purchase of such Capital Goods. It is important to mention that no ITC is available to the extent of depreciation under Income Tax Act, 1961 has been claimed on such value. Further, Rule 43 provides that when such Capital Goods are partly used for the supply of exempted goods or exempted services, the ITC availed thereon has to be reversed every month on the amount of credit calculated by reducing the input tax @ 5% for every quarter or part thereof till 60 months from its date of purchase computed in the following manner:

ITC availed on the Capital Goods x 5% for every quarter or part thereof x E/F

Where, 'E' is the aggregate value of exempt supplies, made, during the tax period, and 'F' is the total turnover of the registered person during the tax period.

Further, interest is to be paid on such value of ITC as attributable towards exempt supplies.

Classification

1. Classification and levy of GST on supply of goods and services

Need for Classification

Classification plays an important role in determining whether a supply is a supply of goods or services, whether it is a composite supply or mixed supply, what is the principal supply in case of composite supply, whether a supply is taxable supply or exempt supply and the like. In order to arrive at the applicable rate of tax, it is important to classify the goods or services correctly. Let's have a look at some examples which explain why classification is necessary:

- 'Dabur Lal Dant Manjan' is to be considered as ayurvedic medicament or toilet preparation.
- Apple drink 'Appy fizz' is to be considered as Fruit Beverage or Cold Drink with aerated water
- A candle stand is to be considered as metal product or home décor
- A soap made of natural herbs for curing skin infections is to be considered as ayurvedic medicament or beauty/ personal care product or toilet preparation.

It is clearly visible from the above examples that classification is not free from doubts and may become an area of litigation. Classification should not be based on the decision of a particular person or on common parlance but one should take the guidance from law itself.

Classification under GST

Under GST, the Government has issued various notifications specifying the rate of tax using HSN based classification adopted from Customs Tariff Act, 1975. Notification No. 01/ 2017–Central Tax (Rate), dated 28-Jun-2017 prescribes the rate of tax on goods and Notification No. 11/ 2017-Central Tax (Rate), dated 28-Jun-2017 prescribes the rate of tax on services; Notification No. 2/ 2017-Central Tax (Rate), dated 28-Jun-2017 prescribes goods or class of goods which are exempt from tax and Notification No. 12/ 2017-Central Tax (Rate), dated 28-Jun-2017 prescribes the services or class of services which are exempt from tax in terms of section 11(1) of CGST Act. These notifications contain the explanations as to how the classification must be undertaken.

Rate Notifications have specified the approach which is to be followed for the purpose of classification. The same is summarized hereunder-

- For classification of goods the notification requires reference to be made to the First Schedule to the Customs Tariff Act, 1975.
- For classification of services the notification requires reference to be made to the Annexure which contains the scheme of classification.
- Rules of interpretation mentioned in the First Schedule to the Customs Tariff Act 1975 may apply to both interpretation of notification relating to goods and to the interpretation of heading 9988 for services which includes manufacturing services on physical inputs (goods) owned by others.

Understanding Harmonized System of Nomenclature (HSN)

HSN is a multipurpose international product nomenclature developed by the World Customs Organization (WCO). The main purpose of HSN is to classify goods from all over the world in a systematic and logical manner. This brings uniformity in classification of goods and facilitates international trade. HSN standardizes the classification of goods under sections, chapters, headings, and sub-headings.

HSN Code was initially adopted for Customs purposes in India in 1975 and readapted (with some changes) for Central Excise in 1985 and now in 2017 for the purpose of GST. In India, an eight digit HSN is assigned to goods by organizing them in a hierarchical manner. However, goods can be identified broadly by using no less than 2 digits, and very specifically by using all the 8 digits.

The First Schedule of the Customs Tariff Act comprises of 21 sections which are further divided into 98 Chapters.

- (i) **Sections:** A group of Chapters representing a particular class of goods
- (ii) **Chapter:** Each section is divided into various Chapters and sub-Chapters. Each Chapter contains goods of one class.
- (iii) **Chapter Notes:** They are mentioned at the beginning of each Chapter. These notes are part of the statute and hence have the legal authority in determining the classification of goods.
- (iv) **Heading:** Each Chapter and sub-Chapter is further divided into various headings.
- (v) **Sub-Heading:** Each heading is further divided into various sub-headings.

HSN Code under GST will remove the need to upload the detailed description of goods while filing returns under GST. The Government, vide Notification No. 12/ 2017-Central Tax, dated 28-Jun-2017 had notified the class of registered persons who shall mention HSN on tax invoices issued by them as under –

<i>Annual Turnover in the preceding Financial Year</i>	<i>Number of Digits of HSN Code</i>
Upto Rs.1.5 crore	NIL
More than Rs. 1.5 crore and upto Rs. 5 crores	2
More than Rs. 5 crores	4

Handbook on Exempted Supplies under GST

Along the lines of HSN, the customs tariff has a set of six Rules of Interpretation and three General Explanatory Notes.

Example -Hierarchical structure of HSN

Section	II	Vegetable Products
Chapter	8	Edible fruits and nuts; peel of citrus fruit or melons
Heading	0805	Citrus Fruit, fresh or dried
Sub-heading	0805 10	Oranges

In respect of services, an Annexure is appended to Notification No. 11/ 2017-Central Tax (Rate), dated 28-Jun-2017 which provides for the Scheme of Classification of services. CBIC has recently issued explanatory notes to the Scheme of Classification of Services which is based on explanatory notes to the United Nations Central Product Classification (UNCPC). The explanatory notes indicate the scope and coverage of the heading, groups and service codes of the Scheme of Classification of Services. These may be used by the assessee and the tax administration as a guiding tool for classification of services. It may be noted that where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description.

Rules of Interpretation: Customs Tariff Act, 1975

The rules of interpretation provided in the Customs Tariff Act, 1975 gives guidance regarding the approach to be followed for reading and interpreting the tariff items. Legal provisions of rules read as under: -

Summary of Rules explaining classification under Customs Tariff Act.

Rule 1:

- Sections, Chapters and sub-Chapters are for ease of reference only.
- For legal purpose, refer to headings and sub-headings for classification.

Rule 2(a):

- If the goods are incomplete/ unfinished but still have the essential character of the finished product, then it is to be classified as finished product by referring to the heading.
- It also includes the goods that are in unassembled/ disassembled form.

Rule 2(b):

- Any reference to a material or substance includes mixture or combination of that material or substance with other material or substances.
- Classification of goods containing more than one material or substance shall be as per rule 3.

Rule 3:

When by applying rule 2(b), goods are classifiable under two or more headings then classification shall be done as follows:

- Most specific description shall be preferred over more general description. [Rule 3(a)]
- Mixtures/ composite goods should be classified as per the material or substance that gives them their essential character. [Rule 3(b)]
- When unable to classify by applying rules 3(a) & 3(b) then classify under the heading that occurs last in numerical order. [Rule 3(c)]

Rule 4:

- If goods cannot be classified as per the above rules, they are to be classified according to the goods to which they are most akin.

Rule 5(a):

- Containers specifically designed for the article and suitable for long-term use will be classified along with that article. This rule does not apply if the container gives the whole of its essential character.

Rule 5(b):

- Packing materials and containers are also to be classified with the related goods except when the packing is for repetitive use.

Rule 6:

- For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub-headings related to it.
- Compare the sub-headings only if they are at same level.

Hence, by applying the above rules a taxable person would be able to identify the right HSN code of its tariff item.

Classification of Exemption

Exemptions granted as per section 11 of CGST Act, 2017 are absolute or conditional from whole of tax or part of tax. These exemptions are capable of carving out a portion from an entry so as to differentially alter the rate of tax applicable to goods or services in that entry. Further, we can classify the exemptions under three parts:

- *Qua-supplier:* This type of exemption is provided only to a particular supplier like exemption to the services provided by a charitable trust registered under section 12AA of Income-Tax Act, 1961.
- *Qua-Recipient:* This type of exemption is provided to recipients like supplies made to exporter are taxable @ 0.05%-CGST and 0.05% SGST as per the Notification No. 40/2017-Central Tax (Rate), dated 23-Oct-2017.

- *Qua-Supplies*: This type of exemption is provided to a particular supply like exemption to the supply of fresh fruits, vegetables and milk.

Burden to prove availability of Exemption is on the supplier

Every supplier claiming his goods or services as exempt needs to establish the same to the revenue authorities. In its judgment in the case of *CC(Import), Mumbai Dilip Kumar and Company & Ors* (Civil Appeal No. 3327 of 2007), the Constitution Bench of the Supreme Court held that an exemption notification should be interpreted strictly and the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification.

It was further held that when there is ambiguity in the exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject / assessee and it must be interpreted in favour of the Revenue.

2. Procedure to avail exemptions

There is no specified procedure to avail an exemption. Any person supplying exempted goods or services can avail exemption subject to the precautions in terms of determining his classification of such exempted goods or services. Certain items require clarity while availing an exemption and can be material in determining an exemption, some of which are as follows:

Notification

One should check whether the exemption intended to be availed falls under any of the notifications issued by Government in terms of section 11(1) of CGST Act. Whether goods or services fall under Notification No. 02/ 2017-Central Tax (Rate), dated 28-June-2018 or Notification No. 12/ 2017-Central Tax (Rate), dated 28-June-2017 or any other notification.

Definitions given below Notification

One should carefully analyze the definitions provided below the exemption notification before claiming exemption. Understanding the exemption without considering the definitions given below the notifications is incomplete.

Principles of interpretation

Understanding of rules of interpretation and general explanatory notes provided in the First Schedule to the Customs Tariff Act, 1975 will help in identifying more accurate heading of the supply and thereby, arriving at the conclusion as to whether the supply is an exempt supply or not.

Advance rulings on the subject

One should check whether there is any advance ruling related to the exemption intended to be availed which can assist in better decision making.

Court rulings etc. may be taken care of

Any other judicial pronouncements related to the exemption must be considered before availing of any exemption.

Issue related to principal contractor and sub-contractor service

Under GST, the services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or *Pradhan Mantri Awas Yojana* and services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt.

Any reference to a supply shall not mean a reference to its subsidiary supplies i.e. supply taken to provide such supply. Such input supply shall be considered in its individual capacity and any rate or exemption as applicable to the main supply does not automatically apply to sub supplies. For eg., if any supply is provided to the government by a contractor (Mr X) and such supply is exempt, then the supply of sub-contractor (Mr Y) to the main contractor shall not be exempt and shall need to be examined as to whether any exemption is available to such supply as well. Mr Y cannot be said to have provided supply to government.

Principles of Exemption

1. Basic principles of construction of exemption provisions

It is expected that Laws are drafted by experts in the chosen fields and the language employed would therefore, leave little room for difficulties in construction / interpretation. But experience in reality is often different. When a draftsman translates his intent into law, while keeping in mind the objects and reasons for the relevant statute, there could always be a flaw. Therefore, ambiguous words, expressions, inconsistencies do creep in. Interpretation can be understood as follows:

- Interpretation is independent of facts;
- The application of a provision would most certainly depend on facts of a given case and its surrounding circumstances.

In essence, interpretation means understanding the true sense of the provision which the legislature intends to convey ensuring that the reader understands it the same way; The word construction is nothing but drawing conclusions that the provisions of law desire to convey. To that extent interpretation and construction are not synonymous. However, these words are being used interchangeably. The basic principles of construction of any provision, be it taxability or exemption are largely the same.

Some of these principles are the following:

- (a) A construction of a statute must at the threshold be never open to judicial interpretation. For example, no law can be enacted unless the Constitution empowers the legislature to do so.
- (b) A statute must be construed based on the intent of the person who wants to legislate. It must convey the “true and legal” meaning as the legislature intended; it must be exhaustive; it must cover all possible intended situations; the language employed must be simple, cogent and easy to understand while the words used must convey plainly the intent and object of the legislature; importantly the spirit of the legislature must be conveyed through the construction of a statute.
- (c) It must be so drafted or constructed that it must be read as a whole and in its context; There must be no mischief; there must be no scope of vivisectioning the construction; the purpose of the construction is to reach the intended recipient.
- (d) Each word, phrase, expression or sentence must be so construed that the general purpose of the Act must be met.

- (e) Equal attention must be paid in construction of a statute that it serves the dominant and ancillary purposes with equal force.
- (f) A beneficial interpretation of a statute must not result into an exercise in futility.
- (g) A plain or literal reading of a statute must ensure equity without ambiguity;
- (h) The language employed must ensure grammatical accuracy; must not permit addition, rejection or substitution of words; avoid technical words, words used by business etc., to have the desired effect of a construction.
- (i) The construction of a statute must ensure that there is no injustice, hardship or inconvenience caused to a person who is not the intended recipient.
- (j) Headings, punctuations must be taken care of. These often cause ambiguity and lack of clarity to a reader.
- (k) Illustrations can be provided to supply clarity;
- (l) Wherever definitions are required they must be supplied by the statute. To the extent possible referential legislation must be avoided since different statutes may have different objects.
- (m) Any construction involving a proviso must be clear – either to “except” or “include” or “qualify” and nothing more. Generally, a proviso must not lead to a different construction.
- (n) The provision so enacted must lay emphasis on “substance” rather than on “form”.
- (o) Many times, a provision contains an explanation. The job of an explanation is to explain the “words” contained in the provision. It is definitely a part and parcel of the provision. An explanation when inserted is generally understood to go back to the date on which the provision is deemed to be operational. When an explanation is appended to a clause in a Section then the explanation is deemed to apply only to that clause. However, when an explanation is added at the end of a section having several sub-sections / clauses then it is deemed to apply to all sub-sections and clauses unless the explanation qualifies with words such as “for the purposes of clause (a) of sub-section (3) of section 12” etc. An explanation generally supports the main object of the enactment itself.
- (p) Sometimes a provision contains or refers to a Schedule. A Schedule attached or appended to an Act forms part of the enactment. A schedule generally carries details and it avoids a section being overburdened with such details. Generally, a Schedule is a matter of convenience.
- (q) Several provisions commence with the expressions “notwithstanding anything contained”. It is generally known as a non-obstante clause. It means the relevant provision has an over-riding effect over a particular section or circumstance or any other enactment itself.

- (r) Apart from all of these a provision sometimes uses the words “deem, deemed or deeming etc.”. Usage of such words implies that the provision creates a legal fiction. Normally, the fiction created is for the purpose of that provision alone and it cannot be extended to any other provision of the enactment.

These are some of the basic principles of construction of a provision. If a draftsman has to bear all these principles in mind and go ahead with constructing an exemption provision he will be overburdened. It is for these reasons that a draftsman generally constructs the provision first and then applies these legal principles to ensure that even in case of a judicial review or challenge the provision stands the test of law. It is certainly a huge responsibility on the part of a draftsman to keep these guiding principles in mind while drafting an exemption provision which backs the legislative intent.

Non-GST supplies

Often one gets confused between non-taxable supply and non-GST supply. Under Section 2(78) “*non-taxable supply*” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act.

In common parlance, a non-GST supply is a transaction which is outside the scope of the GST legislation, for example- Supplies outside Indian Territory, Schedule III supplies. A transaction which qualifies to be called a supply can be taxable, non-taxable, Nil rated, Zero rated or an exempt supply. It must be noted that all such supplies are in fact “supplies” under the GST laws but by virtue of the statute they (other than taxable supplies) are not liable to tax.

2. Whether an exemption is mandatory or optional

One of the most burning issues that bothers the tax fraternity as well as trade and industry is whether to avail an exemption or not ?. More importantly, whether availing an exemption can be optional or would it be mandatory. In order to answer this vexed issue, we need to understand some basics of availment / non-availment of exemptions:

- (a) If the output stands exempted, it necessarily envisages that input tax credit shall accordingly stand restricted.
- (b) Once the output is exempt, there can be no tacit collection of taxes meaning the incidence of taxes (even at the general rate) cannot be passed on to the customer through a pricing mechanism.
- (c) If the exemption is product / service specific, entity specific, period or area specific, cap on value etc., it appears that availment of such exemption is mandatory. It may not be possible to pay output tax, say at a general rate and continue to avail input tax credits.
- (d) Merely because a customer may be willing to pay taxes on exempted goods or services, it does not mean that the supplier can collect taxes; in fact, in such cases it will amount to excess / unauthorised collection of taxes resulting in forfeiture of taxes whereas input tax credits will continue to stand restricted. Thus, it can amount to a double whammy.

- (e) Some tax experts believe that once tax stands collected on the output, availability of input tax credit would be automatic; This is an issue which has been subject to judicial reviews on several occasions and on most occasions, has been held in favour of Revenue;
- (f) The principles underlying the grant of an exemption would generally be to alleviate the difficulties faced by a particular sector of business and to make them more competitive or to boost or encourage the economy of a particular area in a State or country (and to make them competitive); or to encourage small and medium size trade and industry to invest the profits arising out of price advantage back into business resulting in higher economic activity etc. If these are broadly the underlying principles then availment of exemptions on an optional basis would defeat the very purpose of grant of exemption and thus, it appears that such a scheme would not be possible;
- (g) Difficulty often arises when the trade and industry is not very certain as to whether a particular product / service stands exempted since there may be a classification issues. In such over-riding circumstances, it is always better to seek an advance ruling to avoid possible forfeiture of taxes and thereafter, avail the input tax as a dis-allowance. Even in this situation it is advisable not to collect taxes, since taxes collected are to be remitted to the exchequer. In such a situation, if later it turns out that the goods / service is really exempt from payment of taxes then the question of restriction of input tax credits will most certainly arise.
- (h) In any of these situations it would be important to understand the effect of taxation in the following situations :

What if taxes are not collected by a Supplier considering the fact that goods / services stand exempt but it later turns out to be a taxable transaction :- This is a situation faced quite often by the trade and industry. Assuming that factually it is a legal issue and the supplier has not collected taxes Courts have often come to the rescue of the supplier by stating that if output taxes are payable, then the corresponding input taxes would stand allowed even if it is not availed (or restricted) in the original returns; however, once output tax becomes payable and the taxes are collected by the tax office in terms of section 74 then the recipient cannot avail any input tax credits under the provisions of the GST laws; this situation is quite scary and therefore the law to this extent needs a re-look.

Can the Supplier in the above situation pass on the output tax paid by him through a debit note or supplementary invoice :- In the normal course, if before the tax office raises the issue and collects the taxes ,the supplier or recipient becomes aware that the transaction claimed as exempt is actually taxable, then a debit note could be raised. In this situation, it will turn out to be tax neutral so far as the supplier and the recipient are concerned. The challenge of availing input tax credits at a later date (assuming it is not claimed / availed within the prescribed period) would continue to haunt the supplier. This situation also needs to be looked into by the law makers.

Considering, each of the situations cited supra, the supplier has to be very careful. In case of a doubt, the best way would be to seek an advance ruling to settle the issue.

3. Retrospective application of an exemption

It is a settled position that the Union and the States are competent to legislate any law retrospectively within the Constitutional framework. This power is generally used for curing defects in law or to nullify the impact of Court judgements. It is also a settled position of law that there can be retroactive amendments imposing an additional liability. However, machinery and procedural provisions can be subject to retrospective amendment. A retrospective operation of law which is oppressive and appears to take away a benefit already bestowed can be held to be confiscatory in nature and it can therefore be said to be violative of Articles 14 and 19 of the Constitution.

A retrospective amendment cannot affect an existing right and create a new obligation. For instance, if exemption is provided to say, sale of footwear costing less than Rs.500/- then a retrospective amendment cannot be made to provide that it applies only to plastic footwear.

A taxing statute cannot be termed to be retrospective, if it taxes an event that is continuing when the amendment or Act came into force. For instance, in respect of agreements entered into under the erstwhile laws between a developer and a customer, taxes can be levied under the GST laws to the extent the contract is continuing.

It is a settled position of law that any retrospective amendment, if beneficial, is deemed to be good law. In one of the States' tax exemptions were granted to manufacturing industries located in a particular backward area. It so happened, that a few Granite Industries engaged purely in cutting and polishing of granites came up in that area and availed tax exemptions. The Department later took up a position that "cutting and polishing of granites" does not result in manufacture. All the granite industries in that area went up in arms – and the Government later relented and granted exemption retrospectively. Having understood this case history, let us now look at the issues that arise when the Government grants an exemption retrospectively:

- (a) A registered person *may* have already collected taxes from his customers for the past tax periods and may not have paid to the Government, in which case, such a retrospective amendment would have the effect of an unjust enrichment in his hands (if taxes so collected have not been made over to the Government). It is possible that he may have availed input tax credits, in which case, such input tax credits already availed would need to be reversed resulting in payment of taxes along with interest and penalties. The taxes so collected from his customers also need to be paid to the Government. In this scenario following consequences arise :
- The customers from whom taxes have been collected and paid to the Government stand to get refunds.
 - Alternatively, the taxes so collected from customers and paid to the credit of the

Government can stand forfeited, if such customers, do not come forward to make such refund claims. In this scenario, can the Government be said to be unjustly enriched.

- Tax, interest and penalties levied on the registered person on account of input tax reversals would have to be borne by the supplier as costs.
 - If taxes have been collected by the registered person from his customers and not paid to the Government, then it could lead to initiation of prosecution proceedings depending on the quantum of taxes and nature of the offence.
- (b) If the registered person has not collected taxes *but has remitted taxes* from his own pocket then :
- it will result in a refund situation provided the Supplier has not availed any input tax set off;
 - if he has availed input tax setoff, then the resultant effect could be a smaller or lower amount of refund.
- (c) Assume a situation where the Government denies exemption and thereafter, on litigation the Courts restore the exemption. It is a very painful exercise of litigation for the supplier and he has to go through the process cited in (a) and (b) above to prove the *bona fides* of his case.
- (d) What would be the position of a registered person having multiple branches in different States and when one State grants or allows exemption while another does not. The only option open to the supplier in this scenario, is to litigate in the State where exemption has been denied. However, on facts, if Courts or Appellate Authorities rule in favour of the supplier granting exemption, then there could be no further arguments, whereas if the Courts confirm the levy, then the State which has granted exemption would stand to re-open such assessments and initiate proceedings which is far more painful exercise.
- (e) It must be noted that in each of the cases, the law pre-supposes that taxes are deemed to have been collected by the supplier unless the supplier proves otherwise. The net impact of a retrospective exemption could be rather cumbersome for the supplier.
- (f) Let us now turn our attention to the recipient of such supply and analyse the situation.
- In cases, where taxes are charged by the supplier and input tax credits have been availed by the recipient, the presumption is that the supplier would have remitted such taxes to the Government. In such a situation, the availment of input tax credits by the recipient would stay unhindered; however, if the supplier has not remitted the taxes, then the question arises as to whether availment of such input tax credits in the hands of the recipient could be denied?
 - In cases, where no taxes are charged whereas the supply is held to be a taxable supply in the hands of the supplier then the only question is can the supplier issue a debit note to the recipient. This is a contract between the supplier and the

recipient and Government would have no role to play. However, the question is whether the recipient can avail input tax credits on the strength of debit note if within the prescribed time lines then the answer would be 'yes' – otherwise 'no'. This view is however, subject to the provisions of section 74 of the CGST Act, 2017.

- (g) Some of the situations when retrospective exemptions are granted by the Government could be:
- (i) To alleviate the difficulties caused by ambiguous words / text etc., used in notifications / circulars / legislative provisions etc.
 - (ii) To give effect to the intent of Legislature which did not have the desired effect.
 - (iii) To give effect to orders of judiciary;

To conclude, one will have to exercise caution and care while interpreting the exemption provisions. While this publication would provide an insight, the facts and surrounding circumstances have to be considered while understanding a retrospective amendment to the exemption provisions.

Procedural Aspects

1. Registration in cases of supply of exempt goods and/or services

Section 9 provides that a taxable person is liable to pay tax under the GST laws. Taxable person has been defined as a person who is registered or liable to be registered. Section 22 and Section 24 of the CGST Act provide the criteria which when fulfilled require a person to take registration. Section 22 provides for registration of every supplier effecting the taxable supplies if his turnover exceeds the threshold limit of Rs.20 lacs and Rs.10 lacs in special category States. Every supplier shall be liable to be registered under the Act in the State from which he makes a taxable supply of Goods or Services or both. It is important to note that registration is required 'in' the State 'from where' taxable supplies are made. Section 24 lays down a list of persons who are required to obtain registration without any monetary limit i.e. even if they do not have supplies of Rs 20 Lakhs. Such person includes electronic commerce operators, input service distributors, non-resident taxable persons etc.

Further, Section 23 of the CGST Act provides that the following persons shall not be liable to take registration:

- any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;
- an agriculturist, to the extent of supply of produce out of cultivation of land.
- The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act. Accordingly, the Central Government *vide Notification No. 05/2017-Central Tax, dt. 19-06-2017* has, w.e.f 22nd June 2017 amended section 23 of CGST Act, 2017 to include the persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under section 9(3) of the CGST Act, 2017 in the category of persons exempt from obtaining registration under the aforesaid Act.

Thus, a person who is making exclusive supply of exempt goods or services or both is not required to obtain registration; however, if he is engaged in the supply of any taxable goods or services, he shall be required to take registration. It is worth noting that the above Rs 20 Lakhs limit as specified in Section 22 shall be arrived at after adding both taxable as well as exempt supplies. Thus, even if a person has Rs 19.5 lakhs of exempt supplies but Rs. 1 lakh of taxable supplies, he is required to take registration.

2. Documents, e-way bills and records required in case of exempt supplies and consequences on non-compliance

Document required to be issued in case of Exempt Supply:

Section 31(3)(c) of the CGST Act provides that a registered person supplying exempt goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed. It is further provided that a registered person has an option not to issue bill of supply if the value of the goods or services or both supplied (per invoice) is less than Rs. 200/-, subject to the following conditions-

- (i) the recipient is not a registered person; and
- (ii) the recipient does not require such invoice.

In such a situation, the registered person shall issue a consolidated bill of supply for such supplies at the close of each day in respect of all such supplies.

Contents of Bill of Supply

A bill of supply shall contain the following particulars-

- (a) name, address and GSTIN of the supplier;
- (b) a consecutive serial number not exceeding 16 characters;
- (c) date of issue;
- (d) name, address and GSTIN of registered recipient;
- (e) HSN Code for goods or SAC for services;
- (f) description of goods or services or both;
- (g) value of supply of goods or services or both taking into account discount or abatement, if any; and
- (h) signature or digital signature of the supplier or his authorised representative.

In terms of the First Proviso to rule 46, the Central Government vide Notification No. 12/ 2017-Central Tax, dated 28-Jun-2017 had specified the requirement of mentioning the number of digits of HSN code on invoice or bill of supply based on the annual turnover of previous financial year which is provided as under:

<i>Annual Turnover in the preceding Financial Year</i>	<i>Number of Digits of HSN Code</i>
Up to rupees 1.5 crore	NIL
More than rupees 1.5 crore and up to rupees 5 crores	2
More than rupees 5 crores	4

It is further provided that, in case of export of goods or services which are exempt under GST, the bill of supply shall carry an endorsement “supply meant for exports/ supply to SEZ developer/ unit for authorised operations under bond or LUT without payment of IGST” and shall specify the following details, namely-

- (i) Name and address of the recipient;
- (ii) Address of delivery; and
- (iii) Name of the country of destination.

It is important to note here that vide Circular No. 45/ 19/ 2018-GST, dated 30-May-2018, it has been clarified that in case of export of exempted or non-GST goods without payment of IGST LUT/ bond is not required. Under such a scenario, a view can be taken that in case of export of exempted goods or services, the bill of supply may carry endorsement as “supply meant for exports/ supply to SEZ developer/ unit for authorised operations”.

It is also clarified in rule 49 that any invoice issued under any other Act in respect of non-taxable supply shall be treated as bill of supply under GST. For example, invoice issued under State VAT Act, for supply of alcoholic liquor meant for human consumption shall be considered as bill of supply for the purpose of GST Act.

Invoice-cum-bill of supply

Rule 46A of CGST Rules, 2017 overrides rule 46 or rule 49 or rule 54, to provide that a registered person supplying taxable goods as well as exempted goods or services or both to an unregistered person may issue a single “invoice-cum-bill of supply” for all such supplies.

Provisions relating to issue of documents by registered person can be summarized as follows-

Cases	Document to be issued
Supply of taxable goods or services	Tax Invoice
Supply of exempted goods or services	Bill of supply
Supply of taxable as well as exempted goods or services to un-registered person	Invoice-cum-bill of supply
Supply of taxable as well as exempted goods or services to registered person	Tax Invoice, in respect of taxable supplies Bill of supply in respect of exempted supplies

E-way Bill in case of exempt supplies

Section 68 of CGST Act, 2017 read with rule 138 of CGST Rules, 2017 requires every registered person who causes movement of goods of consignment whose value is exceeding Rs. 50,000/- to generate an e-way bill on the common portal in respect of such supply, before commencement of movement of goods. Explanation 2 to rule 138(1) provides that the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the central tax, State or Union

territory tax, integrated tax and cess charged, if any, in the document and *shall exclude the value of exempt supply of goods* where the invoice is issued in respect of both exempt and taxable supply of goods. Thus, value of exempted goods shall not be considered for the purpose of computing the limit of Rs 50,000. Thus, in case of pure supply of exempted goods, other than de-oiled cake as specified in rule 138(14) of CGST Act, 2017, no e-way bill is required.

However, rule 55A of CGST Rules, 2017 requires the person-in-charge of the conveyance to carry a copy of the *tax invoice or the bill of supply* issued in accordance with the provisions of rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill.

Example :

- If a registered person transporting goods of consignment value of Rs. 70,000/- which includes exempt supply of Rs. 30,000/-, then, the e-way bill is not required to be generated because the consignment value is calculated as Rs. 40,000/- which is below the limit of Rs. 50,000/-.
- A registered person transporting exempt goods of consignment value of Rs. 70,000/- is not required to generate e-way bill but the person-in-charge of the conveyance must carry the bill of supply.

Records required to be maintained by supplier of taxable/ exempt supplies

As per section 35(1) of CGST Act, 2017, every registered person shall keep and maintain, at his principal place of business mentioned in its registration certificate, a true and correct account of the following:

- Production and manufacture of goods.
- Inward and outward supply of goods or services or both – Such detail should include names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act.
- Stock of goods – It has been provided that such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.
- Input tax credit availed.
- Output tax payable and paid.
- Such other particulars as may be prescribed.

Thus, every supplier of exempted goods also needs to maintain proper sale purchase register, stock register and manufacturing records.

In addition to the above, rule 56 requires every registered person to keep and maintain the following records-

- Account of the goods or services imported or exported
- Account of supplies attracting payment of tax on reverse charge
- Account of advances received, paid and adjustments made thereto.
- A register of tax delivery challan issued or received during any tax period.

It is important to mention that other requisites of books of accounts including the place at which these are required to be maintained, manner in which these are to be maintained, manner of making entries in registers etc. has to be complied with. Section 36 of CGST Act, 2017 requires a registered person to keep and maintain books of accounts or other records for a period of 72 months from the due date of furnishing the annual return (i.e. 31st December of subsequent financial year) for the year pertaining to such accounts and records. Thus, records for FY 2017-18 are to be maintained till 31st December 2025 or till such further extended date as notified by the Government.

Consequences on Non-Compliances

Section 122 of CGST Act, 2017 provides penalty for certain offences. A registered person supplying exclusively exempted goods or services or both shall have to pay a penalty of Rs. 10,000/- if he fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder.

Analysis of Exemption

1. Exemptions in case of supplies effected to Government/ Municipal Bodies/ Government bodies and organisations, and entities under Article 243G or 243W

Specific exemption has been granted to certain supply of services when made by a person to Government and Government bodies. Various exemptions which shall be discussed in this Chapter are as under:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent)	Condition
(1)	(2)	(3)	(4)	(5)
3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or in relation to any function entrusted to a Municipality under Article 243W of the Constitution.	Nil	Nil
3A	Chapter 99	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 Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the	Nil	Nil

Analysis of Exemption

		Constitution or in relation to any function entrusted to a Municipality under Article 243W of the Constitution.		
11A	Heading 9961 or Heading 9962	Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.	Nil	Nil
16	Heading 9964	Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding: Provided that nothing contained in this Entry shall apply on or after the expiry of a period of three years from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.	Nil	Nil
40	Heading 9971 or Heading 9991	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.	Nil	Nil
43	Heading 9973	Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways.	Nil	Nil
51	Heading 9984	Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.	Nil	Nil
72	Heading 9992	Services provided to the Central Government, State Government, Union territory administration under any training programme for which total expenditure is borne by the Central Government, State Government, Union territory administration.	Nil	Nil

We shall now discuss each of the above exemptions in detail hereunder.

Understanding Important Terms

In order to understand the exemptions, it is important to know certain terms, which are as follows:

- (a) **Government:** Government as defined in CGST Act and respective SGST Acts means Central Government and respective State governments.

As per article 53 of the Constitution the executive power of the Union shall be vested in the President and shall be exercised by him either directly or indirectly through officers subordinate to him in accordance with the Constitution. Further, in terms of Article 77 of the Constitution all executive actions of the Government of India shall be expressed to be taken in the name of the President. Therefore, “Central Government” means the President and the officers subordinate to him while exercising the executive powers of the Union vested in the President and in the name of the President.

Similarly, as per Article 154 of the Constitution the executive power of the State shall be vested in the Governor and shall be exercised by him either directly or indirectly through officers subordinate to him in accordance with the Constitution. Further, as per Article 166 of the Constitution all executive actions of the Government of State shall be expressed to be taken in the name of Governor. Therefore, “State Government” means the Governor or the officers subordinate to him who exercise the executive power of the State vested in the Governor and in the name of the Governor.

- (b) **Local Authority:** “Local authority” has been defined in Section 2(69) of the CGST Act and includes bodies like Panchayat, municipality etc.
- (c) **Governmental Authority:** “Governmental Authority” has been defined in para 2(zf) of Notification No. 12/2017-CT(Rate) to mean an authority or a board or any other body, which is either set up by an Act of Parliament or a State Legislature or 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 243W of the Constitution or to a Panchayat under Article 243G of the Constitution.
- (d) **Governmental Entity:** “Governmental Entity” has been defined in clause 2(zfa) of Notification No. 12/2017-CT(Rate) to mean an authority or a board or any other body including a society, trust, corporation which is set up by an Act of Parliament or State Legislature or is established by any Government, with 90 per cent 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.

We shall now discuss the specific exemptions as under:

I. Pure Services of Labour for functions under Article 243G / 243W

This exemption covers supplies which fulfil the following conditions:

- **Supplies should be pure services in nature:** Only supplies which are pure services viz., which do not have any element of supply of goods whether as pure supply of goods or as works contract are covered here.

- Supplies should be provided to Central Government, State Government, Union territory or local authority or a Governmental authority or a Government Entity: Thus, sub-contractors when providing the same services to the contractors of government shall not enjoy this exemption.
- Supplier should be way of any activity in relation to specified function: The term 'in relation to' enlarges the coverage of the exemption as any supply which is not 'of' but 'related to' such function.
- Such function should be one as entrusted to a Panchayat under Article 243G of the Constitution or in relation to any function entrusted to a Municipality under Article 243W of the Constitution:
 - A. Functions entrusted to a Panchayat under Article 243G of the Constitution
 - The preparation of plans for economic development and social justice.
 - The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.
 - Agriculture, including agricultural extension.
 - Land improvement, implementation of land reforms, land consolidation and soil conservation.
 - Minor irrigation, water management and watershed development.
 - Animal husbandry, dairying and poultry.
 - Fisheries.
 - Social forestry and farm forestry.
 - Minor forest produce.
 - Small scale industries, including food processing industries.
 - Khadi, village and cottage industries.
 - Rural housing.
 - Drinking water.
 - Fuel and fodder.
 - Roads, culverts, bridges, ferries, waterways and other means of communication.
 - Rural electrification, including distribution of electricity.
 - Non-conventional energy sources.
 - Poverty alleviation programme.
 - Education, including primary and secondary schools.

- Technical training and vocational education.
- Adult and non-formal education.
- Libraries.
- Cultural activities
- Markets and fairs.
- Health and sanitation, including hospitals, primary health centres and dispensaries.
- Family welfare.
- Women and child development.
- Social welfare, including welfare of the handicapped and mentally retarded.
- Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
- Public distribution system.
- Maintenance of community assets

B. Functions entrusted to a Municipality under Article 243W of the Constitution

- Preparation of plans for economic development and social justice.;
- Implementation of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule:
 - Urban planning including town planning.
 - Regulation of land-use and construction of buildings.
 - Planning for economic and social development.
 - Roads and bridges.
 - Water supply for domestic, industrial and commercial purposes.
 - Public health, sanitation conservancy and solid waste management.
 - Fire services.
 - Urban forestry, protection of the environment and promotion of ecological aspects.
 - Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
 - Slum improvement and up-gradation.
 - Urban poverty alleviation.
 - Provision of urban amenities and facilities such as parks, gardens, playgrounds.

- Promotion of cultural, educational and aesthetic aspects.
- Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.
- Cattle pounds; prevention of cruelty to animals.
- Vital statistics including registration of births and deaths.
- Public amenities including street lighting, parking lots, bus stops and public conveniences.
- Regulation of slaughter houses and tanneries.

II. Composite Services for functions under Article 243G / 243W

This exemption covers supplies which fulfil the following conditions:

- Supplies should be composite supply of goods and services: Composite supply of goods and services is found in two categories of supplies as specified in Schedule II, which are as follows:
 - (a) works contract as defined in clause (119) of section 2; and
 - (b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.
- Goods should not constitute more than 25% of value of such supply: This is an important condition as it skews the exemption towards supplies which are more by way of service. Since there is no specific formula to compute such percentage, the same may be computed on the basis of ratio arrived at by dividing cost of goods used in the supply to the total cost of the supply. It is important to note that while computing such ratio, the common expenses like interest, administrative expenses etc. may either be ignored or be added to goods and service portion of cost in their respective ratios.
- Supplies should be provided to Central Government, State Government, Union territory, local authority, Governmental authority or a Government Entity: Thus, sub-contractors when providing the same services to the contractors of government cannot avail this exemption.
- Supplier should be way of any activity in relation to specified function: The term 'in relation to' enlarges the coverage of the exemption as any supply which though is not 'of' but 'related to' such function.
- Such function should be one as entrusted to a Panchayat under Article 243G of the Constitution or in relation to any function entrusted to a Municipality under Article 243W of the Constitution:

The list of such functions has been provided in the above exemption and hence it is not reproduced for the sake of brevity and relevance.

III. Services of Fair price shops

This exemption covers supplies which fulfil the following conditions:

- Supplies should be provided by fair price shops: A public distribution shop, also known as fair price shop (FPS), is a part of India's public system established by Government of India which distributes rations at a subsidized price to the poor / marginal people. The shops are run by allottees of State Government who incur all expenses in running the shop and are compensated in the form of commission on sale of food grains etc. at government nominated price through such shops.
- Such service should be provided to Central Government, State Government or Union territory
- Consideration earned by such FPS in the form of commission or margin has been exempted. Thus, all or any other consideration earned by such FPS shall be taxable.

Services of air transport to specified airports

This exemption covers supplies which fulfil the following conditions:

- Supplies should be by way of transport of passengers with or without accompanied belongings, by air: Supply should be by way of transport of passengers by air. Thus, the same is available to airlines issuing tickets to passengers for travel by air.
- Supplies should be provided to Central Government: Regional Connectivity Scheme ("RCS") is a project of Central Government. The objective of RCS is to make flying affordable for the masses with airfares capped at Rs 2,500 per hour of flight. Airlines selected under the scheme have to offer lower fares for 50 per cent of their total aircraft seats in return for which they receive a subsidy or viability gap funding (VGF) from the Centre and the State government concerned.
- Scheme limited to designated flights: Supplies should be only for flights originating from or terminating at RCS airport. RCS airports are airports as designated under the RCS scheme by Central Government.
- Limited time Scheme: Such Supplies should be provided within three years from the commencement of operation of RCS airport.

IV. Services of insurance schemes to Government

This exemption covers supplies which fulfil the following conditions:

- Supplies should be by way of insurance schemes: Supply should be by way of insurance schemes. Thus, the exemption is available to insurance companies only.
- Supplies should be provided to Central Government, State Government, Union Territory: The recipient in this case are limited and thus, such exemption is not available when provided to Local authority, Governmental authorities or governmental entities.

- Total premium should be paid by Government: As a prerequisite, total premium of the insurance scheme should be paid by the three specified Governments either individually, severally or in any combination thereof. However, any scheme where the specified Governments only pays a part of the premium and balance is paid by the beneficiary or any other person is not covered under this exemption.

V. Services of leasing assets to Indian Railways by IRFC

This exemption covers supplies which fulfil the following conditions:

- Supply should be provided by Indian Railways Finance Corporation (“IRFC”): The Supplier is defined in this case and thus, any supplier other than IRFC shall not enjoy the said exemption.
- Supplies should be provided to Indian Railways: The scheme is limited to provision of such supply to Indian Railways and thus, such benefit is not available to private railway operators.
- Supplies should be by way of leasing of assets: Supply should be by way of leasing of assets. The specified supplier may purchase assets and lease it to Indian railways. Thus, it is basically a mechanism of funding the assets of Indian Railways where government does not want to invest outrightly in such assets.

VI. Services of GSTN

This exemption covers supplies which fulfil the following conditions:

- Supply should be provided by Goods and Services Tax Network (“GSTN”): The Supplier is defined in this case and thus, any supplier other than GSTN shall not enjoy the said exemption. It is important to note that GSTN is a corporate body incorporated under Companies Act.
- Supplies should be provided to Central Government or State Governments or Union territories: The scheme is limited to provision of services to specified Governments only.
- Supplies should be for implementation of Goods and Services Tax: Any contribution towards implementation of GST to GSTN when paid by the specified Governments shall be exempt.

VII. Services of Training to Government

This exemption covers supplies which fulfil the following conditions:

- Supplies should be provided to Central Government or State Governments or Union territories: The scheme is limited to provision of services to specified Governments only. It is important to note that Governmental Authority, Governmental Entity, Government Companies and even local authorities are not covered under this exemption. Thus, training programs where Government is merely a sponsor and not organiser are not covered under this exemption.

- Supplies should be for training programmes: Specified agencies undertake training for or on behalf of the Government and thus, where such training are provided to or on behalf of Government, the said condition is fulfilled. It is important to note that any activity in relation to training like provision of space etc is not covered under this exemption.
- Whole of the consideration should be paid by Government: In order to claim this exemption, it is important to establish that the whole of the expenditure is borne by the Government. Thus, where the expenditure is shared by any other entity or person, no exemption is available towards the portion of consideration paid by Government.

2. Exemptions in case of supplies effected by Government / Municipal Bodies / Government bodies and organisations

Government is one of the biggest service providers in every nation to its citizens. Some of the services are drawn out of its statutory functions like issuance of visas, birth certificates etc. while, many others are provided for commerce but still at price which is accessible for masses like railways, bus transportation etc. It is important to mention that all services by Government are taxable unless specifically exempt.

Specific exemption has been granted to certain supply of services when made by Government and Government bodies. Various exemptions which shall be discussed in this Chapter are as under:

Sl. No.	Description of Services
4	Services by governmental authority by way of any activity in relation to any function entrusted to a municipality under Article 243W of the Constitution.
5	Services by a Governmental Authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution.
6	Services by the Central Government, State Government, Union territory or local authority excluding the following services— (a) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (c) transport of goods or passengers; or (d) any service, other than services covered under entries (a) to (c) above, provided to business entities.
7	Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to twenty lakh rupees (ten lakh rupees in case of a special category State) in the preceding financial

Analysis of Exemption

	<p>year. <i>Explanation.:</i> For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to— (a) services (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) of transport of goods or passengers; and (b) services by way of renting of immovable property.</p>
8	<p>Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority: Provided that nothing contained in this entry shall apply to services— (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) of transport of goods or passengers.</p>
9	<p>Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed five thousand rupees: Provided that nothing contained in this entry shall apply to— (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers: Provided further that in case where continuous supply of service, as defined in sub-section (33) of section 2 of the Central Goods and Services Tax Act, 2017, is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed five thousand rupees in a financial year.</p>
9C	<p>Supply of service by a Government entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants.</p>
9D	<p>Services by an old age home run by Central Government, State Government or by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) to its residents (aged 60 years or more) against consideration upto twenty-five thousand rupees per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.</p>
34A	<p>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.</p>

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42	Services provided by the Central Government, State Government, Union territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to the 1st April, 2016, on payment of licence fee or spectrum user charges, as the case may be.
47	Services provided by the Central Government, State Government, Union territory or local authority by way of— (a) registration required under any law for the time being in force; (b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force.
61	Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving licence, birth certificate or death certificate.
62	Services provided by the Central Government, State Government, Union territory or local authority by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract.
63	Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use natural resources to an individual farmer for 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.
64	Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Central Government, State Government, Union territory or local authority before the 1st April, 2016: Provided that the exemption shall apply only to tax payable on one time charge payable, in full upfront or in installments, for assignment of right to use such natural resource.
65	Services provided by the Central Government, State Government, Union territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of merchant overtime charges.
65B	Services supplied by a State Government to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders. <i>Explanation:</i> "Mining lease holder" means a person who has been granted mining lease, quarry lease or license or other mineral concession under the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the rules made thereunder or the rules made by a State Government under sub-section (1) of section 15 of the Mines and Minerals (Development and Regulation) Act, 1957.

The above are discussed in greater details hereunder.

I. All activities of Central Government, State Government and Union territory other than four specified services

All Services provided by Government, being Central Government, State government or Union territory government have been exempted except the following four:

- (a) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;
- (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
- (c) transport of goods or passengers; or
- (d) any service, other than services covered under entries (a) to (c) above, provided to business entities.

These services have been made taxable as they are being provided by the government in sectors where even private players are operating and thus, the government wants to maintain a level playing field in terms of taxes. Further, services to business entities are not for common good but for commercial reasons and thus, the same have also been made taxable.

II. Services by governmental authority in relation to functions under Articles 243W and 243G

Governmental authority provides support in relation to any function entrusted to a municipality under Article 243W of the Constitution or to a Panchayat under Article 243G of the Constitution. The details of such activities have been discussed earlier in the Guidance Note. These bodies are usually entrusted support functions to the Government or local authority in carrying out such functions. For eg. Housing Boards in some States are formed under respective Acts to help government in construction and welfare activities for poor as they are covered under Article 243W. Such activities when provided to government shall be exempt.

III. Certain Services by government or local authority to business entities

Following services when provided by government to business entity have been exempted:

- Services provided by a government or local authority to a business entity with an aggregate turnover of up to twenty lakh rupees (ten lakh rupees in case of a special category State) in the preceding financial year. The said exemption shall not be applicable to services by way of renting of immovable property.
- Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed five thousand rupees. It is further provided that in case where continuous supply of service, as defined in sub-section (33) of section 2 of the Central Goods and Services Tax Act, 2017, is provided by the Central Government, State Government, Union territory or a local

authority, the exemption shall apply only where the consideration charged for such service does not exceed five thousand rupees in a financial year.

- Services by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract.
- Services by way of—
 - (a) registration required under any law for the time being in force;
 - (b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force.
- Services by way of assignment of right to use any natural resource where such right to use was assigned by the Central Government, State Government, Union territory or local authority before the 1st April, 2016. Provided that the exemption shall apply only to tax payable on one time charges payable, in full upfront or in installments, for assignment of right to use such natural resource.
- Services by way of assignment of right to use natural resources to an individual farmer for 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.
- Services by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of merchant overtime charges.
- Services by way of issuance of passport, visa, driving licence, birth certificate or death certificate.
- Services by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to the 1st April, 2016, on payment of licence fee or spectrum user charges, as the case may be.
- Services supplied by a State Government to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders.

It is important to mention that the above exemptions shall not be applicable to services (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) of transport of goods or passengers.

IV. Services by one Government to another

It is possible that one department of a government may supply service to another department

or by one government or local authority to another government or local authority. Thus, the present exemption covers all such services except:

- (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;
- (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
- (iii) of transport of goods or passengers.

3. Exemptions in case of supplies effected by Charitable Trusts, religious institutions/organisations and Not for profit entities

In India, the organizations which carry out their activities without a profit motive have always been provided various concessions in the form of exemption from taxes or provision of various facilities at concessional rates.

Charitable organizations carry out variety of activities in the spheres of education, health care, environment protection and enhancement etc. Religious trusts normally own religious places like temples etc. Income of such organizations are generally received through voluntary contribution (donation) or contribution for specific purposes. Renting of precincts owned by them is also a common source of their income.

Specific exemption has been granted to certain supply of services when made by a person to Government and Government bodies. Various exemptions which shall be discussed in this Chapter are as under:

Sl. No.	Description of Services
1	Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.
13	<p>Services by a person by way of-</p> <p>(a) conduct of religious ceremony;</p> <p>(b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the Income-tax Act:</p> <p>Provided that nothing contained in entry (b) of this exemption shall apply to, -</p> <p>(i) renting of rooms where charges are one thousand rupees or more per day;</p>

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	(ii) renting of premises, community halls, kalyanamandapam or open area, and the like where charges are ten thousand rupees or more per day; (iii) renting of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month.
80	Services by way of training or coaching in recreational activities relating to- (a) arts or culture, or (b) sports by charitable entities registered under section 12AA of the Income-tax Act.

I. Charitable Activities

There are two requisites for this exemption.

The entity should be registered under section 12AA of the Income-tax Act, 1961

For the aforesaid exemption, service must be provided by an entity registered under Section 12AA of Income Tax Act, 1961. Application for registration is required to be made under Section 12A of Income Tax Act, 1961 and Section 12AA of the said Act provides for the procedure of registration of such entities.

Entities registered under Section 12AA of the Income-tax Act are eligible to claim exemption under the provisions of Income Tax Act, 1961 subject to certain conditions. Under GST, the only condition is that such entity must be registered under Section 12AA of the Income-tax Act. If, for any reason, entity is not eligible to avail exemption under Income Tax Act for any assessment year but, it continues to be registered, exemption under GST will continue to be available. Also, exemption will be available on or after the date of registration under Section 12AA of the Income-tax Act, 1961.

Services should be covered under the ambit of 'charitable activities'.

The term 'Charitable activities' has been defined in Notification No. 12/2017 - Central Tax (Rate) thus:

- (r) "charitable activities" means activities relating to -
- (i) public health by way of, -
 - (A) care or counselling of
 - (I) terminally ill persons or persons with severe physical or mental disability;
 - (II) persons afflicted with HIV or AIDS;
 - (III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
 - (B) public awareness of preventive health, family planning or prevention of HIV infection;
 - (ii) advancement of religion, spirituality or yoga;

- (iii) *advancement of educational programmes or skill development relating to,-*
 - (A) *abandoned, orphaned or homeless children;*
 - (B) *physically or mentally abused and traumatized persons;*
 - (C) *prisoners; or*
 - (D) *persons over the age of 65 years residing in a rural area;*
- (iv) *preservation of environment including watershed, forests and wildlife;*

Thus, all activities for charitable purpose in general, are not exempt under GST unless they are covered in the specific definition above. Therefore, many activities with charitable objects may be subjected to GST as they may not fall under the confined parameters of charitable activities as per this notification.

Under the Income Tax Act, income derived from property held under a trust solely for "charitable purpose" is exempt from tax, to the extent it is applied or accumulated (as per the provisions of Income Tax Act) for charitable purposes in India. In comparison to the term "charitable purpose" defined under 2(15) of the Income Tax Act, 1961, with that of term "charitable activities" defined in exemption notification under GST, following variances can be drawn:

Income Tax Act	Goods and Services Tax Act
Relief of poor	No such inclusion
Preservation of monuments or places or objects of artistic or historic interest	No such inclusion
Education	Advancement of educational programmes or skill development relating to certain specified class of persons
Medical relief	Activities relating to public health by way of - (A) care or counselling of persons with certain specified ailment (B) public awareness of preventive health, family planning or prevention of HIV infection
Advancement of any other object of general public utility subject to certain conditions and monetary limits	No such residual entry. Specific inclusion of advancement of religion, spirituality or yoga.

From the above comparison, it is evident that the definition of "charitable activities" in the exemption notification under GST is very narrow in scope as compared to the definition under Income Tax Act. Therefore, all the activities carried by an entity, availing exemption under Income Tax Act, are not compulsorily exempt under GST. The activities have to be examined considering the definition of charitable activities, as to whether they can be classified as any of

the activities specified therein or not and the exemption should be availed only if they are falling under the limited scope of activities defined as charitable activities.

Comparison with erstwhile laws

This entry is similar to Service Tax exemption as provided vide Entry No. 6 of Notification No. 25/2012-ST dated 20.06.2012.

Examples

- (a) X charitable trust (registered under section 12AA of Income Tax Act, 1961) is providing educational services to orphaned children.
- (b) Shri Sanstha (registered under section 12AA of Income Tax Act, 1961) providing counseling services to alcohol addicted persons.

II. Conduct of religious ceremonies

Scope of this exemption entry covers :

- Service provided by - Any person
- Nature of service provided - Conduct of religious ceremony
- Condition or threshold limit for exemption - No condition or limit

The significant term in this entry is 'religious ceremony'. This term ' has not been defined under the erstwhile Service Tax Law or under GST Act, but according to a CBEC's Education guide, 'religious ceremonies are life-cycle rituals including special religious poojas conducted in terms of religious texts by a person so authorized by such religious texts. Occasions like birth, marriage and death involve elaborate religious ceremonies.

Also, all income from religious ceremonies are not exempt. During the course of a religious ceremony, if services other than by way of conduct of religious ceremony are provided, such services are not exempt.

III. Renting of precincts of a religious place meant for general public

The term 'Religious place' has been defined to mean a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality. Thus, renting of precincts of such place has been exempted. The word 'precincts' has not been defined under the Act. However, CBEC had clarified vide Circular No. 200/10/2016-Service Tax dated 06-09-2016, that the word "Precincts" should be interpreted to consider all immovable property of the religious place located within the outer boundary wall of the complex (of building and facilities) in which religious place is located, as being located in the precincts of the religious place. The immovable property located in the immediate vicinity and surrounding the religious place and owned by the religious place or under the same management as the religious place or under the same management as the religious place may be considered as being located in the precincts of religious place.

For this exemption, the precincts of such religious place should be owned or managed by :

- a charitable or religious trust under 12AA of Income Tax Act, 1961.
- a trust or an institution registered under section 10(23C) (v) of the Income-tax Act or
- a body or an authority covered under section 10(23BBA) of the said Income-tax Act.

It is important to note here that the above exemption of renting of precincts of a religious place is *not* applicable where :

- Charges by way of room rent are Rs. 1,000 or more per day.
- Charges for renting of premises, community halls, kalyanamandapam or open area etc. are Rs. 10,000 or more per day.
- Charges for renting of shops or commercial spaces are Rs. 10,000 or more per month.

Examples

- (a) Shri Jagdish Ji, a priest, charged Rs. 21,000/- from Mr. X for carrying out the rituals of his marriage ceremony.

This is exempt under clause (a) of Entry 13 of Notification No. 12/2017- Central Tax (Rate).

- (b) Rent of Rs. 9,000 charged for letting out community hall in a temple premises for a convention to a business organization.

This is exempt under clause (b) of Entry 13 of Notification No. 12/2017- Central Tax(Rate).

- (c) Rent of Rs. 8000 charged for letting out shops outside the temple in the area under management of trust managing the temple.

This is exempt under clause (b) of Entry 13 of Notification No. 12/2017- Central Tax (Rate).

IV. Training or Coaching in Recreational Activities

This exemption has been discussed in detail under the head “Exemption in case of services received for personal consumption / recreation”.

4. Exemptions in case of associations and clubs

Clubs or associations are established in different forms of organizations. They may be registered as a society under Societies Registration Act or as a trust or as a company under Section 25 of Companies Act, 2013. A society is the most common form of organization opted by associations or clubs. The bye laws of the organization provide the manner and procedure of enrolment of members and objects of the association. The clubs or associations generally provide different types of services, some of which are :

- Sports facilities
- Organization of events or tournaments
- Renting of *mandap*, banquets or grounds for events
- Facility of library, conference hall etc.
- Short term accommodation facilities
- Supply of food and drinks at restaurants

Concept of Mutuality and GST

From a combined reading of Section 7 and definition of business as provided in CGST Act, it is clear that provision of facilities or benefits by clubs or associations is business but the question, whether provision of an activity, which is covered under the definition of business, by a person to himself will be considered as supply or the principle of mutuality will hold, is still unanswered.

Since the expression 'supply' does not warrant provision of supply by a person to another person, it can be interpreted that provision of an activity by a person covered in the definition of business will be considered as a supply. Also, the notifications issued by the government indicate an intent that services provided by such associations have to be considered as supply and chargeable to tax as per provisions of the Act.

Supply of goods by clubs or associations

Schedule II to CGST Act, 2017 specifically provides as under:

“The following shall be treated as supply of goods, namely:—

Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.”

In view of the above, supply of goods or services by associations or clubs to its members are covered under the ambit of supply for levy of GST.

Having discussed the taxability, we shall now discuss the exemptions given to associations.

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services
77	Heading 9995	<p>Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution –</p> <p>(a) as a trade union;</p> <p>(b) for the provision of carrying out any activity which is exempt from the levy of Goods and service Tax; or</p> <p>(c) up to an amount of seven thousand five hundred rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.</p>
77A	Heading 9995	<p>Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in, —</p> <p>(i) activities relating to the welfare of industrial or agricultural labour or farmers; or</p> <p>(ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,</p> <p>to its own members against consideration in the form of membership fee upto an amount of one thousand rupees (Rs. 1000) per member per year.</p>

Relevant Exemption notification [Notification No. 12/2017-Central Tax (Rate)]

A. Exemption entry

(a) Trade unions

Service provided by any non-profit entity to its members by way of reimbursement of charges or share of contribution as a *trade union* is exempt from tax. Under the exemption notification under GST, trade union is defined thus :

(zzn) "*trade union*" has the same meaning as assigned to it in clause (h) of section 2 of the Trade Unions Act, 1926 (16 of 1926);

As per Section 2(h) of the Trade Unions Act, 1926 (16 of 1926), "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any Federation of two or more Trade Unions.

(b) Contribution from members for an exempt activity

Reimbursements or share of contribution collected by such entities from their members, for provision of carrying out any activity which in itself is exempt from the levy of Goods and service Tax, are also exempt from GST by virtue of this entry of the notification.

(c) Resident Welfare Associations (RWAs)

The management of residential societies is generally in the hands of co-operative housing societies. As an alternate of forming a society, in some places, Resident Welfare Associations are formed for group of buildings. The services provided by the RWAs include organizing supply of electricity and water, cleaning of common areas, maintenance and upkeep of the building, payment of municipal taxes etc.

The association raises contributions from all the members to provide these facilities. The contribution is generally decided in the meetings of the association. Residential complex has been defined under the exemption notification as under :

(zzb) "residential complex" means any complex comprising of a building or buildings, having more than one single residential unit;

In respect of such exemption under Service tax regime, CBEC had clarified, vide *Circular No. 175/01/2014 – ST, dated 10th January, 2014*, that if per month per member contribution of any or some members of a RWA exceeds five thousand rupees, the entire contribution of such members whose per month contribution exceeds five thousand rupees would be ineligible for the exemption under the said notification. Service tax would then be leviable on the aggregate amount of monthly contribution of such members.

On the basis of references drawn from such clarification for similar exemption under GST, it is implied that if the contribution of any member exceeds INR 7500 per month per member, then the entire contribution of such member would be ineligible for exemption under GST.

It is also important to note that this exemption covers only such services by the housing society or a body of the residential complex, which are provided for the common use of its members. Thus, if any service is provided by such body on individual basis on payment of fee, such service would not be exempt. For example, when security is made available on individual request by members, it would not be exempt.

Requirement of registration for housing societies/RWAs

An important question that arises is if an RWA provides certain services such as payment of electricity or water bill issued by third person, for its members, is exclusion from value of

supply available for the purposes of computation of aggregate turnover for purpose of registration or ITC reversal?

Section 2(6) of Central Goods and Services Tax Act, 2017 defines 'aggregate turnover' thus:

(6) "aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;

It means the amount of exempt supplies is also included in the aggregate turnover.

Some common issues are tabulated hereunder:

Issue	Suggestion
Case I : Where an electricity bill is raised in the name of the member in respect of electricity consumed by him and payment is collected and paid by the RWA to the utility without charging any other consideration.	RWA is acting as a pure agent; the amount collected for payment of such bill can be excluded from the value of supply.
Case II : Electricity bill is issued in the name of RWA, in respect of electricity consumed for common use of lifts, motor pumps for water supply, lights in common area etc.	Since there is no agency involved, exclusion from value of supply would not be available. Note : This poses an issue that an RWA would have to be registered if aggregate turnover including such exempt supplies exceeds rupees 20 lakhs and the RWA would not be eligible for ITC in respect of inputs, input services or capital goods in respect of such exempt supplies.

B. Comparison with erstwhile law

The first two clauses of this exemption entry in respect of trade union and provision of carrying out any activity which is exempt from the levy of tax, are similar to exemption in service tax as provided under Entry No. 28 of Notification No. 25/2012-ST dated 20.06.2012.

Although, services of RWA were exempt upto an amount of INR 5,000 per month per month in service tax the limit has been extended to INR 7500 per month per member under GST.

In pre-GST period, ITC of Central Excise and VAT paid on goods and capital goods was not available and these were costs to the RWA, but under GST, RWAs will be entitled to ITC in respect of taxes paid by them on capital goods, inputs and input services.

C. Examples

- (1) Service provided by an RWA by way of -

- Payment of electricity bills in the name of its members or in the name of RWA for common area - Exempt under Entry 77 (b) of Notification No. 12/2017 - Central Tax (Rate)
 - Provision of facility of cleaning or security services for common use of members are exempt under Entry 77 (c) of Notification No. 12/2017 - Central Tax (Rate), subject to threshold of Rs. 7500 per month member
- (2) Entry fees for an event charged from members-
Exempt, if consideration is upto a threshold of Rs. 500 per person.
Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force to its own members against consideration in the form of membership fee upto an amount of one thousand rupees (Rs. 1000) per member per year.

Conditions to be met to avail the exemptions

1. The maximum limit of consideration is Rs. 1000; if the amount of consideration is more than Rs. 1000/- then the exemption will not be applicable.
2. The amount has to be collected from the members of the entity and not from the non-members or the general public.
3. The entity should be engaged in any of the following activities:-
 - (i) activities relating to the welfare of industrial labour
 - (ii) activities relating to welfare of agricultural labour
 - (iii) activities relating to welfare of farmers;
 - (iv) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment.

5. Exemptions in case of Education and allied Services

"Education" is not defined in the CGST Act but as per Supreme Court decision in *Sole Trustee, Loka Shikshana Trust v. CIT* [1975] 101 ITR 234, education is the process of training and developing knowledge, skill and character of students by normal schooling. Education in its general sense is a form of learning in which knowledge, skills and habits of a group of people are transferred from one generation to the next through teaching, training or research. Any experience that has a formative effect on the way one thinks or acts may be considered as education.

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 exempt 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.

List of Exemptions [Extracted from Exemption Notification]

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services
66		<p>Services provided -</p> <p>(a) by an educational institution to its students, faculty and staff;</p> <p>(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;</p> <p>(b) to an educational institution, by way of, -</p> <p style="padding-left: 20px;">(i) transportation of students, faculty and staff;</p> <p style="padding-left: 20px;">(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</p> <p style="padding-left: 20px;">(iii) security or cleaning or house-keeping services performed in such educational institution;</p> <p style="padding-left: 20px;">(iv) services relating to admission to, or conduct of examination by, such institution;</p> <p style="padding-left: 20px;">(v) supply of online educational journals or periodicals:</p> <p>Provided that nothing contained in [sub-items (i), (ii) and (iii) of item (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>Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,-</p> <p style="padding-left: 20px;">(i) pre-school education and education up to higher secondary school or equivalent; or</p> <p style="padding-left: 20px;">(ii) education as a part of an approved vocational education course.</p>

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69		Any services provided by, _ (a) the National Skill Development Corporation set up by the Government of India; (b) a Sector Skill Council approved by the National Skill Development Corporation; (c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation; (d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to- (i) the National Skill Development Programme implemented by the National Skill Development Corporation; or (ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (iii) any other Scheme implemented by the National Skill Development Corporation.
70	Heading 9983 or Heading 9985 or Heading 9992	Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.
71	Heading 9992	Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training.

We shall now discuss the above entries in detail hereunder:

I. Exemption to services to or by educational institution

Following services are exempt as provided in Entry 66 of the exemption Notification

a. by an educational institution to its students, faculty and staff;

In relation to this exemption entry, the following terms have been defined in the aforesaid exemption notification :

- (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 recognised by any law for the time being in force;*
- (iii) *education as a part of an approved vocational education course;*
 - (h) *“approved vocational education course” means, -*
 - (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, Ministry of Skill Development and Entrepreneurship;*

It is pertinent to note that the entry does not specify the nature of services provided by an educational institution. Thus, all the services provided by an educational institution to its students, faculty and staff are exempt under GST.

Meaning of “education as a part of curriculum for obtaining a qualification recognized by law”

It means that only such educational services are in the negative list as are related to delivery of education as 'a part' of the curriculum that has been prescribed for obtaining a qualification prescribed by law. It is important to understand that to be in the negative list the service should be delivered as part of curriculum. Conduct of degree courses by colleges, universities or institutions which lead to the grant of qualifications recognized by law would be covered. Training given by private coaching institutes would not be covered as such training does not lead to grant of a recognized qualification.

b. by an educational institution by way of conduct of entrance examination

Exemption has been granted to services by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee. Entrance fee charged from prospective students is exempt under GST.

c. Services provided to an educational institution

Following services provided to an educational institution are exempt:

- (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 house-keeping services performed in such educational institution;
- (iv) services relating to admission to, or conduct of examination by, such institution;
- (v) supply of online educational journals or periodicals:

Scope of exemption for services provided to an educational institution is limited in comparison to the exemption for services provided by them, as the nature of services covered under such exemption has been specified. Broadly, the services covered are transportation, catering, security, cleaning or house-keeping, admission or examination related services, supply of online journals.

Food provided by educational institutions in their premises

Circular No.28/02/2018-GST [F.NO.354/03/2018], dated 8-1-2018, as corrected by Circular No.28/02/2018-GST, dated 18-1-2018, has clarified as under:

- 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 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.

Also, in a Press Release dated 11-4-2018, it has been clarified that :

- i. GST rate on supply of food and drinks in a mess or canteen in an educational institution attracts GST at 5% without INPUT Tax Credit (ITC).
- ii. If schools up to higher secondary level supply food directly to students, then the same are exempt from GST"

Hostel Services provided to students

In the press release dated 13-7-2017, the Board has clarified that Services of lodging/boarding in hostels provided by such educational institutions which are providing pre-school education and education up to higher secondary school or equivalent or education leading to a qualification recognised by law, are fully exempt from GST. Annual subscription/fees charged as lodging/boarding charges by such educational institutions from its students for hostel accommodation shall not attract GST.

d. Conditions to the above exemptions

The aforesaid exemption for services provided to an education institution are subject to the following conditions :

- Services covered in clause (i), (ii) and (iii) above are not applicable to educational institutions other than those providing services by way of pre-school education and education up to higher secondary school or equivalent.

This means that the exemption for said services is applicable only where such services are provided to schools.

- Exemption for supply of online education journals or periodicals is not applicable to institutions providing services by way of,-
 - (i) pre-school education and education up to higher secondary school or equivalent; or
 - (ii) education as a part of an approved vocational education course.

This means that such exemption is applicable only for supply to institutions providing services by way of education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force.

Examples

1. Modern School has charged Rs. 2,000 per student for a summer tour organized by the school. Such services are exempt.
2. Transportation services provided to a college for transportation of its students.

Such services are Taxable, because such services are exempt only when provided to schools.

I. Following service is exempt as provided in Entry 70 of the exemption Notification

Services of assessing bodies which are formed by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.

II. Following service is exempt as provided in Entry 71 of the exemption Notification

Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDU-GKY) implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training.

According to Census 2011, India has 55 million potential workers between the age of 15 and 35 years in rural areas. At the same time, the world is expected to face a shortage of 57 million workers by 2020. This presents a historic opportunity for India to transform its demographic surplus into a demographic dividend. The Ministry of Rural Development implements DDU-GKY to drive this national agenda for inclusive growth, by developing skills and productive capacity of the rural youth from poor families.

There are several challenges preventing India's rural poor from competing in the modern market, such as the lack of formal education and marketable skills. DDU-GKY bridges this gap by funding training projects benchmarked to global standards, with an emphasis on placement, retention, career progression and foreign placement. All the courses should be certified by the National Council for Vocational Training.

“Approved Vocational education course” means:

- (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, Ministry of Skill Development and Entrepreneurship

6. Health related services

Healthcare service comprise of diagnosis, treatment and prevention of disease, illness, injury and other physical and mental impairments in humans. Veterinary service is the branch of science that deals with the prevention, diagnosis and treatment of disease, disorder and injury in animals.

Following exemptions have been provided to such services:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services
46	Heading 9983	Services by a veterinary clinic in relation to health care of animals or birds.
73	Heading 9993	Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.
74	Heading 9993	Services by way of- (a) health care services by a clinical establishment, an authorised medical practitioner or para-medics; (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.
74A	Heading 9993	Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 (34 of 1992) by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961)

75	Heading 9994	Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto.
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I. Services of a Veterinary clinic

‘Veterinary clinic’ has not been defined but in general terms, it can be explained as an establishment that has the necessary facilities for examination and treatment of animals. Services by veterinary clinic in relation to health care of animals and birds are exempt from tax.

II. Services by the cord blood banks

Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.

Services in relation to preservation of stem cell can be like sorting, labelling, preserving of stem cells in the chemicals etc.

III. Health care Services

The exemption has two parts viz., health care services and transportation of patient.

(a) Health care Services

The determination of scope of this exemption first requires an understanding of health care services which is defined as under :

(zg) *“health care services” means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma;*

It has been clarified that Healthcare services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India [para 2(zg) of Notification No. 12/2017- CT(Rate)]. Therefore, hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt.

Health care services are exempt from tax when provided by :

- Clinical establishment

- An authorised medical practitioner or
- Para-medics

Such services are exempt when provided by a clinical establishment, authorised medical practitioner or para medic. These terms are explained hereunder:

- (s) *“clinical establishment” means a hospital, nursing home, clinic, sanatorium or any other institution by whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases;*
- (k) *“authorised medical practitioner” means a medical practitioner registered with any of the councils of the recognised system of medicines established or recognised by law in India and includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force;*

Although 'Paramedics' is not defined in this notification, it can be described that paramedics are trained health care professionals- for example nursing staff, physio-therapists, technicians, lab assistants etc. Generally, paramedics assist the doctors in treatment or care of patients.

Services of Doctors to Hospitals

The Board has clarified vide *Circular No.32/06/2018-GST, dated 12-2-2018* that Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt.

Food supplied to the patients

Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC. If hospitals have their own canteens and prepare their own food then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST.

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.

(b) Transportation of patient

Ambulance service provided by clinical establishments, authorised medical practitioners or para-medics is already covered under exemption of health care services vide clause

(a) above. Ambulance service provided by entities not covered in these, are also exempt from tax under clause (b) of this exemption entry.

IV. Services by operators of common bio-medical waste treatment facility

Services provided by operators of common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto are exempt from tax.

Services provided to a Clinical establishment

Services provided for the treatment or disposal or the processes of the bio-medical waste are exempt.

What is bio-medical waste

Biomedical waste (BMW) is any waste produced during the diagnosis, treatment, or immunization of human or animal research activities pertaining thereto or in the production or testing of biological or in health camps.

“BMW treatment and disposal facility” means any facility wherein treatment, disposal of BMW or processes incidental to such treatment and disposal is carried out.

In order to increase the reuse, reduce the wastage of bio-medical waste, the Government has exempted the operators of bio-medical waste treatment facility, provided the facility has been provided to a clinical establishment.

V. Services by rehabilitation professionals recognised under Rehabilitation Council of India

The Rehabilitation Council of India (RCI) was set up as a registered society in 1986. On September, 1992 the RCI Act was enacted by Parliament and it became a Statutory Body on 22 June 1993. The mandate given to RCI is to regulate and monitor services given to persons with disability, to standardise syllabi and to maintain a Central Rehabilitation Register of all qualified professionals and personnel working in the field of Rehabilitation and Special Education.

The services provided by all these registered professionals in the form of rehabilitation, therapy or counselling and other activity as covered by the said Act will be exempted if provided at medical establishments, educational institutions, rehabilitation centre established by Central Government, State Government or Union Territory or a charitable trust registered under Section 12AA of the Income Tax Act 1961

7. Exemptions in case of Transportation Services of goods and Passengers

A. Transportation of goods

A detailed analysis of exemptions available for transportation services of goods by various means of transport has been done here.

LIST OF EXEMPTIONS

Sl. No.	Description of Services
9B	Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries).
18	Services by way of transportation of goods- (a) by road except the services of— (i) a goods transportation agency; (ii) a courier agency; (b) by inland waterways.
19	Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.
19A	Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India.
19B	Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India.
20	Services by way of transportation by rail or a vessel from one place in India to another of the following goods – (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishaps; (b) defence or military equipments; (c) newspaper or magazines registered with the Registrar of Newspapers; (d) railway equipments or materials; (e) agricultural produce; (f) milk, salt and food grain including flours, pulses and rice; and (g) organic manure.
21	Services provided by a goods transport agency, by way of transport in a goods carriage of - (a) agricultural produce; (b) goods, where consideration charged for the transportation of goods on a

Analysis of Exemption

	<p>consignment transported in a single carriage does not exceed one thousand five hundred rupees;</p> <p>(c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty;</p> <p>(d) milk, salt and food grain including flour, pulses and rice;</p> <p>(e) organic manure;</p> <p>(f) newspaper or magazines registered with the Registrar of Newspapers;</p> <p>(g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or</p> <p>(h) defence or military equipments.</p>
21A	<p>Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely: -</p> <p>(a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or</p> <p>(b) any Society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or</p> <p>(c) any Co-operative Society established by or under any law for the time being in force; or</p> <p>(d) anybody corporate established, by or under any law for the time being in force; or</p> <p>(e) any partnership firm whether registered or not under any law including association of persons;</p> <p>(f) any casual taxable person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.</p>
21B	<p>Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, -</p> <p>(a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies</p> <p>which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services.</p>
23	Service by way of access to a road or a bridge on payment of toll charges.
23A	Service by way of access to a road or a bridge on payment of annuity.

I. Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries).

Service with respect to transportation of goods (cargo) from India to Nepal and Bhutan has been exempted. Tax on transportation goods from India to Nepal and Bhutan has been exempted.

II. Transportation of goods by road and inland waterways

(a) Service of transportation of goods by road is exempt from tax except when provided by -

- Goods transportation Agency (GTA)
- Courier Agency

A 'goods transport agency' has been defined to mean a person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called. Thus, any person who transports goods by road without issuing a consignment note shall not fall within the ambit of GTA and shall be exempt.

A courier agency has been defined to mean a person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles.

(b) Service of transportation of goods by inland waterways is exempt from tax. Inland waterways has been defined in clause 2(zi) of the Notification.

Example

- Mr. A provides service of transportation of goods by road and does not issue consignment note, in a horse cart owned by him. This is exempt.

III. Transportation of goods by aircraft from place outside India

Scope of exemption :

- Service is provided by an aircraft
- Service of transportation of goods is being provided
- Exemption is available only for transportation upto the customs station of clearance in India.

"Customs station" is defined in the notification thus :

(v) "Customs station" shall have the same meaning as assigned to it in clause (13) of section 2 of the Customs Act, 1962 (52 of 1962);

Example

X Ltd. imported goods from Russia and paid air freight for transportation of goods by aircraft till custom clearance in India. Such services are exempt under GST.

IV. Transportation of goods by aircraft to place outside India

The service of transportation of goods by aircraft from customs station of clearance in India to a place outside India is exempt from tax with effect from 25.01.2018 vide Notification No. 2/2018 – Central Tax (Rate) dated 25.01.2018.

- (v) “Customs station” shall have the same meaning as assigned to it in clause (13) of section 2 of the Customs Act, 1962 (52 of 1962);

Condition:

Nothing contained in this serial number shall apply after the 30th day of September, 2019.

Example

Z Ltd. exported goods to Japan and the services of an airline company were procured for transportation of goods by aircraft from customs station in India to Japan. Such service is exempt.

V. Transportation of goods by vessel to place outside India

The service of transportation of goods by vessel from customs station of clearance in India to a place outside India is exempt from tax with effect from 25.01.2018 vide Notification No. 2/2018 – Central Tax (Rate) dated 25.01.2018.

Condition:

Nothing contained in this serial number shall apply after the 30th day of September, 2019.

Examples

A to Z Pvt. Ltd. got an export order and engaged a shipping line for transportation of their goods by vessel from Indian customs station to Dubai Port. Such service is exempt.

VI. Transportation of Specified goods by rail or vessel

Services by way of transportation of the following goods by rail or a vessel from one place in India to another are exempt from GST–

- (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
- (b) defence or military equipments;
- (c) newspaper or magazines registered with the Registrar of Newspapers;
- (d) railway equipments or materials;
- (e) agricultural produce;
- (f) milk, salt and food grain including flours, pulses and rice; and
- (g) organic manure.

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Service of transportation of above mentioned goods within India, by rail or vessel is exempt from tax. The term vessel has been defined in the exemption notification thus :

(z) "vessel" has the same meaning as assigned to it in clause (z) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963);

Examples

Ramesh, a farmer in Rajasthan transported grains harvested by him to Maharashtra through railways. Transportation of agriculture produce by rail within India is exempt.

VII. Transportation of specified goods by GTA

The services provided by a goods transport agency, by way of transport in a goods carriage of the following are exempt from GST. -

- (a) agricultural produce;
- (b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees;
- (c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty;
- (d) milk, salt and food grain including flour, pulses and rice;
- (e) organic manure;
- (f) newspaper or magazines registered with the Registrar of Newspapers;
- (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
- (h) defence or military equipments.

"Goods transport" agency has been defined as under :

(ze) "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called;

What is GTA and how is it different from Goods Transport Operator

The speech of the Union Finance Minister when the GTA was brought into tax net, specifically clarified vide Para 149 that the intent was to levy tax on Transport agent and not to tax the truck operators/owners.

The issue was settled in the case *C.C.E. & C., Guntur v. Kanaka Durga Agro Oil Products Pvt. Ltd.* 2009 (15) S.T.R. 399 (Tri. - Bang.) where it was held that Service tax paid for services of individual truck operators is not liable on the basis of clarification given by Finance Minister and interpretation of the definition "agent". However, this judgment did not discuss the concept of "any person" in the definition of "Goods Transport Agency" being provided specifically.

However, there was a contrary decision rendered in case of *C.C.E., Salem v. Suibramania Siva Co-Op. Sugar Mills Ltd.* (2014) 35 S.T.R. 500 (Mad.) where Madras High Court held that "any person" would cover all kinds of persons which also covers individual truck owners and also held that speech of Finance Minister cannot be taken in aid for understanding the scope of the clear terms of the provisions in the taxation laws.

Thus, the issue whether truck owners or operators (in case they issue a consignment note) would attract levy of GST for transportation of goods by road, is open to question.

Services provided by Individual Truck operators

A single truck owner-operator is plying his truck mostly between States, carrying goods booked for his truck by an agent; the aggregate value of service provided by him exceeded twenty lakh rupees during a financial year. The truck owner is not liable to registration, as services provided by way of transportation of goods by road are exempt.

Registration is also not required in case of services by way of giving on hire; transportation of goods to a GTA is exempt from tax vide entry no. 22 of Notification number 12/2017-Central Tax (Rate) dated 28th June, 2017.

Whether ancillary services of GTA constitute "different services"

The GTA provides service to a person in relation to transportation of goods by road in a goods carriage, which is a composite service. The composite service may include various intermediary and ancillary services, such as, loading/unloading, packing/unpacking, transshipment and temporary warehousing, which are provided in the course of transport of goods by road. These services are not provided as independent services but as ancillary to the principal service, namely, transportation of goods by road. The invoice issued by the GTA for providing the said service includes the value of intermediary and ancillary services. In view of this, if any intermediary and ancillary service is provided in relation to transportation of goods by road, and charges, if any, for such services are included in the invoice issued by the GTA, such service would form part of the GTA service and would not be treated as a separate supply. In fact, any service provided along with the GTA service that is part of the composite service of GTA shall be taxed along with GTA service and not as separate supplies. However, if such incidental services are provided as separate services and charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies.

Examples

- A Ltd. receives goods from a GTA in a truck. No other goods are loaded in that truck. A Ltd. pays freight of Rs. 1500/- to GTA. It is exempt since total freight for the consignment in single carriage is Rs.1500(does not exceed 1500).
- A Ltd. receives goods from a GTA in a truck. Some other goods not belonging to A Ltd. are also loaded in the truck. A Ltd. pays freight of Rs. 900/- to GTA. The freight of other goods is Rs. 500/-. As the total freight for the truck is Rs. 1400 (does not exceed 1500), it is exempt.

- In (2) above, if the freight of other goods is Rs. 700/-, then the total freight for the truck is Rs. 1600. Freight for a single consignee (A Ltd.) is Rs. 900 (does not exceed 750) and total freight for the consignment in single carriage is Rs.1600 (exceeds Rs. 1500). Therefore, exemption is not available and A Ltd. should pay tax on Rs. 900/-.

VIII. Transportation of goods by GTA when provided to unregistered persons

Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients are exempt from tax:

- (a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or
- (b) any Society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or
- (c) any Co-operative Society established by or under any law for the time being in force; or
- (d) anybody corporate established, by or under any law for the time being in force; or
- (e) any partnership firm whether registered or not under any law including association of persons;
- (f) any casual taxable person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.

Prior to 13.10.2017, GTAs were liable to pay GST on the service provided to unregistered persons. This was creating lot of workload and inconvenience to GTAs. Therefore, exemption was given to GTAs for the service provided to un-registered persons

Examples

Export freight charged by ABC Shipping Line (India) for transportation of goods by vessel from India to Canada

IX. Services by GTA to specified CG/SG/Local Authority/Government agencies

The fact that services provided by goods transport agency to unregistered persons is exempt has already been discussed above. However, there are certain departments of the government or local authority or government agencies which are not otherwise registered for making taxable supplies but due to the provisions of TDS under the GST law. The provisions of TDS as per Section 51 require certain category of persons to take registration and deduct TDS under the GST law. Quite a number of Departments of Central Government and State Government, local authority and government agencies get covered within this. These persons only possess TDS registration but not the normal registration under GST. Any services provided by GTA to these persons will be exempted.

Example: Ministry of Commerce takes the services of a goods transport agency for transportation of construction materials to its site for renovation of its building. Such services by GTAs will stand exempted.

X. Service by way of access to a road or a bridge on payment of toll charges.

No GST has been levied on the road or bridge on which toll charges are to be paid by the person passing through such toll.

In BOT (Toll) projects, part of the cost is borne by a private person. NHA collects toll for the usage of road or bridge.

XI. Service by way of access to a road or a bridge on payment of annuity.

BOT (Annuity) projects provide that all the costs are borne by the government in the form of deferred budgetary payments. In BOT-Annuity, the developer constructs the road, maintains it and gets fixed payment from the government.

No GST has been levied on the road or bridge on which annuity charges have to be paid by the person passing through the road.

B. Transportation of passengers

LIST OF EXEMPTIONS

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services
15	Heading 9964	Transport of passengers, with or without accompanied belongings, by – (a) air, embarking from or terminating in an airport located in the State of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; (b) non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or (c) stage carriage other than air-conditioned stage carriage.
16	Heading 9964	Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding: Provided that nothing contained in this entry shall apply on or after the expiry of a period of three years from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.

17	Heading 9964	<p>Service of transportation of passengers, with or without accompanied belongings, by—</p> <p>(a) railways in a class other than—</p> <p style="padding-left: 20px;">(i) first class; or</p> <p style="padding-left: 20px;">(ii) an air-conditioned coach;</p> <p>(b) metro, monorail or tramway;</p> <p>(c) inland waterways;</p> <p>(d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and</p> <p>(e) metered cabs or auto rickshaws (including e-rickshaws).</p>
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I. Transportation of passengers from specified airports

Transport of passengers, with or without accompanied belongings, by –

- (a) air, embarking from or terminating in an airport located in the State of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;
- (b) non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or
- (c) stage carriage other than air-conditioned stage carriage.

The terms ‘contract carriage’, ‘radio taxi’ and ‘stage carriage’ have been defined in the exemption notification under clauses 2(t), (zv) and (zzh) respectively.

Examples

Ms. Ankita booked tickets for air travel from Jaipur to Guwahati (Assam). It would be exempt from GST.

II. Transportation of passenger from regional connectivity scheme airports

This exemption has been detailed elsewhere in this publication under exemptions to services provided to government.

III. Transportation of passenger in specified modes of transportations

Service of transportation of passengers, with or without accompanied belongings, by—

- (a) railways in a class other than—
 - (i) first class; or
 - (ii) an air-conditioned coach;
- (b) metro, monorail or tramway;
- (c) inland waterways;

- (d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and
- (e) metered cabs or auto rickshaws (including e-rickshaws).

The above modes are known to all. Specific definition of various terms can be found in the Notification in clause 2 for 'inland waterways', 'metered cab' and 'e-rickshaw'.

Joy rides by non-motorised vehicles

It has been clarified vide Circular No.32/06/2018-GST, dated 12-2-2018 that elephant/ camel joy rides cannot be classified as transportation services. These services will attract GST @ 18% with threshold exemption being available to small service providers.

Round trip bookings

The Department vide letter DOF No 334/03/2010 TRU Dated 01-07-2010 had clarified that in round trip tickets involving multiple journeys/ flights sectors with one of the sectors involving embarkation or disembarkation at North-Eastern States/ Bagdogra, the journey/flight/sector that involves embarkation or disembarkation at North-Eastern States/ Bagdogra would alone be covered under the exemption provided to Transport of passengers by Air service (2010).

In cases of flight embarking from or terminating on any of the airports mentioned in the Notification, the service provider shall have the benefit of exemption, irrespective of multiple journeys.

Examples

Ankesh booked his rail tickets in sleeper class from Jaipur to Mumbai. This is exempt from GST

8. Exemptions in case of services received for personal consumption, recreation including import of services by individuals

Personal consumption of services by an individual is an important part of survival or growth and thus, services which are essential for the well being of any individual have been exempt by the Government. The following services have been exempted:

LIST OF EXEMPTIONS

Sl. No.	Description of Services
12	Services by way of renting of residential dwelling for use as residence.
14	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below one thousand rupees per day or equivalent.
50	Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material.

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76	Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.
79	Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo.
79A	Services by way of admission to a protected monument so declared under the Ancient monuments and Archaeological Sites and remains Act, 1958 (24 of 1958) or any of the State Acts, for the time being in force
81	Services by way of right to admission to— (a) circus, dance, or theatrical performance including drama or ballet; (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event; (c) recognised sporting event; (d) planetarium, where the consideration for right to admission to the events or places as referred to in item (a), (b), (c) or (d) above is not more than Rs. 500 per person
82	Services by way of right to admission to the events organised under FIFA U-17 World Cup 2017.
82A	Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020.

We shall now discuss the above entries in more details hereunder:

I. Exemption to Services by way of renting of residential dwelling for use as residence

Renting in relation to immovable property means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.

The phrase 'residential dwelling' has not been defined in the Exemption Notification. However, in normal trade parlance it shall include all residential accommodation other than hotel, motel, inn, guest house, camp-site, lodge, house boat, or like places which are meant for temporary stay. Thus, services of renting of any such property when used by a person for his residence, shall be exempt.

Property partly used for commercial purpose

If a residential dwelling is rented for a single price to another person, such supply shall be determined in accordance with Section 8 of the CGST Act and shall be considered as a mixed supply and thus, full amount shall be exigible to GST.

II. Exemption to Services of low cost Hotels, camps etc.

In order to keep the services of temporary accommodation accessible to masses, exemption has been granted to services of low cost Hotel, inn, guest house, club or campsite, or any other place which offers services of residential or lodging purposes and is having value of

supply of a unit of accommodation below one thousand rupees per day or equivalent. It is important to note that the value of supply should be considered as for a complete day and thus, if a room is given for part of day, the amount should be considered proportionately accordingly.

III. Exemption to Public libraries

Exemption has been given to services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material. Thus, such libraries need not charge GST from their members and students benefitting from their services.

IV. Exemption to Public conveniences

Exemption has been given to Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets. The aim is to keep value of services of such conveniences low by exempting from GST.

V. Exemption in respect of admission to certain places / events

Exemption has been given to Services by way of admission to following places:

S.No.	Admission to	Value of Ticket upto which such services are exempted
1.	Museum, national park, wildlife sanctuary, tiger reserve or zoo	No limit
2.	A protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958) or any of the State Acts, for the time being in force for eg. Taj Mahal	No limit
3.	Circus, dance, or theatrical performance including drama or ballet	Value of ticket is not more than Rs. 500 per person
4.	Award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event	Value of ticket is not more than Rs. 500 per person
5.	Recognised sporting event	Value of ticket is not more than Rs. 500 per person
6.	Planetarium	Value of ticket is not more than Rs. 500 per person
7.	Events organised under FIFA	No limit

9. Exemptions in case of finance and insurance and employee funds

Financial and insurance sector has been one of the biggest contributors to the economy's business. They not only provide financial assistance but also secure financial health of both individuals and businesses. Thus, suitable exemptions need to be provided to them to ensure that their services do not become costlier on account of taxes.

LIST OF EXEMPTIONS

Sl. No.	Description of Services
26	Services by the Reserve Bank of India
27	Services by way of— (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services); (b) <i>inter se</i> sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers
27A	Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).
28	Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Funds Regulatory and Development Authority of India under the Pension Funds Regulatory and Development Authority Act, 2013 (23 of 2013).
29	Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.
29A	Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.
29B	Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.
30	Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948 (34 of 1948).
31	Services provided by the Employees Provident Funds Organisation to the persons

Analysis of Exemption

	governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952 (19 of 1952).
31A	Services by Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948).
31B	Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee
32	Services provided by the Insurance regulatory and Development Authority of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999 (41 of 1999).
33.	Securities and Exchange Board of India set up under the Securities and Exchange Board of India Act, 1992 (15 of 1992)
34.	<p>Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.</p> <p>Explanation.- For the purposes of this entry, "acquiring bank" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card</p>
34A	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.
35.	Services of general insurance business provided under following schemes (a) Hut Insurance Scheme; (b) Cattle Insurance under <i>Swarnajayanti Gram Swarozgar Yojana</i> (earlier known as Integrated rural Development Programme); (c) Scheme for Insurance of Tribals; (d) <i>Janata</i> Personal Accident Policy and <i>Gramin</i> Accident Policy; (e) Group Personal Accident Policy for Self-employed Women; (f) Agricultural Pumpset and Failed Well Insurance; (g) Premia collected on export credit insurance; (h) restructured Weather Based Crop Insurance Scheme (rWCIS)], approved by the Government of India and implemented by the Ministry of Agriculture; (i) <i>Jan Arogya Bima</i> Policy; (j) <i>Pradhan mantri Fasal Bima Yojana</i> (PmFBY)]; (k) Pilot Scheme on Seed Crop Insurance; (l) Central Sector Scheme on Cattle Insurance; (m) Universal Health Insurance Scheme; (n) <i>Rashtriya Swasthya Bima Yojana</i> ; (o) Coconut Palm Insurance Scheme; (p) <i>Pradhan Mantri Suraksha Bima Yojana</i> ; (q) <i>Niramaya</i> Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999); (r) <i>Bangla Shasya Bima</i>

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36	Services of life insurance business provided under following schemes (a) <i>Janashree Bima Yojana</i> ; (b) <i>Aam Aadmi Bima Yojana</i> ; (c) Life micro-insurance product as approved by the Insurance regulatory and Development Authority, having maximum amount of cover of 1[two lakhs] rupees; (d) <i>Varishtha Pension Bima Yojana</i> ; (e) <i>Pradhan mantri Jeevan Jyoti Bima Yojana</i> ; (f) <i>Pradhan Mantri Jan Dhan Yojana</i> ; (g) <i>Pradhan Mantri Vaya Vandan Yojana</i> .
36A	Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 or 40
37	Services by way of collection of contribution under the <i>Atal Pension Yojana</i>
38	Services by way of collection of contribution under any pension scheme of the State Governments.
39.	Services by the following persons in respective capacities (a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch; (b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or (c) business facilitator or a business correspondent to an insurance company in a rural area.
40	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.

We shall now discuss the above entries in greater details hereunder:

I. Exemption to interest received on loan

Interest is the consideration for provision of money for use to someone else. Though money is neither goods nor services, yet use of money is a service. Accordingly, supply of such service and consideration thereof in the form of interest or discount (other than interest involved in credit card services) has been exempted.

II. Exemption to exchange of money

Exemption has been granted to *inter se* sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers. Thus, when banks or authorized dealers exchange money for persons other than banks and authorized dealers, their commission for such exchange shall be taxable.

III. Exemption to services provided by specified financial institutions

In order to ensure economic services by certain institutions to masses, tax exemption has been granted to the following services:

Analysis of Exemption

S. No.	Name of the institution	Services exempted
1.	Life insurance companies	Services by way of annuity under the National Pension System regulated by the Pension Funds Regulatory and Development Authority of India under the Pension Funds Regulatory and Development Authority Act, 2013 (23 of 2013).
2.	Army, Naval and Air Force Group Insurance Funds	Services of life insurance business provided or agreed to be provided to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.
3.	Naval Group Insurance Fund	Services of life insurance provided or agreed to be provided to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.
4.	Employees' State Insurance Corporation	Services to persons governed under the Employees' State Insurance Act, 1948 (34 of 1948).
5.	Employees Provident Funds Organisation	Services provided to the persons governed under the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952).
6.	Coal Mines Provident Funds Organisation	Services to persons governed by the Coal Mines Provident Funds and Miscellaneous Provisions Act, 1948 (46 of 1948).
7.	National Pension System (NPS) Trust	Services to its members against consideration in the form of administrative fee
8.	Insurance Regulatory and Development Authority of India	Services provided to insurers under the Insurance Regulatory and Development Authority of India Act, 1999 (41 of 1999).
9.	Securities and Exchange Board of India set up under the Securities and Exchange Board of India Act, 1992 (15 of 1992)	Services provided by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.

IV. Exemption to specified insurance schemes

Specific insurance schemes have been exempt by the Government. List of such exemptions has been set out in Serial numbers 35, 36, 37 and 38. Further, services provided to the Central Government, State Government, Union territory under any insurance scheme for

which total premium is paid by the Central Government, State Government, Union territory. Thus, all schemes whose total premium (not even a single rupee to be paid by any other person) is paid by Government, no GST shall be levied on such insurance schemes. Also, re-insurance of specified schemes has also been exempt when made for schemes listed in Serial numbers 35, 36 and 40.

V. Services of intermediaries

Services by the following intermediaries / agents have been exempted:

Agent /Intermediary	Recipient
Business facilitator or business correspondent	A banking company with respect to accounts in its rural area branch
Any person	Business facilitator or business correspondent with respect to services mentioned in entry (a)
Business facilitator or business correspondent in a rural area.	An insurance company

10. Exemptions in case of activities related to arts, sports and culture

Culture represents the values, goals and beliefs of any nation. It is reflective of economic, social and other values of the people. A country as diverse as India is symbolized by the plurality of its culture. Similarly, for proper growth of a nation, growth of Sports and Arts are also equally important.

Thus, suitable exemption has been given to various services relating to arts, culture and sports. The following services have been exempted:

LIST OF EXEMPTIONS

Sl. No.	Description of Services
9A	Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 World Cup 2017 to be hosted in India. Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 World Cup 2017]
53	Services by way of sponsorship of sporting events organised (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country; (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special

	Olympics Bharat; (c) by the Central Civil Services Cultural and Sports Board; (d) as part of national games, by the Indian Olympic Association; or (e) under the Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme.
9AA	Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India.
68	Services provided to a recognised sports body by (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body; (b) another recognised sports body.
78	Services by an artist by way of a performance in folk or classical art forms of— (a) music, or (b) dance, or (c) theatre, if the consideration charged for such performance is not more than one lakh and fifty thousand rupees: Provided that the exemption shall not apply to service provided by such artist as a brand ambassador.
80	Services by way of training or coaching in recreational activities relating to— (a) arts or culture, or (b) sports by charitable entities registered under section 12AA of the Income-tax Act.

We shall now elaborately discuss the above entries.:

I. Exemption to Sponsorship of specified Sporting events

Exemption has been granted to services by way of sponsorship of specified sporting events. The list of sporting events whose sponsorship has been exempt is as follows:

- Sporting event by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;
This includes all national, State level, zonals organized for various sports in the country. National Sports Federations (NSFs) are autonomous bodies registered under the Societies Registration Act 1860. List of such federations is given on the website of the Ministry of Youth Affairs and Sports.
- Sporting events by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat
- Sponsorship of any sporting event by the above named bodies shall be exempt.
- Sponsorship of sporting event by the Central Civil Services Cultural and Sports Board shall also be exempt. The Central Civil Services Cultural & Sports Board is the nodal agency for promotion of Sports and Cultural activities amongst Central Government Employees. In order to cater to the needs of the Central Government employees located outside Delhi, Regional Sports Boards were set up in Cities where the number of Central Government employees was more than one thousand.

- Sponsorship of sporting event as part of national games, by the Indian Olympic Association shall be exempt. The Indian Olympic Association is the governing body for the Olympic Movement and the Commonwealth Games in India. As an affiliated member of the International Olympic Committee (IOC), Commonwealth Games Federation (CGF), Olympic Council of Asia (OCA) and Association of National Olympic Committees (ANOC), the IOA administers various aspects of sports governance and athletes' welfare in the country. In this regard, the IOA oversees the representation of athletes or teams participating in the Olympic Games, Commonwealth Games, Asian Games and other international multi-sport competitions of IOC, CGF, OCA and ANOC. The Indian Olympic Association is recognised by the Ministry of Youth Affairs and Sports.
- Sponsorship of sporting event under the *Panchayat Yuva Kreedha Aur Khel Abhiyaan* Scheme ("PYKKA") are exempt. PYKKA is a Central Government sponsored scheme which is implemented by State and Union Territory administrations.

II. Exemption to services provided to recognised sports bodies.

Services provided to a recognised sports body by

- (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognised sports body;
- (b) another recognised sports body.

have been exempted.

A recognised sports body has been defined to include the following :

- the Indian Olympic Association;
- Sports Authority of India;
- a national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations;
- national sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government;
- the International Olympic Association or a federation recognised by the International Olympic Association; or
- a federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India;

III. Exemption to performing artists

Services by an artist by way of a performance in folk or classical art forms of—

- (a) music, or

- (b) dance, or
- (c) theatre,

have been exempted with the condition that the consideration charged for such performance is not more than one lakh and fifty thousand rupees. Another condition has been attached to the exemption that such service should not be provided by such artist as a brand ambassador. Thus, while the classical performers are exempt from tax, those charging substantially or where the person is promoting a brand, such performances have been kept outside the ambit of the exemption.

IV. Exemption to training activities

Services by way of training or coaching in recreational activities relating to—

- (a) arts or culture, or
- (b) sports by charitable entities registered under section 12AA of the Income-tax Act are also exempt.

The first condition is that such training should be recreational and thus, professional trainings even in such art or culture shall be taxable. Secondly, while recreational training for arts and culture can be undertaken by anyone, training for sports is exempt only when it is undertaken by a charitable entity registered under section 12AA of the Income-tax Act.

11. Exemptions in case of activities relating to Agriculture

The following services relating to agriculture have been exempted:

LIST OF EXEMPTIONS

Sl. No.	Description of Services
53A	Services by way of fumigation in a warehouse of agricultural produce.
54	Services relating 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 by way of— (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour; (c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market; (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use; (e) loading, unloading, packing, storage or warehousing of agricultural produce;

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	(f) agricultural extension services; (g) services by any Agricultural Produce marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce; (h) services by way of fumigation in a warehouse of agricultural produce.
55	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.
55A	Services by way of artificial insemination of livestock (other than horses).
56	Services by way of slaughtering of animals.
57	Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.
58	Services provided by the National Centre for Cold Chain Development under the Ministry of Agriculture, Co-operation and Farmer's Welfare by way of cold chain knowledge dissemination.

We shall now discuss the above entries in details hereunder:

I. Services by way of fumigation in a warehouse of agricultural produce.

Services by way of fumigation in a warehouse of agricultural produce has been exempted vide Notification No. 2/2018- Central Tax (Rate) dated 25th Jan, 2018.

II. Services relating to agriculture

Exemption has been given to specified services relating 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. Such services should be by way of—

- (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;
- (b) supply of farm labour;
- (c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;
- (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;

- (e) loading, unloading, packing, storage or warehousing of agricultural produce;
- (f) agricultural extension services. The term 'agricultural extension' has been defined in Para 2(c) of N. No. 12/2017-Central Tax (Rate) dated 20.06.2017 to mean application of scientific research and knowledge to agricultural practices through farmer education or training';
- (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce;
- (h) services by way of fumigation in a warehouse of agricultural produce.

Services by way of erection or construction of original works pertaining to mechanised food grain handling system, machinery or equipment for units processing agricultural produce would be exempt from GST.

The term "Agriculture" has not been defined under GST Act. Under Section 65B-Clause (3) of the erstwhile Finance Act, 1994, it has been defined as the cultivation of plants and rearing of all life-forms of animals, except the rearing of horses, for food, fiber, fuel, raw material or other similar products. However, under GST law, this meaning of agriculture has been incorporated in the definition of agricultural produce as defined below.

"Agricultural produce" as defined in Para 2(d) of N. No. 12/2017-Central Tax (Rate) dated 20.06.2017 means 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;

"Agricultural Produce Marketing Committee or Board" as defined in Para 2(e) of N. No. 12/2017-Central Tax (Rate) dated 20.06.2017 means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce;

'Renting in relation to immovable property' as defined in Para 2(zz) of N. No. 12/2017-Central Tax (Rate) dated 20.06.2017 means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.

Extracts from SI. No. 4.4 of the Taxation of Services-An Education Guide dated 20.06.2012 published under erstwhile Service Tax Law:

- Activities like breeding of fish (pisciculture), rearing of silk worms (sericulture), cultivation of ornamental flowers (floriculture) and horticulture, forestry are also included in the definition of agriculture.
- Plantation crops like rubber, tea or coffee are covered under agricultural produce.

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- Specified processes like tending, pruning, grading, sorting etc. carried out at the farm or elsewhere are also exempted as long as they do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market.
- Cleaning of wheat carried out outside the farm is exempted as such activity do not alter the essential characteristics of agricultural produce. However, shelling of paddy is not exempted as this process is never done on a farm as is usually done by a cultivator or producer but in a rice sheller normally located away from the farm. However, if shelling is done by way of a service i.e. on job work then the same would be covered under the exemption relating to 'carrying out of intermediate production process as job work in relation to agriculture'
- Potato chips or tomato ketchup do not qualify as agricultural produce because in terms of the definition of agricultural produce, only such processing should be carried out as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market. Potato chips or tomato ketchup are manufactured through processes which alter the essential characteristic of farm produce (potatoes and tomatoes in this case).
- Agricultural products like cereals, pulses, copra and jaggery will be covered in the ambit of 'agricultural produce' since certain amount of processing done on these products by a person other than a cultivator or producer are those processes which are usually done by a cultivator or producer.
- Processes of grinding, sterilizing, extraction packaging in retail packs of agricultural products, which make the agricultural products marketable in retail market are not exempted because only those processes are exempted which make agricultural produce marketable in the primary market.
- Leasing of vacant land with a green house or a storage shed meant for agricultural produce is exempt because such structure is incidental to its use for agriculture.
- Agricultural Produce Marketing Committees or Boards are set up under a State Law for purpose of regulating the marketing of agricultural produce. Such marketing committees or boards have been set up in most of the States and provide a variety of support services for facilitating the marketing of agricultural produce by provision of facilities and amenities like, sheds, water, light, electricity, grading facilities etc. They also take measures for prevention of sale or purchase of agricultural produce below the minimum support price. APMCs collect market fees, license fees, rents etc. Services provided by such Agricultural Produce Marketing Committee or Board are covered in the negative list. However any service provided by such bodies which is not directly related to agriculture or agricultural produce will be liable to tax e.g. renting of shops or other property.

III. Services of intermediate process in relation to agriculture

Exemption has been given to services by way of 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.

The word “Job Work” has been defined under CGST Act under section 2(68) to mean “any treatment or process undertaken by a person on goods belonging to another registered person and the expression “Job Worker” shall be construed accordingly.”

It is thus, evident that “Job Worker” means a person who gets raw material/intermediate goods from the principal manufacturer and carries out any process thereon. For the purpose of job work, 'principal' means a registered person who sends any inputs or capital goods, to a job worker for job-work.

If need be reference can be made to Serial No 30 of *Notification No 25/2012 dated 20/06/2012* issued under Service Tax Law which grants exemption to intermediate production process carried out by job worker.

IV. Services by way of specified activities on in-store agricultural goods

Exemption has been granted to services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables. These activities are usually undertaken in the storage facility near the market for such fruits or vegetables. The activities aim to provide shelf life or marketability to such fruits and vegetables.

12. Exemption to other construction / installation etc. related activities

The following services relating to other construction/installation etc. have been exempted:

LIST OF EXEMPTIONS

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services
10	Heading 9954	Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission/ <i>Pradhan Mantri Awas Yojana</i> .

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10A	Heading 9954	Services supplied by electricity distribution utilities by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer or agriculturist for agricultural use
11	Heading 9954	Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex.
41A	Heading 9972	<p>Service by way of transfer of development rights (herein refer TDR) or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019 for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under:</p> <p>$[GST \text{ payable on TDR or FSI (including additional FSI) or both for construction of the project}] \times (\text{carpet area of the residential apartments in the project} \div \text{Total carpet area of the residential and commercial apartments in the project})$</p>
41B	Heading 9972	<p>Upfront amount (called as 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, on or after 01.04.2019, for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under:</p> <p>$[GST \text{ payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the project}] \times (\text{carpet area of the residential apartments in the project} \div \text{Total carpet area of the residential and commercial apartments in the project})$.</p>

We shall now discuss the above entries in more details hereunder:

I. Services by way of pure labour contracts of construction, erection, commissioning etc.

Conditions for the above exemption are as under:

- (a) Service should be provided by way of pure labour contract
- (b) The service shall be for the construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a structure.
- (c) The above-mentioned service shall be provided for
 - the civil structure or
 - any other original works pertaining to the beneficiary led individual house construction or
 - enhancement under the Housing for all (Urban) Mission/ *Pradhan Mantri Awas Yojna*.

II. Services by electricity distribution utilities upto the tube well of farmers

Conditions for the above exemption are as under:

- (a) Services provided by way of construction, erection, commissioning or installation of infrastructure for extending electricity distribution network.
- (b) The service shall be provided upto the tube well of farmers or agriculturist for agricultural use. The service of electricity distribution network provided for work other than agricultural use will not be covered in this exemption.

III. Services by way of construction, erection, commission etc. pertaining to a single residential unit.

Conditions for the above exemption are as under:

- (a) Service provided by way of pure labour contract
- (b) Service is for the construction, erection, commissioning or installation of original works;
- (c) The service shall be provided for the original work pertaining to a single residential unit and not for the residential complex.

"Single residential unit" as defined in Para 2(zze) of N. No. 12/2017-Central Tax (Rate) dated 20.06.2017 means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family. Thus, any building when constructed by multiple families (even of relatives) shall be taxable. Eg. Two brothers gave a construction contract of their two floors to a contractor. Such construction shall be taxable.

IV. Services by way of transfer of development rights (TDR) or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019

Services by way of transfer of TDR or FSI including additional FSI has been made exempt vide N. No. 04/2019-Central Tax (Rate) dated 29.03.2019 w.e.f. 01.04.2019 if such transfer is:

- for construction of residential apartments;
- by a promoter; in a project
- intended for sale to a buyer, wholly or partly except where the entire consideration from the buyer has been received after issuance of completion certificate, where required by the competent authority or after its first occupation, whichever is earlier.

The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under:

[GST payable on TDR or FSI (including additional FSI) or both for construction of the project] x (carpet area of the residential apartments in the project ÷ Total carpet area of the residential and commercial apartments in the project)

However, if residential apartments remain un-booked on the date of issuance of completion certificate or first occupation of the project, as the case may be, then the promoter shall be liable to pay tax at the applicable rate on reverse charge basis on such proportion of value of TDR or FSI (incl. additional FSI) or both, as is attributable to such residential apartments.

The amount of tax payable shall be calculated in the following manner:

[GST payable on TDR or FSI (including additional FSI) or both for construction of the residential apartments in the project but for the exemption contained herein] x (carpet area of the residential apartments in the project which remain un- booked on the date of issuance of completion certificate or first occupation ÷ Total carpet area of the residential apartments in the project)

The tax payable under reverse charge shall not exceed:

- 0.5% of the value in case of affordable residential apartments and
- 2.5 per cent. of the value in case of residential apartments other than affordable residential apartments

remaining un- booked on the date of issuance of completion certificate or first occupation.

When liability to pay tax shall arise: on the date of completion or first occupation of the project, as the case may be, whichever is earlier.

'Floor Space Index (FSI)' as defined in Clause (xiii) of the Explanation to N. No. 12/2017-Central Tax (Rate) dated 20.06.2017 shall mean the ratio of a building's total floor area (gross floor area) to the size of the piece of land upon which it is built.

V. Services by way of grant of long term lease against payment of upfront amount for construction of residential apartments on or after 1st April, 2019

Services by way of grant of long term lease of 30 years or more has been made exempt vide N. No. 04/2019-Central Tax (Rate) dated 29.03.2019 w.e.f. 01.04.2019 if such transfer is:

- against payment of upfront amount (called as premium, salami, cost, price, development charges or by any other name);
- for construction of residential apartments;
- by a promoter;
- in a project;
- intended for sale to a buyer, wholly or partly except where the entire consideration from the buyer has been received after issuance of completion certificate, where required by the competent authority or after its first occupation, whichever is earlier.

The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under:

$[GST \text{ payable on upfront amount payable for long term lease of land for construction of the project}] \times (\text{carpet area of the residential apartments in the project} \div \text{Total carpet area of the residential and commercial apartments in the project})$.

However, if residential apartments remain un-booked on the date of issuance of completion certificate or first occupation of the project, as the case may be, then the promoter shall be liable to pay tax at the applicable rate on reverse charge basis on such proportion of upfront amount paid for long term lease of land as is attributable to such residential apartments.

The amount of tax payable shall be calculated in the following manner:

$GST \text{ payable on upfront amount payable for long term lease of land for construction of the residential apartments in the project but for the exemption contained herein}] \times (\text{carpet area of the residential apartments in the project which remain un- booked on the date of issuance of completion certificate or first occupation} \div \text{Total carpet area of the residential apartments in the project})$;

The tax payable under reverse charge shall not exceed:

- 0.5% of the value in case of affordable residential apartments and
- 2.5 per cent. of the value in case of residential apartments other than affordable residential apartments

remaining un- booked on the date of issuance of completion certificate or first occupation.

When liability to pay tax shall arise: on the date of completion or first occupation of the project, as the case may be, whichever is earlier.

13. Exemption to business support Services

The following services relating to business support services have been exempted:

LIST OF EXEMPTIONS

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services
22	Heading 9966 or Heading 9973	<p>Services by way of giving on hire—</p> <p>(a) to a State transport undertaking, a motor vehicle meant to carry more than twelve passengers;</p> <p>(aa) to a local authority, an Electrically operated vehicle meant to carry more than twelve passengers;</p> <p>Explanation.- For the purposes of this entry, “Electrically operated vehicle” means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) which is run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicle.’.</p> <p>(b) to a goods transport agency, a means of transportation of goods; or</p> <p>(c) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.</p>
24	Heading 9967 or Heading 9985	Services by way of loading, unloading, packing, storage or warehousing of rice.
24A	Heading 9967 or Heading 9985	Services by way of warehousing of minor forest produce
24B	Heading 9967 or Heading 9985	Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.
25	Heading 9969	Transmission or distribution of electricity by an electricity transmission or distribution utility.

Analysis of Exemption

39A	Heading 9971	<p>Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).</p> <p><i>Explanation.</i>-For the purposes of this entry, the intermediary of financial services in IFSC is a person,—</p> <ul style="list-style-type: none"> (a) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or (b) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or (c) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or (d) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.
41	Heading 9972	<p>Upfront amount (called as 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 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.</p>
41A	Heading 9972	<p>Service by way of transfer of development rights (herein refer TDR) or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019 for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>The amount of GST exemption available for construction of</p>

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		residential apartments in the project under this notification shall be calculated as under : [GST payable on TDR or FSI (including additional FSI) or both for construction of the project] x (carpet area of the residential apartments in the project ÷ Total carpet area of the residential and commercial apartments in the project)
41B	Heading 9972	<p>Upfront amount (called as 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, on or after 1-4-2019, for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under :</p> <p>[GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the project] x (carpet area of the residential apartments in the project ÷ Total carpet area of the residential and commercial apartments in the project).</p>
44	Heading 9981	<p>Services provided by an incubatee up to a total turnover of fifty lakh rupees in a financial year subject to the following conditions, namely:-</p> <p>(a) the total turnover had not exceeded fifty lakh rupees during the preceding financial year; and</p> <p>(b) a period of three years has not elapsed from the date of entering into an agreement as an incubatee.</p>
45	Heading 9982 or Heading 9991	<p>Services provided by-</p> <p>(a) an arbitral tribunal to –</p> <p>(i) any person other than a business entity;</p> <p>(ii) a business entity with an aggregate turnover up to ²such amount in the preceding financial year as</p>

² Substituted by N.No. 21/2019-Central Tax (Rate) dated 30.09.2019 w.e.f. 01.10.2019. Before this, it was read as under: twenty lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year.

		<p>makes it eligible for exemption from registration under Central Goods and Services Tax Act, 2017 (12 of 2017); or</p> <p>(iii) <i>the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;</i></p> <p>(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-</p> <p>(i) an advocate or partnership firm of advocates providing legal services;</p> <p>(ii) any person other than a business entity;</p> <p>(iii) a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under Central Goods and Services Tax Act, 2017 (12 of 2017);; or</p> <p>(iv) <i>the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;</i></p> <p>(c) a senior advocate by way of legal services to-</p> <p>(i) any person other than a business entity;</p> <p>(ii) a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under Central Goods and Services Tax Act, 2017 (12 of 2017); or</p> <p>(iii) <i>the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.</i></p>
47A	Heading 9983 or Heading 9991	Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators.
48	Heading 9983 or any other Heading of Chapter 99	Taxable services, provided or to be provided, by a Technology Business Incubator or a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India

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		or bio-incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India.
49	Heading 9984	Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.
52	Heading 9985	Services by an organiser to any person in respect of a business exhibition held outside India.

I. Explanation to exemption entry no. 22 of the Exemption Notification

Exemption has been granted to services by way of giving on hire—

- to a State transport undertaking, a motor vehicle meant to carry more than twelve passengers;
- to a local authority, an Electrically operated vehicle meant to carry more than twelve passengers; [This exemption has been inserted vide N.No. 13/2019-Central Tax (Rate) dated 31.07.2019 w.e.f 01.08.2019.
- to a goods transport agency, a means of transportation of goods; or
- motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.

It is important to note that the above exemption is given for giving the vehicle for hire to the specified person. In this exemption, the person has not been given exemption for actual transportation.

For the purposes of this entry, “Electrically operated vehicle” means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) which is run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicle.

II. Explanation to exemption entry no. 24 of the Exemption Notification

Services by way of loading, unloading, packing, storage or warehousing of rice have been exempted. The entry is specifically provided as rice is not an agricultural produce.

III. Explanation to exemption entry no. 24A of the Exemption Notification

Minor Forest Produce (MFP) is a subset of forest produce and got a definition only in 2007

when the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, was enacted. Section 2(i) of the said Act, popularly known as the Forests Rights Act (FRA) defines a Minor Forest Produce (MFP) as all non-timber forest produce of plant origin and includes bamboo, brushwood, stumps, canes, Tusser, cocoon, honey, waxes, Lac, tendu/kendu leaves, medicinal plants and herbs, roots, tuber and the like. Warehousing of these products are covered under this exemption.

IV. Explanation to exemption entry no. 24B of the Exemption Notification

The scope of exemption by way of storage or warehousing has further been extended by exempting services of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea. The exemption has been granted vide N.No. 21/2019-Central Tax (Rate) dated 30.09.2019 w.e.f 01.10.2019.

V. Explanation to exemption entry no. 25 of the Exemption Notification

Transmission or distribution of electricity by an electricity transmission or distribution utility. An "electricity transmission or distribution utility" as defined in Para 2(z) of N.No. 12/2-17-Central tax (Rate) dated 20.06.2017 means the Central Electricity Authority; a State Electricity Board; the Central Transmission Utility or a State Transmission Utility notified under the Electricity Act, 2003 (36 of 2003); or a distribution or transmission licensee under the said Act, or any other entity entrusted with such function by the Central Government or, as the case may be, the State Government. Thus, distribution of electricity by any other persons shall be taxable.

VI. Explanation to exemption entry no. 39A of the Exemption Notification

Conditions for the above exemption are as under:

- (a) The service shall be provided by an intermediary of financial service with the status of a IFSC.
- (b) The service provider shall be located in a SEZ.
- (c) The service shall be provided to a customer located outside India.
- (d) The service shall be in the nature of international financial services and provided in currencies other than Indian rupees (INR); if the service is provided to the customer in Indian rupees then it will not be covered in this exemption.

As per explanation provided in this entry the intermediary of financial services in IFSC is a person,

- (a) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or

- (b) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or
- (c) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or
- (d) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015

VII. Explanation to exemption entry no. 41 of the Exemption Notification

Exemption has been granted

- against Upfront amount (called as premium, salami, cost, price, development charges or by any other name)
- which is 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 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.

Thus, if any State Government Industrial Development Corporations or Undertakings or any other entity having 50% or more ownership of Central Government, State Government, Union territory grant long term lease of industrial plots or plots for thirty years or more in any industrial or financial business area to the industrial units or the developers for development of infrastructure for financial business, then any upfront amount, whether called premium, salami, cost, price, development charges or any other name, collected against grant of such lease shall be exempted.

VIII. Explanation to exemption entry no. 41A of the Exemption Notification

Exemption has been granted to supply of services against upfront amount (called as 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, on or after 1-4-2019, for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of

completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

It is important to note that the exemption is made available only in relation to construction of residential apartment and not for construction of commercial apartments.

Further the above exemption is subject to certain conditions which are as follows:

Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of value of development rights, or FSI (including additional FSI), or both, as is attributable to the residential apartments, which remain un-booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner.

[GST payable on TDR or FSI (including additional FSI) or both for construction of the residential apartments in the project but for the exemption contained herein] x (carpet area of the residential apartments in the project which remain un-booked on the date of issuance of completion certificate or first occupation ÷ Total carpet area of the residential apartments in the project]

Provided further that tax payable in terms of the first proviso hereinabove shall not exceed 0.5 percent of the value in case of affordable residential apartments and 2.5 percent of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation

The liability to pay central tax on the said portion of the development rights or FSI, or both, calculated as above, shall arise on the date of completion or first occupation of the project, as the case may be, whichever is earlier.

IX. Explanation to exemption entry no. 41B of the Exemption Notification

Exemption has been granted to supply of services against upfront amount (called as 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, on or after 1-4-2019, for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

It is important to note that the exemption is made available only in relation to construction of residential apartment and not for construction of commercial apartments.

Further the above exemption is subject to certain conditions which are as follows:

Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, as is attributable

to the residential apartments, which remain un-booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner:-

[GST payable on upfront amount (called as premium, salami, cost, price development charges or by any other name) payable for long term lease of land for construction of the residential apartments in the project but for the exemption contained herein] x (carpet area of the residential apartments in the project which remain un-booked on the date of issuance of completion certificate or first occupation ÷ Total carpet area of the residential apartments in the project);

Provided further that the tax payable in terms of the first proviso shall not exceed 0.5 per cent. of the value in case of affordable residential apartments and 2.5 per cent. of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation.

The liability to pay central tax on the said proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, calculated as above, shall arise on the date of issue of completion certificate or first occupation of the project.

It is important to note that the exemption is made available only in relation to industrial plots and not for residential plots.

X. Explanation to exemption entry no. 44 of the Exemption Notification

Exemption has been granted to the services provided by an incubatee up to a total turnover of fifty lakh rupees in a financial year subject to the following conditions, namely:-

- (a) the total turnover is less than or upto fifty lakh rupees during the preceding financial year; and
- (b) a period of three years has not elapsed from the date of entering into an agreement as an incubatee. If the three years has elapsed from the date of entering into the agreement then this exemption shall not be applicable.

The term "Incubatee" as defined in Para 2(zh) of N.No. 12/2-17-Central tax (Rate) dated 20.06.2017 means an entrepreneur located within the premises of a Technology Business Incubator or Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the Technology Business Incubator or the Science and Technology Entrepreneurship Park to enable himself to develop and produce hi-tech and innovative products

XI. Explanation to exemption entry no. 45 of the Exemption Notification

Exemption has been granted to service provided by-

- (a) an arbitral tribunal –
- (b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services -
- (c) a senior advocate by way of legal services, when such services are provided to-
 - (i) any person other than a business entity;
 - (ii) a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under CGST Act, 2017; or
 - (iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;

In case of partnership firm of advocates or an individual as an advocate other than a senior advocate, they can provide service to-an advocate or partnership firm of advocates providing legal services in addition to the above-mentioned service recipient.

The above entry is self-explanatory as it provides for exemption of certain legal services when provided to specified recipients. However, legal services of above specified providers become taxable when such services are provided to business entities with aggregate turnover above threshold limit who are liable to pay tax on such services under reverse charge in terms of N.No. 13/2017-Central Tax (Rate) dated 20.06.2017.

The term 'Business entity' as defined in para 2(n) of the N. No. 12/2017-Central Tax (Rate) dated 20.06.2017 means any person carrying out business.

Earlier, in case of business entity, exemption was available if its aggregate turnover in the preceding financial year was upto 20 lakhs rupees (10 lakhs rupees in case of special category states). This has now been substituted with 'up to such amount in the preceding financial year as makes it eligible for exemption from registration under CGST Act, 2017 vide N. No. 21/2019-Central Tax (Rate) dated 30.09.2019 w.e.f 01.10.2019. This change ensures that whenever there is a change in the threshold limit for registration, corresponding change is not required to be made in the above entry.

The term 'Legal Services' has been defined in Para 2(zm) of the N. No. 12/2017-Central Tax (Rate) dated 20.06.2017 as any service provided in relation to advice, consultancy or assistance in nay branch of law, in any manner and includes representational services before any court, tribunal or authority.

XII. Explanation to exemption entry no. 47A of the Exemption Notification

Conditions for the above exemption are as under:

- (a) Service shall be supplied by Food Safety and Standard Authority of India (FSSAI)
- (b) Service shall be received by the Food Business Operators
- (c) Service shall be by way of licensing, registration and analysis or testing of food samples manufactured by the food business operators.

Services relating to food certification has been exempted to keep costs under check.

XIII. Explanation to exemption entry no. 48 of the Exemption Notification

Exemption has been granted to taxable services, provided or to be provided, by

- (a) Technology Business Incubator or
- (b) Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or
- (c) bio-incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India.

These bodies have been set up to promote incubators who shall set up production facilities for innovative products. These bodies provide various incentives for setting up of such units.

XIV. Explanation to exemption entry no. 49 of the Exemption Notification

- (a) Services by way of collecting or providing news
- (b) by an independent journalist, Press Trust of India or United News of India.

has been exempted. Thus, services of only specified persons have been exempted. Other persons like news channels etc. when providing news to any other news agency shall be taxable.

XV. Explanation to exemption entry no. 52 of the Exemption Notification

Conditions for the above exemption are as under:

- (b) Services should be by an organiser
- (c) Services can be to any person
- (d) Services should be in respect of a business exhibition held outside India.

Since the transaction takes place between two residents, its place of supply falls within India and thus, the same has been exempted. The business exhibition should have been held out of India and not in India.

14. Other /Exemptions

The following services have been exempted :

LIST OF EXEMPTIONS

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services
2	Chapter 99	Services by way of transfer of a going concern, as a whole or an independent part thereof
59	Heading 9999	Services by a foreign diplomatic mission located in India.
60	Heading 9991	Services by a specified organisation in respect of a religious pilgrimage facilitated by the Government of India, under bilateral arrangement.
65A	<i>Heading 9991</i>	<i>Services by way of providing information under the Right to Information Act, 2005 (22 of 2005).</i>
70	Heading 9983 or Heading 9985 or Heading 9992	Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.

I. Explanation to exemption entry no. 2 of the Exemption Notification

Exemption has been granted under above entry if services have been provided by way of transfer of a going concern. Such exemption shall be available whether the transfer is of whole concern or an independent part thereof.

II. Explanation to exemption entry no. 59 of the Exemption Notification

Exemption has been granted to services by a foreign diplomatic mission located in India. A *diplomatic mission* or *foreign mission* is a group of people from one State or an organisation present in another State to represent the sending State/organisation officially in the receiving State.

A country may have several different types of diplomatic missions in another country:

An **embassy** is a diplomatic mission generally located in the capital city of another country which offers a full range of services, including consular services.

A **high commission** is an embassy of a Commonwealth country located in another Commonwealth country.

A **permanent mission** is a diplomatic mission to a major international organization.

A **consulate general** is a diplomatic mission located in a major city, usually other than the capital city, which provides a full range of consular services.

A **consulate** is a diplomatic mission that is similar to a consulate general, but may not provide a full range of services.

A **consulate headed by an Honorary Consul** is a diplomatic mission headed by an Honorary Consul which provides only a limited range of services.

As well as being a diplomatic mission to the country in which it is situated, it may also be a non-resident permanent mission to one or more other countries. There are thus both resident and non-resident embassies

The Vienna Convention states:

The functions of a diplomatic mission consist, *inter alia*, in representing the sending State in the receiving State; protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law; negotiating with the Government of the receiving State; ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State; promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations.

[Source: https://en.wikipedia.org/wiki/Diplomatic_mission]

Its services like issuance of VISA, looking after welfare of its State, running cultural / educational activities are all exempt from GST.

III. Explanation to exemption entry no. 60 of the Exemption Notification

Services by a specified organisation in respect of a religious pilgrimage facilitated by the Government of India, under bilateral arrangement has been exempted. This mainly covers the Kailash Mansarovar Yatra and Haj pilgrimage.

IV. Explanation to exemption entry no. 65A of the Exemption Notification

Any services by way of providing information under the Right to Information Act, 2005 (22 of 2005) is covered under this entry. Any fee collected for RTI application is exempted under to GST.

V. Explanation to exemption entry no. 70 of the Exemption Notification

Exemption has been granted to Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.

Chapter VII

Conclusion

Exemptions can be traced to section 11 of CGST Act and corresponding provisions of SGST Act / UTGST Act. In terms of section 11, the power to grant exemption vests in the Government, only when it is necessary in public interest with Council's recommendations as a precondition. Exemptions may be of the following types:

- General exemption
- Absolute exemption
- Conditional exemption
- Complete or partial exemption

General exemption is one which is available unconditionally, whereas a conditional exemption may be subject to circumstances or subject to conditions. For example, general exemption is one which may be granted to outward supply of 'footwear'. Whereas a conditional exemption is one which is granted subject to identified conditions such as outward supply of 'leather footwear'. Here, either 'all footwear' are exempted under this general exemption whether made of leather or rubber, whereas, conditional exemption is a circumstance or situation where it is restricted only to footwear made of leather.

Conditional exemption is one where the exemption is traceable, among other conditions to (a) class of persons (b) kinds of persons (c) specific persons (d) class of products / services (e) kinds of products / services (f) specific products / services (g) value based exemption (h) area based exemption (i) period based exemption (j) turnover based exemption (k) rate based exemption (l) circumstance based exemption etc.

Absolute exemptions granted by the Government under section 11(1) are not optional, whereas conditional exemptions are optional. It is important to make this differentiation carefully. Thus, general exemptions are normally absolute in nature since, such exemptions are not fettered like conditional exemptions are. For example, rate of GST of 5 per cent without input tax credit availability (say, HSN 9985(i)), will not be an option that one can deviate from and pay 18 per cent only to enjoy input tax credit. This is an example of a condition that is absolute and cannot be deviated from. However, rate of GST at 5 per cent without input tax credit 'or' 18 per cent with input tax credit (say, HSN 9966(i)). So, care must be taken to identify whether it is an "absolute exemption or not" as the notification itself does not declare to be one or the other. As can be seen from the above example, 12/2017-CT(R) itself operates as 'absolute and not' based on the language of each entry.

Apart from granting exemptions by notification, the Government is empowered to exempt goods and / or services, by way of issue of a special order, in a specific case, indicating certain circumstances of exceptional nature, to exempt from payment of tax.

Exemption may be from the levy itself or merely from the payment of the levy. This may be seen from the statements made in the notification itself as to the circumstances of its issuance.

Normally, exemptions are understood to mean that there will be no levy or charge on the supply of goods and / or services. However, in the GST regime, when the levy or charge is reduced wholly or partly, it is termed as exempt supply and not non-leviable supply.

Importantly, whenever goods or services are wholly exempt from tax (either from the levy or from its payment), the corresponding input tax credit will not be permitted to be enjoyed due to the expansive language in section 17(2) of CGST Act. So also, when the exemption is granted by way of a reduction in the rate of tax (subject to conditions), the credit overflow, if any, will either stand restricted by the same notification or by notification traceable to section 54 of CGST Act.

Also, it may be noted that the Government is empowered to make an amendment to an exemption already issued, but within one year, by inserting an explanation that will take retrospective effect. And such explanation must be to clarify the scope of the underlying exemption. NN 23/2018-CT(R) is a case in point as it is a notification issued under section 11(3) of the CGST Act which will operate from one year ago. However, care must be taken not to misapply the insertion of an explanation that is not under section 11(3) of CGST Act. NN 24/2018-CT(R) is a case on this point where explanation has been inserted for sl.no.234 (valuation of renewable energy systems) to 12/2017-CT(R) which, although an insertion of explanation, will only operate prospectively. Care must be taken to correctly apply the insertion of such a clarificatory explanation under section 11(3) of CGST Act.

It is a settled position of law that every exemption must be strictly construed. Therefore, one has to read the “language” employed very carefully before availing the exemption. In case exemptions were mistakenly availed, output tax will be recovered when this mistake comes to light, but the input tax credit that was not availed (due to this mistake) would stand lost (subject to time limit in section 16(4) of CGST Act). Another class of mistake, is to pay output tax when exemption was available. In such case, the output tax credit that was wrongly collected from customers will need to be deposited but the input tax credit will stand denied. As net tax was only deposited (due to this mistake) the input tax credit that is denied will also become recoverable. Care must be taken to avail exemptions, only where exemptions are rightly available.

This publication offers an insight in respect of exemptions under the GST laws. There may arise several issues or situations for interpretation which may not have been addressed in this Publication since the topic is vast. This publication has been introduced, with the view that it will elicit debate amongst readers and trigger thoughts about situations that could be business-sensitive.

Chapter VIII
Annexures

1. List of Exempted Goods

SCHEDULE

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
1.	0101	Live asses, mules and hinnies
2.	0102	Live bovine animals
3.	0103	Live swine
4.	0104	Live sheep and goats
5.	0105	Live poultry, that is to say, fowls of the species Gallus domesticus, ducks, geese, turkeys and guinea fowls.
6.	0106	Other live animal such as Mammals, Birds, Insects
7.	0201	Meat of bovine animals, fresh and chilled.
8.	0203, 0204, 0205, 0206, 0207, 0208, 0209	All goods, fresh or chilled
9.	0202, 0203, 0204, 0205, 0206, 0207, 0208, 0209, 0210	All goods [other than fresh or chilled] other than those put up in unit container and, (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
10. to 17.	* * * * * *	* * * * * * * *

List of Exempted Goods

18.	3	Fish seeds, prawn/shrimp seeds whether or not processed, cured or in frozen state [other than goods falling under Chapter 3 and attracting 2.5%]
19.	0301	Live fish.
20.	0302	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304
21.	0304, 0306, 0307, 0308	All goods, fresh or chilled
22.	0303, 0304, 0305, 0306, 0307, 0308	All goods [other than fresh or chilled] and other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I
23.	* *	* * * * * * * *
24.	* *	* * * * * * * *
25.	0401	Fresh milk and pasteurised milk, including separated milk, milk and cream, not concentrated nor containing added sugar or other sweetening matter, excluding Ultra High Temperature (UHT) milk
26.	0403	Curd; Lassi; Butter milk
27.	0406	Chhena or paneer, [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
28.	0407	Birds' eggs, in shell, fresh, preserved or cooked
29.	0409	Natural honey, † [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or

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		enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
30.	0501	Human hair, unworked, whether or not washed or scoured; waste of human hair
30A.	0504	All goods, fresh or chilled
30B.	0504	All goods [other than fresh or chilled] other than those put up in unit container and, (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
31.	0506	All goods i.e. Bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or gelatinised; powder and waste of these products
32.	0507 90	All goods i.e. Hoof meal; horn meal; hooves, claws, nails and beaks; antlers; etc.
33.	0511	Semen including frozen semen
34.	6	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage
35.	0701	Potatoes, fresh or chilled.
36.	0702	Tomatoes, fresh or chilled.
37.	0703	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled.
38.	0704	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled.
39.	0705	Lettuce (<i>Lactuca sativa</i>) and chicory (<i>Cichorium spp.</i>), fresh or chilled.
40.	0706	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled.
41.	0707	Cucumbers and gherkins, fresh or chilled.
42.	0708	Leguminous vegetables, shelled or unshelled, fresh or chilled.

List of Exempted Goods

43.	0709	Other vegetables, fresh or chilled.
¢ [43A.	0710	Vegetables (uncooked or cooked by steaming or boiling in water), frozen, [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
44.	0712	Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared.
45.	0713	[Dried leguminous vegetables, shelled, whether or not skinned or split [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
46.	0714	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, [fresh or chilled, dried]; sago pith.
[46A.	0714	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, frozen, whether or not sliced or in the form of pellets other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
46B.	08	Dried makhana, whether or not shelled or peeled [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those

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		where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
47.	0801	Coconuts, fresh or dried, whether or not shelled or peeled
48.	0801	Brazil nuts, fresh, whether or not shelled or peeled
49.	0802	Other nuts, fresh such as Almonds, Hazelnuts or filberts (<i>Corylus</i> spp.), walnuts, Chestnuts (<i>Castanea</i> spp.), Pistachios, Macadamia nuts, Kola nuts (<i>Cola</i> spp.), Areca nuts, fresh, whether or not shelled or peeled
50.	0803	Bananas, including plantains, fresh or dried
51.	0804	Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh.
52.	0805	Citrus fruits such as Oranges, Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids, Grapefruit, including pomelos, Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>) and limes (<i>Citrus aurantifolia</i> , <i>Citrus latifolia</i>), fresh.
53.	0806	Grapes, fresh
54.	0807	Melons (including watermelons) and papaws (papayas), fresh.
55.	0808	Apples, pears and quinces, fresh.
56.	0809	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh.
57.	0810	Other fruits such as strawberries, raspberries, blackberries, mulberries and loganberries, black, white or red currants and gooseberries, cranberries, bilberries and other fruits of the genus <i>vaccinium</i> , Kiwi fruit, Durians, Persimmons, Pomegranates, Tamarind, Sapota (chico), Custard-apple (ata), Bore, Lichi, fresh.
58.	0814	Peel of citrus fruit or melons (including watermelons), fresh.
59.	7, 9 or 10	All goods of seed quality
60.	0901	Coffee beans, not roasted
61.	0902	Unprocessed green leaves of tea
62.	0909	Seeds of anise, badian, fennel, coriander, cumin or caraway; juniper berries [of seed quality]
63.	0910 11 10	Fresh ginger, other than in processed form

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64.	0910 30 10	Fresh turmeric, other than in processed form
65.	1001	Wheat and meslin [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
66.	1002	Rye [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
67.	1003	Barley [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
68.	1004	Oats [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
69.	1005	Maize (corn) * [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]

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70.	1006	Rice ‡ [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
71.	1007	Grain sorghum [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
72.	1008	Buckwheat, millet and canary seed; other cereals such as Jawar, Bajra, Ragi [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
73.	1101	Wheat or meslin flour [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I].
74.	1102	Cereal flours other than of wheat or meslin, [maize (corn) flour, Rye flour, etc.] {[other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]

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75.	1103	Cereal groats, meal and pellets [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
76.	1104	Cereal grains hulled
77.	1105	Flour, powder, flakes, granules or pellets of potatoes [‡] [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available (other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I]
78.	1106	Flour, of the dried leguminous vegetables of heading 0713 (pulses) (other than guar meal 1106 10 10 and guar gum refined split 1106 10 90), of sago or of roots or tubers of heading 0714 or of the products of Chapter 8 i.e. of tamarind, of singoda, mango flour, etc. [‡] (other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily), subject to the conditions as in the ANNEXURE I
78A.	1106 10 10	Guar meal
79.	12	All goods of seed quality
80.	1201	Soya beans, whether or not broken, of seed quality.
81.	1202	Ground-nuts, not roasted or otherwise cooked, whether or not shelled or broken, of seed quality.
82.	1204	Linseed, whether or not broken, of seed quality.
83.	1205	Rape or colza seeds, whether or not broken, of seed quality.
84.	1206	Sunflower seeds, whether or not broken, of seed quality.

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85.	1207	Other oil seeds and oleaginous fruits [i.e. Palm nuts and kernels, cotton seeds, Castor oil seeds, Sesamum seeds, Mustard seeds, Safflower (Carthamus tinctorius) seeds, Melon seeds, Poppy seeds, Ajams, Mango kernel, Niger seed, Kokam] whether or not broken, of seed quality.
86.	1209	Seeds, fruit and spores, of a kind used for sowing.
87.	1210	Hop cones, fresh.
87A.	1210 10 00	Hop cones, neither ground nor powdered nor in the form of pellets
88.	1211	Plants and parts of plants (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purpose, fresh or chilled.
89.	1212	Locust beans, seaweeds and other algae, sugar beet and sugar cane, fresh or chilled.
90.	1213	Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets
91.	1214	Swedes, mangolds, fodder roots, hay, lucerne (alfalfa), clover, sainfoin, forage kale, lupines, vetches and similar forage products, whether or not in the form of pellets.
92.	1301	Lac and Shellac
93.	1404 90 40	Betel leaves
93A.	1404 90 60	Coconut shell, unworked
94.	1701 or 1702	Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery; Khandsari Sugar
95.	1904	Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chira, parched rice, commonly known as khoi, parched paddy or rice coated with sugar or gur, commonly known as Murki
96.	1905	Pappad, by whatever name it is known, except when served for consumption
97.	1905	Bread (branded or otherwise), except when served for consumption and pizza bread
98.	2106	Prasadam supplied by religious places like temples, mosques, churches, gurudwaras, dargahs, etc.

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99.	2201	Water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container]
100.	2201	Non-alcoholic Toddy, Neera including date and palm neera
101.	2202 90 90	Tender coconut water [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE I
102.	* 2301, 2302, 2308, 2309	Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake [other than rice bran]
102A.	2302	De-oiled rice bran
102B.	2306	Cotton seed oil cake
103.	2501	Salt (including table salt and denatured salt) and pure sodium chloride, whether or not in aqueous solutions or containing added anti-caking or free flowing agents; sea water
103A.	26	Uranium Ore Concentrate
104.	2716 00 00	Electrical energy
105.	2835	Dicalcium phosphate (DCP) of animal feed grade conforming to IS specification No. 5470: 2002
106.	3002	Human Blood and its components
107.	3006	All types of contraceptives
108.	3101	All goods and organic manure * [other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I]

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109.	3304	Kajal [other than kajal pencil sticks], Kumkum, Bindi, Sindur, Alta
110.	3825	Municipal waste, sewage sludge, clinical waste
111.	3926	Plastic bangles
112.	4014	Condoms and contraceptives
113.	4401	Firewood or fuel wood
114.	4402	Wood charcoal (including shell or nut charcoal), whether or not agglomerated
115.	4802/4907	Judicial, Non-judicial stamp papers, Court fee stamps when sold by the Government Treasuries or Vendors authorized by the Government
116.	4817/4907	Postal items, like envelope, Post card etc., sold by Government
117.	48/4907	Rupee notes when sold to the Reserve Bank of India
118.	4907	Cheques, loose or in book form
119.	4901	Printed books, including Braille books
120.	4902	Newspapers, journals and periodicals, whether or not illustrated or containing advertising material
121.	4903	Children's picture, drawing or colouring books
122.	4905	Maps and hydrographic or similar charts of all kinds, including atlases, wall maps, topographical plans and globes, printed
122A.	4907	Duty Credit Scrips
123.	5001	Silkworm laying, cocoon
124.	5002	Raw silk
125.	5003	Silk waste
126.	5101	Wool, not carded or combed
127.	5102	Fine or coarse animal hair, not carded or combed
128.	5103	Waste of wool or of fine or coarse animal hair
129.	52	Gandhi Topi
130.	52	Khadi yarn
130A.	50 to 55	Khadi fabric, sold through Khadi and Village Industries Commission (KVIC) and KVIC certified institutions/outlets
131.	5303	Jute fibres, raw or processed but not spun

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132.	5305	Coconut, coir fibre
133.	63	Indian National Flag
134.	6703	Human hair, dressed, thinned, bleached or otherwise worked
135.	6912 00 40	Earthen pot and clay lamps
135A.	69	Idols made of clay
136.	7018	Glass bangles (except those made from precious metals)
136A.	7117	Bangles of lac/shellac
137.	8201	Agricultural implements manually operated or animal driven i.e. Hand tools, such as spades, shovels, mattocks, picks, hoes, forks and rakes; axes, bill hooks and similar hewing tools; secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools of a kind used in agriculture, horticulture or forestry [other than ghamella].
138.	8445	Charkha for hand spinning of yarns, including amber charkha
139.	8446	Handloom [weaving machinery]
140.	8802 60 00	Spacecraft (including satellites) and suborbital and spacecraft launch vehicles
141.	8803	Parts of goods of heading 8801
142.	9021	Hearing aids
143.	92	* Indigenous handmade musical instruments as listed in ANNEXURE II
144.	9603	*[Muddhas made of sarkanda, Brooms or brushes, consisting of twigs or other vegetable materials, bound together, with or without handles
145.	9609	Slate pencils and chalk sticks
146.	9610 00 00	Slates
147.	9803	Passenger baggage
148.	Any chapter	Puja samagri namely,- (i) Rudraksha, rudraksha mala, tulsi kanthi mala, panchgavya (mixture of cowdung, desi ghee, milk and curd); (ii) Sacred thread (commonly known as yagnopavit); (iii) Wooden khadau; (iv) Panchamrit,

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		(v) Vibhuti (vi) Unbranded honey (vii) Wick for diya. (viii) Roli (ix) Kalava (Raksha sutra) (x) Chandan tika
149.	-	Supply of lottery by any person other than State Government, Union Territory or Local authority subject to the condition that the supply of such lottery has suffered appropriate central tax, State tax, Union territory tax or integrated tax, as the case may be, when supplied by State Government, Union Territory or local authority, as the case may be, to the lottery distributor or selling agent appointed by the State Government, Union Territory or local authority, as the case may be.
150.	-	Supply of goods by a Government entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority, against consideration received from Central Government, State Government, Union territory or local authority in the form of grants
151	Any Chapter	Parts for manufacture of hearing aids

Explanation. - For the purposes of this Schedule, -

- (i) The phrase “unit container” means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a pre-determined quantity or number, which is indicated on such package.
- (ii) (a) The phrase “brand name” means brand name or trade name, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person.
- (b) The phrase “registered brand name” means, -
 - (A) a brand registered as on or after the 15th May, 2017 under the Trade Marks Act, 1999 irrespective of whether or not the brand is subsequently deregistered;
 - (B) a brand registered as on or after the 15th May, 2017 under the Copyright Act, 1957 (14 of 1957);

- (C) a brand registered as on or after the 15th May, 2017 under any law for the time being in force in any other country.
 - (iii) "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, heading, sub-heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).
 - (iv) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.
 - (v) The phrase "Government Entity" shall mean an authority or a board or any other body including a society, trust, corporation, which is :
 - (a) set up by an Act of Parliament or State Legislature; or
 - (b) established by any Government,with 90 per cent 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.
2. This notification shall come into force with effect from the 1st day of July, 2017.

ANNEXURE I

For foregoing an actionable claim or enforceable right on a brand name, -

- (a) the person undertaking packing of such goods in unit containers which bears a brand name shall file an affidavit to that effect with the *jurisdictional Commissioner of Central tax* that he is voluntarily foregoing his actionable claim or enforceable right on such brand name as defined in Explanation (ii)(a); and
- (b) the person undertaking packing of such goods in unit containers which bear a brand name shall, on each such unit containers, clearly print in indelible ink, both in English and the local language, that in respect of the brand name as defined in Explanation (ii)(a) printed on the unit containers he has foregone his actionable claim or enforceable right voluntarily :

Provided that, if the person having an actionable claim or enforceable right on a brand name and the person undertaking packing of such goods in unit containers are two different persons, then the person having an actionable claim or enforceable right on a brand name shall file an affidavit to that effect with the jurisdictional Commissioner of Central tax of the person undertaking packing of such goods that he is voluntarily foregoing his actionable claim or enforceable right on such brand name as defined in Explanation (ii)(a); and he has authorised the person [undertaking packing of such goods in unit containers bearing said brand name] to print on such unit containers in indelible ink, both in English and the local language, that in respect of such brand name he [the person owning the brand name] is voluntarily foregoing the actionable claim or enforceable right voluntarily on such brand name.

ANNEXURE II

	List of indigenous handmade musical instruments
1.	Bulbul Tarang
2.	Dotar, Dotor, or Dotara
3.	Ektara
4.	Getchu Vadyam or Jhallari
5.	Gopichand or Gopiyatra or Khamak
6.	Gottuvadhyam or Chitravina
7.	Katho
8.	Sarod
9.	Sitar
10.	Surbahar
11.	Surshringar
12.	Swarabat
13.	Swarmandal
14.	Tambura
15.	Tumbi
16.	Tuntuna
17.	Magadi Veena
18.	Hansaveena
19.	Mohan Veena
20.	Nakula Veena
21.	Nanduni
22.	Rudra Veena
23.	Saraswati Veena
24.	Vichitra Veena
25.	Yazh
26.	Ranjan Veena

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27.	Triveni Veena
28.	Chikara
29.	Dilruba
30.	Ektara violin
31.	Esraj
32.	Kamaicha
33.	Mayuri Vina or Taus
34.	Onavillu
35.	Behala (violin type)
36.	Pena or Bana
37.	Pulluvan veena - one stringed violin
38.	Ravanahatha
39.	Folk sarangi
40.	Classical sarangi
41.	Sarinda
42.	Tar shehnai
43.	Gethu or Jhallari
44.	Gubguba or Jamuku - Percussion string instrument
45.	Pulluvan kutam
46.	Santoor - Hammered chord box
47.	Pepa
48.	Pungi or Been
49.	Indian Harmonium: Double reed
50.	Kuzhal
51.	Nadaswaram
52.	Shehnai
53.	Sundari
54.	Tangmuri

List of Exempted Goods

55.	Alghoza - double flute
56.	Bansuri
57.	Venu (Carnatic flute) Pullanguzhal
58.	Mashak
59.	Titti
60.	Sruti upanga
61.	Gogona
62.	Morsing
63.	Shruti box
64.	Harmonium (hand-pumped)
65.	Ekkalam
66.	Karnal
67.	Ramsinga
68.	Kahal
69.	Nagphani
70.	Turi
71.	Dhad
72.	Damru
73.	Dimadi
74.	Dhol
75.	Dholak
76.	Dholki
77.	Duggi
78.	Ghat singhari or gada singari
79.	Ghumot
80.	Gummeta
81.	Kanjira
82.	Khol

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83.	Kinpar and Dhopar (tribal drums)
84.	Maddale
85.	Maram
86.	Mizhavu
87.	Mridangam
88.	Pakhavaj
89.	Pakhavaj jori - Sikh instrument similar to tabla
90.	Panchamukha vadyam
91.	Pung
92.	Shuddha madalam or Maddalam
93.	Tabala/tabl/chameli - goblet drum
94.	Tabla
95.	Tabla tarang - set of tablas
96.	Tamte
97.	Thanthi Panai
98.	Thimila
99.	Tumbak, tumbaknari, tumbaknaer
100.	Daff, duff, daf or duf Dimdi or dimri - small frame drum without jingles
101.	Kanjira - small frame drum with one jingle
102.	Kansi - small without jingles
103.	Patayani thappu - medium frame drum played with hands
104.	Chenda
105.	Dollu
106.	Dhak
107.	Dhol
108.	Dholi
109.	Idakka
110.	Thavil

List of Exempted Goods

111.	Udukai
112.	Chande
113.	Nagara - pair of kettledrums
114.	Pambai - unit of two cylindrical drums
115.	Parai thappu, halgi - frame drum played with two sticks
116.	Sambal
117.	Stick daff or stick duff - daff in a stand played with sticks
118.	Tamak'
119.	Tasha - type of kettledrum
120.	Urumee
121.	Jaltarang Chimpta - fire tong with brass jingles
122.	Chengila - metal disc
123.	Elathalam
124.	Geger - brass vessel
125.	Ghatam and Matkam (Earthenware pot drum)
126.	Ghungroo
127.	Khartal or Chiplya
128.	Manjeera or jhanj or taal
129.	Nut - clay pot
130.	Sankarjang – lithophone
131.	Thali - metal plate
132.	Thattukazhi mannai
133.	Kanch tarang, a type of glass harp
134.	Kashtha tarang, a type of xylophone.]

2. List of Exempted Services

TABLE

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent)	Condition
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.	Nil	Nil
2	Chapter 99	Services by way of transfer of a going concern, as a whole or an independent part thereof.	Nil	Nil
3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority [or a Government Entity] by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or in relation to any function entrusted to a Municipality under Article 243W of the Constitution.	Nil	Nil
3A	Chapter 99	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 Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article	Nil	Nil

List of Exempted Services

		243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.		
4	Chapter 99	Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any activity in relation to any function entrusted to a municipality under Article 243 W of the Constitution.	Nil	Nil
5	Chapter 99	Services by a [Central Government, State Government, Union territory, local authority or Governmental Authority] by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution.	Nil	Nil
6	Chapter 99	Services by the Central Government, State Government, Union territory or local authority excluding the following services — (a) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (c) transport of goods or passengers; or (d) any service, other than services covered under entries (a) to (c) above, provided to business entities.	Nil	Nil
7	Chapter 99	Services provided by the Central Government, State Government, Union	Nil	Nil

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		territory or local authority to a business entity with an aggregate turnover of up to twenty lakh rupees (ten lakh rupees in case of a special category state) in the preceding financial year.		
		<p><i>Explanation</i> - For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to-</p> <p>(a) services,-</p> <p>(i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;</p> <p>(ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) of transport of goods or passengers; and</p> <p>(b) services by way of renting of immovable property.</p>		
8	Chapter 99	<p>Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority :</p> <p>Provided that nothing contained in this entry shall apply to services-</p> <p>(i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;</p>	Nil	Nil

List of Exempted Services

		<p>(ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) of transport of goods or passengers.</p>		
9	Chapter 99	<p>Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed five thousand rupees:</p> <p>Provided that nothing contained in this entry shall apply to-</p> <p>(i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;</p> <p>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) transport of goods or passengers :</p> <p>Provided further that in case where continuous supply of service, as defined in sub-section (33) of section 2 of the Central Goods and Services Tax Act, 2017, is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed five thousand rupees in a financial year.</p>	Nil	Nil
9A	Chapter 99	<p>Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events</p>	Nil	Provided that Director (Sports), Ministry of

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		under FIFA U-17 World Cup 2017 to be hosted in India.		Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 World Cup 2017.]
9AA	Chapter 99	Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India.	Nil	Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020.”;
9B	Chapter 99	Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries).	Nil	Nil
9C	Chapter 99	Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants.	Nil	Nil
9D	Chapter 99	Services by an old age home run by	Nil	Nil

List of Exempted Services

		Central Government, State Government or by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) to its residents (aged 60 years or more) against consideration upto twenty-five thousand rupees per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.		
10	Heading 9954	Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or <i>Pradhan Mantri Awas Yojana</i> .	Nil	Nil
11	Heading 9954	Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex.	Nil	Nil
11A	Heading 9961 or Heading 9962	Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.	Nil	Nil
11B	*	* * * * *	*	*
12	Heading 9963 or Heading 9972	Services by way of renting of residential dwelling for use as residence.	Nil	Nil

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13	Heading 9963 or - Heading 9972 or Heading 9995 or any other Heading of Section 9	<p>Services by a person by way of-</p> <p>(a) conduct of any religious ceremony;</p> <p>(b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) or a trust or an institution registered under sub-clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act :</p> <p>Provided that nothing contained in entry (b) of this exemption shall apply to,-</p> <p>(i) renting of rooms where charges are one thousand rupees or more per day;</p> <p>(ii) renting of premises, community halls, kalyanamandapam or open area, and the like where charges are ten thousand rupees or more per day;</p> <p>(iii) renting of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month.</p>	Nil	Nil
14	Heading 9963	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below one thousand rupees per day or equivalent.	Nil	Nil
15	Heading 9964	Transport of passengers, with or without accompanied belongings, by -	Nil	Nil

List of Exempted Services

		<p>(a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;</p> <p>(b) non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or</p> <p>(c) stage carriage other than air-conditioned stage carriage.</p>		
16	Heading 9964	<p>Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding :</p> <p>Provided that nothing contained in this entry shall apply on or after the expiry of a period of [three years] from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.</p>	Nil	Nil
17	Heading 9964	<p>Service of transportation of passengers, with or without accompanied belongings, by —</p> <p>(a) railways in a class other than—</p> <p>(i) first class; or</p> <p>(ii) an air-conditioned coach;</p> <p>(b) metro, monorail or tramway;</p> <p>(c) inland waterways;</p> <p>(d) public transport, other than</p>	Nil	Nil

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		predominantly for tourism purpose, in a vessel between places located in India; and (e) metered cabs or auto rickshaws (including e-rick-shaws).		
18	Heading 9965	Services by way of transportation of goods - (a) by road except the services of — (i) a goods transportation agency; (ii) a courier agency; (b) by inland waterways.	Nil	Nil
19	Heading 9965	Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.	Nil	Nil
19A	Heading 9965	Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India.	Nil	Nothing contained in this serial number shall apply after the 30th day of September, 2019.
19B	Heading 9965	Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India.	Nil	Nothing contained in this serial number shall apply after the 30th day of September, 2019.
20	Heading 9965	Services by way of transportation by rail or a vessel from one place in India to another of the following goods — (a) relief materials meant for victims of natural or man-made, disasters, calamities, accidents or mishap; (b) defence or military equipments;	Nil	Nil

List of Exempted Services

		<p>(c) newspaper or magazines registered with the Registrar of Newspapers;</p> <p>(d) railway equipments or materials;</p> <p>(e) agricultural produce;</p> <p>(f) milk, salt and food grain including flours, pulses and rice; and</p> <p>(g) organic manure.</p>		
21	Heading 9965 or Heading 9967	<p>Services provided by a goods transport agency, by way of transport in a goods carriage of -</p> <p>(a) agricultural produce;</p> <p>(b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees;</p>	Nil	Nil
		<p>(c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty;</p> <p>(d) milk, salt and food grain including flour, pulses and rice;</p> <p>(e) organic manure;</p> <p>(f) newspaper or magazines registered with the Registrar of Newspapers;</p> <p>(g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or</p> <p>(h) defence or military equipments.</p>		
21A	Heading 9965 or Heading 9967	<p>Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely :-</p>	Nil	Nil]

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		<p>(a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or</p> <p>(b) any Society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or</p> <p>(c) any Co-operative Society established by or under any law for the time being in force; or</p> <p>(d) any body corporate established, by or under any law for the time being in force; or</p> <p>(e) any partnership firm whether registered or not under any law including association of persons;</p>		
		<p>(f) any casual taxable person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.</p>		
21B	Heading 9965 or Heading 9967	<p>Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, -</p> <p>(a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies,</p> <p>which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services.</p>		

List of Exempted Services

22	Heading 9966 or Heading 9973	<p>Services by way of giving on hire -</p> <p>(a) to a State transport undertaking, a motor vehicle meant to carry more than twelve passengers; or</p> <p>(aa) to a local authority, an Electrically operated vehicle meant to carry more than twelve passengers; or</p> <p>Explanation.- For the purposes of this entry, "Electrically operated vehicle" means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) which is run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicle.</p> <p>(b) to a goods transport agency, a means of transportation of goods.</p> <p>(c) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.</p>	Nil	Nil
23	Heading 9967	Service by way of access to a road or a bridge on payment of toll charges.	Nil	Nil
23A	Heading 9967	Service by way of access to a road or a bridge on payment of annuity.	Nil	Nil]
24	Heading 9967 or Heading 9985	Services by way of loading, unloading, packing, storage or warehousing of rice.	Nil	Nil
24A	Heading 9967 or Heading 9985	Services by way of warehousing of minor forest produce		

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25	Heading 9969	Transmission or distribution of electricity by an electricity transmission or distribution utility.	Nil	Nil
26	Heading 9971	Services by the Reserve Bank of India.	Nil	Nil
27	Heading 9971	Services by way of— (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services); (b) <i>inter se</i> sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.	Nil	Nil
27A	Heading 9971	Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY)	Nil	Nil
28	Heading 9971 or Heading 9991	Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013).	Nil	Nil
29	Heading 9971 or Heading 9991	Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.	Nil	Nil
29A	Heading 9971 or Heading 9991	Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group	Nil	Nil]

List of Exempted Services

		Insurance Schemes of the Central Government.		
29B	Heading 9971 or Heading 9991	Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.	Nil	Nil]
30	Heading 9971 or Heading 9991	Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948 (34 of 1948).	Nil	Nil
31	Heading 9971	Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952 (19 of 1952).	Nil	Nil
31A	Heading 9971 or Heading 9991	Services by Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948).	Nil	Nil
31B	Heading 9971 or Heading 9991	Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee.	Nil	Nil
32	Heading 9971	Services provided by the Insurance Regulatory and Development Authority of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999 (41 of 1999).	Nil	Nil
33	Heading 9971	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 in securities and to promote the	Nil	Nil

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		development of, and to regulate, the securities market.		
34	Heading 9971	<p>Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.</p> <p><i>Explanation</i> - For the purposes of this entry, "acquiring bank" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.</p>	Nil	Nil
34A	Heading 9971	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.	Nil	Nil
35	Heading 9971 or Heading 9991	<p>Services of general insurance business provided under following schemes -</p> <p>(a) Hut Insurance Scheme;</p> <p>(b) Cattle Insurance under <i>Swarnajaynti Gram Swarozgar Yojna</i> (earlier known as Integrated Rural Development Programme);</p> <p>(c) Scheme for Insurance of Tribals;</p> <p>(d) Janata Personal Accident Policy and Gramin Accident Policy;</p> <p>(e) Group Personal Accident Policy for Self-Employed Women;</p> <p>(f) Agricultural Pumpset and Failed Well Insurance;</p>	Nil	Nil

List of Exempted Services

		<p>(g) premia collected on export credit insurance;</p> <p>(h) Restructured Weather Based Crop Insurance Scheme (RWCIS), approved by the Government of India and implemented by the Ministry of Agriculture;</p> <p>(i) <i>Jan Arogya Bima</i> Policy;</p> <p>(j) <i>Pradhan Mantri Fasal Bima Yojana</i> (PMFBY)</p> <p>(k) Pilot Scheme on Seed Crop Insurance;</p> <p>(l) Central Sector Scheme on Cattle Insurance;</p> <p>(m) Universal Health Insurance Scheme;</p> <p>(n) <i>Rashtriya Swasthya Bima Yojana</i>;</p> <p>(o) Coconut Palm Insurance Scheme;</p> <p>(p) <i>Pradhan Mantri Suraksha Bima Yojna</i>;</p> <p>(q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).</p> <p>(r) <i>Bangla Shasya Bima</i></p>		
36	Heading 9971 or Heading 9991	<p>Services of life insurance business provided under following schemes-</p> <p>(a) <i>Janashree Bima Yojana</i>;</p> <p>(b) <i>Aam Aadmi Bima Yojana</i>;</p> <p>(c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of two lakhs rupees;</p>	Nil	Nil

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		(d) <i>Varishtha Pension Bima Yojana</i> ; (e) <i>Pradhan Mantri Jeevan Jyoti Bima Yojana</i> ; (f) <i>Pradhan Mantri Jan Dhan Yojana</i> ; (g) <i>Pradhan Mantri Vaya Vandana Yojana</i> .		
36A	Heading 9971 or Heading 9991	Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36.	Nil	Nil]
37	Heading 9971 or Heading 9991	Services by way of collection of contribution under the <i>Atal Pension Yojana</i> .	Nil	Nil
38	Heading 9971 or Heading 9991	Services by way of collection of contribution under any pension scheme of the State Governments.	Nil	Nil
39	Heading 9971 or Heading 9985	Services by the following persons in respective capacities - (a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch; (b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or (c) business facilitator or a business correspondent to an insurance company in a rural area.	Nil	Nil
39A	Heading 9971	Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).	Nil	Nil]

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		<p><i>Explanation</i> - For the purposes of this entry, the intermediary of financial services in IFSC is a person,-</p> <p>(i) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or</p>		
		<p>(ii) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or</p> <p>(iii) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or</p> <p>(iv) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.</p>		
40	Heading 9971 or Heading 9991	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.	Nil	Nil
41	Heading 9972	Upfront amount (called as 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	Nil	Nil

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		<p>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.</p> <p>Explanation. - For the purpose of this exemption, the Central Government State Government or Union territory shall have 50 per cent. or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory.</p>		
41A	Heading 9972	<p>Service by way of transfer of development rights (herein refer TDR) or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019 for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier</p>	Nil	<p>Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of value of development rights, or FSI (including additional FSI), or both, as is attributable to the residential apartments, which remain un-booked on the date of issuance of completion certificate, or first</p>

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				<p>occupation of the project, as the case may be, in the following manner -</p> <p>[GST payable on TDR or FSI (including additional FSI) or both for construction of the residential apartments in the project but for the exemption contained herein] x (carpet area of the residential apartments in the project which remain un- booked on the date of issuance of completion certificate or first occupation ÷ Total carpet area of the residential apartments in the project)</p> <p>Provided further that tax payable in terms of the first proviso</p>
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			<p>hereinabove shall not exceed 0.5 per cent. of the value in case of affordable residential apartments and 2.5 per cent. of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation</p> <p>The liability to pay central tax on the said portion of the development rights or FSI, or both, calculated as above, shall arise on the date of completion or first occupation of the project, as the case may</p>
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				be, whichever is earlier.
41B	Heading 9972	<p>Upfront amount (called as 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, on or after 01.04.2019, for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under:</p> <p>[GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the project] x (carpet area of the residential apartments in the project ÷ Total carpet area of the residential and commercial apartments in the project).</p>		<p>Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, as is attributable to the residential apartments, which remain un-booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner -</p> <p>[GST payable on upfront amount (called as premium,</p>

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			<p>salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the residential apartments in the project but for the exemption contained herein] x (carpet area of the residential apartments in the project which remain un- booked on the date of issuance of completion certificate or first occupation ÷ Total carpet area of the residential apartments in the project);</p> <p>Provided further that the tax payable in terms of the first proviso shall not exceed 0.5 per cent. of the value in case</p>
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			<p>of affordable residential apartments and 2.5 per cent. of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation.</p> <p>The liability to pay central tax on the said proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, calculated as above, shall arise on the date of issue of completion certificate or first occupation</p>
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				of the project, as the case may be.]
42	Heading 9973 or Heading 9991	Services provided by the Central Government, State Government, Union territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to the 1st April, 2016, on payment of licence fee or spectrum user charges, as the case may be.	Nil	Nil
43	Heading 9973	Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways.	Nil	Nil
44	Heading 9981	Services provided by an incubatee up to a total turnover of fifty lakh rupees in a financial year subject to the following conditions, namely :- (a) the total turnover had not exceeded fifty lakh rupees during the preceding financial year; and (b) a period of three years has not elapsed from the date of entering into an agreement as an incubatee.	Nil	Nil
45	Heading 9982 or Heading 9991	Services provided by- (a) an arbitral tribunal to - (i) any person other than a business entity; or (ii) a business entity with an aggregate turnover up to twenty lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year; (iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;	Nil	Nil

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		<p>(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to</p> <p>(i) an advocate or partnership firm of advocates providing legal services;</p> <p>(ii) any person other than a business entity; or</p> <p>(iii) a business entity with an aggregate turnover up to twenty lakh rupees (ten lakh rupees in the case of special category States) in the preceding financial year;</p> <p>(iv) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;</p> <p>(c) a senior advocate by way of legal services to -</p> <p>(i) any person other than a business entity; or</p> <p>(ii) a business entity with an aggregate turnover up to twenty lakh rupees (ten lakh rupees in the case of special category States) in the preceding financial year.</p> <p>(iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.</p>		
46	Heading 9983	Services by a veterinary clinic in relation to health care of animals or birds.	Nil	Nil
47	Heading 9983 or Heading 9991	Services provided by the Central Government, State Government, Union territory or local authority by way of- (a) registration required under any law for the time being in force;	Nil	Nil

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		(b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force.		
47A	Heading 9983 or Heading 9991	Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators	Nil	Nil
48	Heading 9983 or any other Heading of Chapter 99	Taxable services, provided or to be provided, by a Technology Business Incubator or a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or bio-incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India.	Nil	Nil
49	Heading 9984	Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.	Nil	Nil
50	Heading 9984	Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material.	Nil	Nil
51	Heading 9984	Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.	Nil	Nil

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52	Heading 9985	Services by an organiser to any person in respect of a business exhibition held outside India.	Nil	Nil
53	Heading 9985	Services by way of sponsorship of sporting events organised - (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or country; (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat; (c) by the Central Civil Services Cultural and Sports Board; (d) as part of national games, by the Indian Olympic Association; or (e) under the <i>Panchayat Yuva Kreedha Aur Khel Abhiyaan</i> Scheme.	Nil	Nil
53A	Heading 9985	Services by way of fumigation in a warehouse of agricultural produce.	Nil	Nil]
54	Heading 9986	Services relating 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 by way of - (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour;	Nil	Nil

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		<p>(c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;</p> <p>(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;</p> <p>(e) loading, unloading, packing, storage or warehousing of agricultural produce;</p> <p>(f) agricultural extension services;</p> <p>(g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.</p> <p>(h) services by way of fumigation in a warehouse of agricultural produce.</p>		
55	Heading 9986	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.	Nil	Nil
55A	Heading 9986	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		

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		other similar products or agricultural produce.		
56	Heading 9988	Services by way of slaughtering of animals.	Nil	Nil
57	Heading 9988 or any other Heading of Section 8 and Section 9	Services by way of pre-conditioning, precooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.	Nil	Nil
58	Heading 9988 or Heading 9992	Services provided by the National Centre for Cold Chain Development under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination.	Nil	Nil
59	Heading 9999	Services by a foreign diplomatic mission located in India.	Nil	Nil
60	Heading 9991	Services by a specified organisation in respect of a religious pilgrimage facilitated by the Government of India, under bilateral arrangement.	Nil	Nil
61	Heading 9991	Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving licence, birth certificate or death certificate.	Nil	Nil
62	Heading 9991 or Heading 9997	Services provided by the Central Government, State Government, Union territory or local authority by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract.	Nil	Nil

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63	Heading 9991	Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use natural resources to an individual farmer for 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.	Nil	Nil
64	Heading 9991 or Heading 9973	Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Central Government, State Government, Union territory or local authority before the 1st April, 2016: Provided that the exemption shall apply only to tax payable on one time charge payable, in full upfront or in instalments, for assignment of right to use such natural resource.	Nil	Nil
65	Heading 9991	Services provided by the Central Government, State Government, Union territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges.	Nil	Nil
65A	Heading 9991	Services by way of providing information under the Right to Information Act, 2005 (22 of 2005).	Nil	Nil]
65B	Heading 9991 or any other heading	Services supplied by a State Government to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders.	Nil	Provided that at the end of the contract period, ERCC shall submit an account to the State

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		<p>Explanation.- "mining lease holder" means a person who has been granted mining lease, quarry lease or license or other mineral concession under the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the rules made thereunder or the rules made by a State Government under sub-section (1) of section 15 of the Mines and Minerals (Development and Regulation) Act, 1957.</p>	<p>Government and certify that the amount of goods and services tax deposited by mining lease holders on royalty is more than the goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of goods and services tax paid by mining lease holders is less than the amount of goods and services tax exempted, the exemption shall be restricted to such amount as is equal to the amount of goods and services tax paid by the mining lease holders and</p>
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				the ERCC shall pay the difference between goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and goods and services tax paid by the mining lease holders on royalty.]
66	Heading 9992 or 9963	<p>Services provided -</p> <p>(a) by an educational institution to its students, faculty and staff;</p> <p>(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;</p> <p>(b) to an educational institution, by way of,-</p> <p>(i) transportation of students, faculty and staff;</p> <p>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</p> <p>(iii) security or cleaning or housekeeping services performed in such educational institution;</p>	Nil	Nil

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		<p>(iv) services relating to admission to, or conduct of examination by, such institution;</p> <p>(v) supply of online educational journals or periodicals :</p> <p>Provided that nothing contained in sub-items (i), (ii) and (iii) of item (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>Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of, -</p> <p>(i) pre-school education and education up to higher secondary school or equivalent; or</p> <p>(ii) education as a part of an approved vocational education course.</p>		
68	Heading 9992 or Heading 9996	<p>Services provided to a recognised sports body by-</p> <p>(a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body;</p> <p>(b) another recognised sports body.</p>	Nil	Nil
69	Heading 9992 or Heading 9983 or Heading 9991	<p>Any services provided by, _</p> <p>(a) the National Skill Development Corporation set up by the Government of India;</p> <p>(b) a Sector Skill Council approved by the National Skill Development Corporation;</p>	Nil	Nil

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		<p>(c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;</p> <p>(d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to-</p> <p>(i) the National Skill Development Programme implemented by the National Skill Development Corporation; or</p> <p>(ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or</p> <p>(iii) any other Scheme implemented by the National Skill Development Corporation.</p>		
70	Heading 9983 or Heading 9985 or Heading 9992	Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.	Nil	Nil
71	Heading 9992	Services provided by training providers (Project implementation agencies) under <i>Deen Dayal Upadhyaya Grameen Kaushalya Yojana</i> implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training.	Nil	Nil
72	Heading 9992	Services provided to the Central Government, State Government, Union territory administration under any training programme for which total	Nil	Nil

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		expenditure is borne by the Central Government, State Government, Union territory administration.		
73	Heading 9993	Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.	Nil	Nil
74	Heading 9993	Services by way of- (a) health care services by a clinical establishment, an authorised medical practitioner or para-medics; (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.	Nil	Nil
74A	Heading 9993	Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 (34 of 1992) by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961).	Nil	Nil
75	Heading 9994	Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto.	Nil	Nil
76	Heading 9994	Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.	Nil	Nil

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77	Heading 9995	Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution - (a) as a trade union; (b) for the provision of carrying out any activity which is exempt from the levy of Goods and Services Tax; or (c) up to an amount of seven thousand five hundred rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.	Nil	Nil
77A	Heading 9995	Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,- (i) activities relating to the welfare of industrial or agricultural labour or farmers; or (ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment, to its own members against consideration in the form of membership fee upto an amount of one thousand rupees (Rs 1000/-) per member per year.	Nil	Nil
78	Heading 9996	Services by an artist by way of a performance in folk or classical art forms of- (a) music, or (b) dance, or	Nil	Nil

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		(c) theatre, if the consideration charged for such performance is not more than one lakh and fifty thousand rupees : Provided that the exemption shall not apply to service provided by such artist as a brand ambassador.		
79	Heading 9996	Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo.	Nil	Nil
79A	Heading 9996	Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958) or any of the State Acts, for the time being in force	Nil	Nil]
80	Heading 9996	Services by way of training or coaching in recreational activities relating to- (a) arts or culture, or (b) sports by charitable entities registered under section 12AA of the Income-tax Act.	Nil	Nil
81	Heading 9996	Services by way of right to admission to- (a) circus, dance, or theatrical performance including drama or ballet; (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event; (c) recognised sporting event; (d) planetarium, where the consideration for right to admission to the events or places as referred to in items (a), (b), (c) or (d) above is not more than Rs. 500 per person.	Nil	Nil

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82	Heading 9996	Services by way of right to admission to the events organised under FIFA U-17 World Cup 2017.	Nil	Nil
82A	Heading 9996	Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020.	Nil	Nil

1A. Value of supply of service by way of transfer of development rights or FSI by a person to the promoter against consideration in the form of residential or commercial apartments shall be deemed to be equal to the value of similar apartments charged by the promoter from the independent buyers nearest to the date on which such development rights or FSI is transferred to the promoter.]66

1B. Value of portion of residential or commercial apartments remaining un-booked on the date of issuance of completion certificate or first occupation, as the case may be, shall be deemed to be equal to the value of similar apartments charged by the promoter nearest to the date of issuance of completion certificate or first occupation, as the case may be.

2. **Definitions.** - For the purposes of this notification, unless the context otherwise requires, -

- (a) "advertisement" means any form of presentation for promotion of, or bringing awareness about, any event, idea, immovable property, person, service, goods or actionable claim through newspaper, television, radio or any other means but does not include any presentation made in person;
- (b) "advocate" has the same meaning as assigned to it in clause (a) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961);
- (c) "agricultural extension" means application of scientific research and knowledge to agricultural practices through farmer education or training;
- (d) "agricultural produce" means 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;
- (e) "Agricultural Produce Marketing Committee or Board" means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce;
- (f) "aircraft" has the same meaning as assigned to it in clause (1) of section 2 of the Aircraft Act, 1934 (22 of 1934);
- (g) "airport" has the same meaning as assigned to it in clause (b) of section 2 of the Airports Authority of India Act, 1994 (55 of 1994);

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- (h) “approved vocational education course” means, -
 - (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, Ministry of Skill Development and Entrepreneurship;
- (i) “arbitral tribunal” has the same meaning as assigned to it in clause (d) of section 2 of the Arbitration and Conciliation Act, 1996 (26 of 1996);
- (j) “authorised dealer of foreign exchange” shall have the same meaning assigned to “Authorised person” in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);
- (k) “authorised medical practitioner” means a medical practitioner registered with any of the councils of the recognised system of medicines established or recognised by law in India and includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force;
- (l) “banking company” has the same meaning as assigned to it in clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934);
- (m) “brand ambassador” means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person;
- (n) “business entity” means any person carrying out business;
- (o) “business facilitator or business correspondent” means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the guidelines issued by the Reserve Bank of India;
- (p) “Central Electricity Authority” means the authority constituted under section 3 of the Electricity (Supply) Act, 1948 (54 of 1948);
- (q) “Central Transmission Utility” shall have the same meaning as assigned to it in clause (10) of section 2 of the Electricity Act, 2003 (36 of 2003);
- (r) “charitable activities” means activities relating to -
 - (i) public health by way of,-
 - (A) care or counseling of
 - (I) terminally ill persons or persons with severe physical or mental disability;
 - (II) persons afflicted with HIV or AIDS;

- (III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
 - (B) public awareness of preventive health, family planning or prevention of HIV infection;
- (ii) advancement of religion, spirituality or yoga;
- (iii) advancement of educational programmes or skill development relating to,-
 - (A) abandoned, orphaned or homeless children;
 - (B) physically or mentally abused and traumatized persons;
 - (C) prisoners; or
 - (D) persons over the age of 65 years residing in a rural area;
- (iv) preservation of environment including watershed, forests and wildlife;
- (s) “clinical establishment” means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases;
- (t) “contract carriage” has the same meaning as assigned to it in clause (7) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (u) “courier agency” means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;
- (v) “Customs station” shall have the same meaning as assigned to it in clause (13) of section 2 of the Customs Act, 1962 (52 of 1962);
- (w) “declared tariff” includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air-conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit;
- (x) “distributor or selling agent” means an individual or a firm or a body corporate or other legal entity under law so appointed by the Organising State through an agreement to market and sell lotteries on behalf of the Organising State;
- (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 recognised by any law for the time being in force;
 - (iii) education as a part of an approved vocational education course;

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- (z) “electricity transmission or distribution utility” means the Central Electricity Authority; a State Electricity Board; the Central Transmission Utility or a State Transmission Utility notified under the Electricity Act, 2003 (36 of 2003); or a distribution or transmission licensee under the said Act, or any other entity entrusted with such function by the Central Government or, as the case may be, the State Government;
- (za) “e-rickshaw” means a special purpose battery powered vehicle of power not exceeding 4000 watts, having three wheels for carrying goods or passengers, as the case may be, for hire or reward, manufactured, constructed or adapted, equipped and maintained in accordance with such specifications, as may be prescribed in this behalf;
- (zaa) “financial institution” has the same meaning as assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934)
- (zb) “general insurance business” has the same meaning as assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972);
- (zc) “general public” means the body of people at large sufficiently defined by some common quality of public or impersonal nature;
- (zd) “goods carriage” has the same meaning as assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (ze) “goods transport agency” means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called;
- (zf) “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 243W of the Constitution or to a Panchayat under Article 243G of the Constitution.
- (zfa) “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 per cent, 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.
- (zg) “health care services” means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic

- surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma;
- (zh) “incubatee” means an entrepreneur located within the premises of a Technology Business Incubator or Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the Technology Business Incubator or the Science and Technology Entrepreneurship Park to enable himself to develop and produce hi-tech and innovative products;
- (zi) “inland waterway” means national waterways as defined in clause (h) of section 2 of the Inland Waterways Authority of India Act, 1985 (82 of 1985) or other waterway on any inland water, as defined in clause (b) of section 2 of the Inland Vessels Act, 1917 (1 of 1917);
- (zj) “insurance company” means a company carrying on life insurance business or general insurance business;
- (zk) “interest” means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised;
- (zl) “intermediary” has the same meaning as assigned to it in sub-section (13) of section 2 of the Integrated Goods and Services Tax Act, 2017;
- (zm) “legal service” means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority;
- (zn) “life insurance business” has the same meaning as assigned to it in clause (11) of section 2 of the Insurance Act, 1938 (4 of 1938);
- (zo) “life micro-insurance product” shall have the same meaning as assigned to it in clause (e) of regulation 2 of the Insurance Regulatory and Development Authority (Micro-insurance) Regulations, 2005;
- (zp) “metered cab” means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment and that is charged accordingly under the conditions of its permit issued under the Motor Vehicles Act, 1988 (59 of 1988) and the rules made thereunder (but does not include radio taxi);
- (zq) “national park” has the same meaning as assigned to it in clause (21) of section 2 of the Wild Life (Protection) Act, 1972 (53 of 1972);
- (zr) “online information and database access or retrieval services” shall have the same

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meaning as assigned to it in clause (17) of section 2 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017);

- (zs) “original works” means-all new constructions —
- (i) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;
 - (ii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise;
- (zt) “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;
 - (ii) ‘newspaper’ as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867);
- (zu) “port” has the same meaning as assigned to it in clause (q) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963) or in clause (4) of section 3 of the Indian Ports Act, 1908 (15 of 1908);
- (zv) “radio taxi” means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using the Global Positioning System or General Packet Radio Service;
- (zw) “recognised sporting event” means any sporting event,-
- (i) organised by a recognised sports body where the participating team or individual represent any district, State, zone or country;
 - (ii) organised -
 - (A) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State or zone;
 - (B) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
 - (C) by Central Civil Services Cultural and Sports Board;
 - (D) as part of national games, by Indian Olympic Association; or
 - (E) under *Panchayat Yuva Kreedha Aur Khel Abhiyaan* (PYKKA) Scheme;
- (zx) “recognised sports body” means -
- (i) the Indian Olympic Association;
 - (ii) Sports Authority of India;

- (iii) a national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations;
 - (iv) national sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government;
 - (v) the International Olympic Association or a federation recognised by the International Olympic Association; or
 - (vi) a federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India;
- (zy) “religious place” means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality;
- (zz) “renting in relation to immovable property” means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property;
- (zza) “Reserve Bank of India” means the bank established under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);
- (zzb) “residential complex” means any complex comprising of a building or buildings, having more than one single residential unit;
- (zzc) “rural area” means the area comprised in a village as defined in land revenue records, excluding-
- the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or any area that may be notified as an urban area by the Central Government or a State Government;
- (zzd) “senior advocate” has the same meaning as assigned to it in section 16 of the Advocates Act, 1961 (25 of 1961);
- (zze) “single residential unit” means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family;
- (zzf) “special category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution,
- (zzg) “specified organisation” shall mean,-
- (i) *Kumaon Mandal Vikas Nigam Limited*, a Government of Uttarakhand Undertaking; or
 - (ii) ‘Committee’ or ‘State Committee’ as defined in section 2 of the Haj Committee Act, 2002 (35 of 2002);

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- (zzh) “stage carriage” shall have the same meaning as assigned to it in clause (40) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (zzi) “State Electricity Board” means the Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948);
- (zzj) “State Transmission Utility” shall have the same meaning as assigned to it in clause (67) of section 2 of the Electricity Act, 2003 (36 of 2003);
- (zzk) “State transport undertaking” has the same meaning as assigned to it in clause (42) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (zzl) “tiger reserve” has the same meaning as assigned to it in clause (e) of section 38K of the Wild Life (Protection) Act, 1972 (53 of 1972);
- (zzm) “tour operator” means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours;
- (zzn) “trade union” has the same meaning as assigned to it in clause (h) of section 2 of the Trade Unions Act, 1926 (16 of 1926);
- (zzo) “vessel” has the same meaning as assigned to it in clause (z) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963);
- (zzp) “wildlife sanctuary” means a sanctuary as defined in clause (26) of section 2 of the Wild Life (Protection) Act, 1972 (53 of 1972);
- (zzq) “zoo” has the same meaning as assigned to it in clause (39) of the section 2 of the Wild Life (Protection) Act, 1972 (53 of 1972).
3. *Explanation.*- For the purposes of this notification,-
- (i) Reference to “Chapter”, “Section” or “Heading”, wherever they occur, unless the context otherwise requires, shall mean respectively as “Chapter”, “Section” and “Heading” in the scheme of classification of services.
- (ii) Chapter, Section, Heading, Group, or Service Code mentioned in Column (2) of the Table are only indicative.
- (iii) A “Limited Liability Partnership” formed and registered under the provisions of the Limited Liability Partnership Act, 2008 (6 of 2009) shall also be considered as a partnership firm or a firm.
- (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.
- (v) The term “apartment” shall have the same meaning as assigned to it in clause (e) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).

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- (vi) The term “affordable residential apartment” shall have the same meaning as assigned to it in the notification No. 11/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 690(E) dated 28th June, 2017, as amended.
 - (vii) The term “promoter” shall have the same meaning as assigned to it in clause (zk) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).
 - (viii) The term “project” shall mean a Real Estate Project or a Residential Real Estate Project.
 - (ix) The term “Real Estate Project (REP)” shall have the same meaning as assigned to it in clause (zn) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).
 - (x) The term “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.
 - (xi) The term “carpet area” shall have the same meaning as assigned to it clause (k) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).
 - (xii) “an apartment booked on or before the date of issuance of completion certificate or first occupation of the project” shall mean an apartment which meets all the following three conditions, namely- (a) part of supply of construction of the apartment service has time of supply on or before the said date; and (b) consideration equal to at least one instalment has been credited to the bank account of the registered person on or before the said date; and (c) an allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued on or before the said date.
 - (xiii) “floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.
4. This notification shall come into force on the 1st day of July, 2017.

3. List of Non-GST Supplies

Goods or services on which GST is not leviable are called Non-GST supply. Input tax credit of inputs and / or input services used in providing non-GST supply is not available i.e. no input tax credit on non-GST supplies.

Examples of Non-GST supplies are Petroleum crude and petrol, Natural gas, High speed diesel, Aviation turbine fuel and Alcohol for human consumption etc.

4. List of Schedule III Supplies

[See Section 7]

ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

1. Services by an employee to the employer in the course of or in relation to his employment.
2. Services by any court or Tribunal established under any law for the time being in force.
 - (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
 - (b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
 - (c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
6. Actionable claims, other than lottery, betting and gambling.
7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
8.
 - (a) Supply of warehoused goods to any person before clearance for home consumption;
 - (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.³

Explanation 1 - For the purposes of paragraph 2, the term "**Court**" includes District Court, High Court and Supreme Court.

Explanation 2.—For the purposes of paragraph 8, the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962.⁴

³ Inserted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f 01-02-2019

⁴ Inserted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f 01-02-2019