

GOODS & SERVICES TAX / IDT UPDATE – 126

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

It has been clarified that services provided to an educational institution by way of serving of food (catering including mid- day meals) is exempt from levy of GST irrespective of its funding from Government grants or corporate donations [under entry 66(b)(ii) of Notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017].

As per said entry 66, any catering service provided to an educational institution is exempt from GST. The entry further mentions that such exempt service includes mid- day meal service as specified in the entry. The scope of this entry is thus wide enough to cover any serving of any food to a school, including pre-school.

Further, an Anganwadi *inter alia* provides pre-school nonformal education. Hence, anganwadi is covered by the definition of educational institution (as pre-school). Hence, serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates.

[Circular No. 149/05/2021 dated 17th June, 2021]

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

It has been clarified that entry 23A of Notification No. 12/2017-CT(R) does not exempt GST on the annuity (deferred payments) paid for construction of roads.

Service falling under heading 9967 (service code), by way of access to a road or a bridge on payment of annuity is exempt vide said entry 23A. Heading 9967 covers “supporting services in transport” under which, code 996742 covers “operation services of National Highways, State Highways, Expressways, Roads & streets; bridges and tunnel operation services”. Entry 23 of said notification exempts “service by way of access to a road or a bridge on payment of toll”. Together the entries 23 and 23A exempt access to road or bridge, whether the consideration is in the form of toll or annuity [heading 9967].

Services by way of construction of road fall under heading 9954. This heading *inter alia* covers general construction services of highways, streets, roads railways, airfield runways, bridges and tunnels. Consideration for construction of road service may be paid partially upfront and partially in deferred annual payments (and may be called annuities).

It has been clarified that plain reading of entry 23A makes it clear that it does not cover construction of road services (falling under heading 9954), even if deferred payment is made by way of instalments (annuities).

[Circular No. 150/06/2021 dated 17th June, 2021]

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

It has been clarified that:

- (i) GST is exempt on services provided by Central or State Boards (including the boards such as National Board of Examination) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution [under *S. No. 66 (aa) of Notification No. 12/2017-CT(R)*].
- (ii) GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc., when provided to such Boards [under *S. No. 66(b)(iv) of Notification No. 12/2017-CT(R)*].
- (iii) GST at the rate of 18% applies to other services provided by such Boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee) so as to authorise them to provide their respective services.

[Circular No. 151/07/2021 dated 17th June, 2021]

4. Clarification regarding rate of tax applicable on construction services provided to a Government Entity, in relation to construction such as of a ropeway on turnkey basis

Works contract service provided by way of construction such as of rope way fall under *entry no. 3(xii) of notification 11/2017-CT(R) dated 28th June, 2017* and attract GST at the rate of 18%.

[Circular No. 152/08/2021 dated 17th June, 2021]

5. Clarification regarding GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS

Issue: Whether composite supply of service by way of milling of wheat into wheat flour, along with fortification, by any person to a State Government for distribution of such wheat flour under Public Distribution System is eligible for exemption under entry No. 3A of *Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017*? If not, then what would be the applicable rate of GST on such milling?

Entry No. 3A exempts “*composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply provided to the 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”

Clarification: It has been clarified that-

- (i) Public Distribution specifically figures at entry 28 of the 11th Schedule to the Constitution, which lists the activities that may be entrusted to a Panchayat under Article 243G of the Constitution. Hence, said entry No. 3A would apply to composite supply of milling of wheat and fortification thereof by miller, or of paddy into rice, provided that value of goods supplied in such composite supply (goods used for fortification, packing material etc.) does not exceed 25% of the value of composite supply. It is a matter of fact as to whether the value of goods in such composite supply is up to 25% and requires ascertainment on case-to-case basis.
- (ii) In case the supply of service by way of milling of wheat into flour or of paddy into rice, is not eligible for exemption under Sl. No. 3 A for the reason that value of goods supply in such a composite supply exceeds 25%, then the applicable GST rate would be 5% if such composite supply is provided to a registered person, being a job work service (entry No. 26 of *Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017*).

Combined reading of the definition of job-work [section 2(68), 2(94), 22, 24, 25 and section 51] makes it clear that a person registered only for the purpose of deduction of tax under section 51 of the CGST Act is also a registered person for the purposes of the said entry No. 26, and thus said supply to such person is also entitled for 5% rate.

[Circular No. 153/09/2021 dated 17th June, 2021]

6. Clarification regarding GST on service supplied by State Government to their undertakings or PSUs by way of guaranteeing loans taken by them

It has been re-iterated that guaranteeing of loans by Central or State Government for their undertaking or PSU is specifically exempt under *entry No. 34A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017*.

[Circular No. 154/10/2021 dated 17th June, 2021]

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

It has been clarified that that laterals/parts to be used solely or principally with sprinklers or drip irrigation system, which are classifiable under *heading 8424*, would attract a GST of 12%, even if supplied separately. However, any part of general use, which gets classified in a heading other than 8424, in terms of Section Note and Chapter Notes to HSN, shall attract GST as applicable to the respective heading.

[Circular No. 155/11/2021 dated 17th June, 2021]

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