

GST Implication on Education Sector

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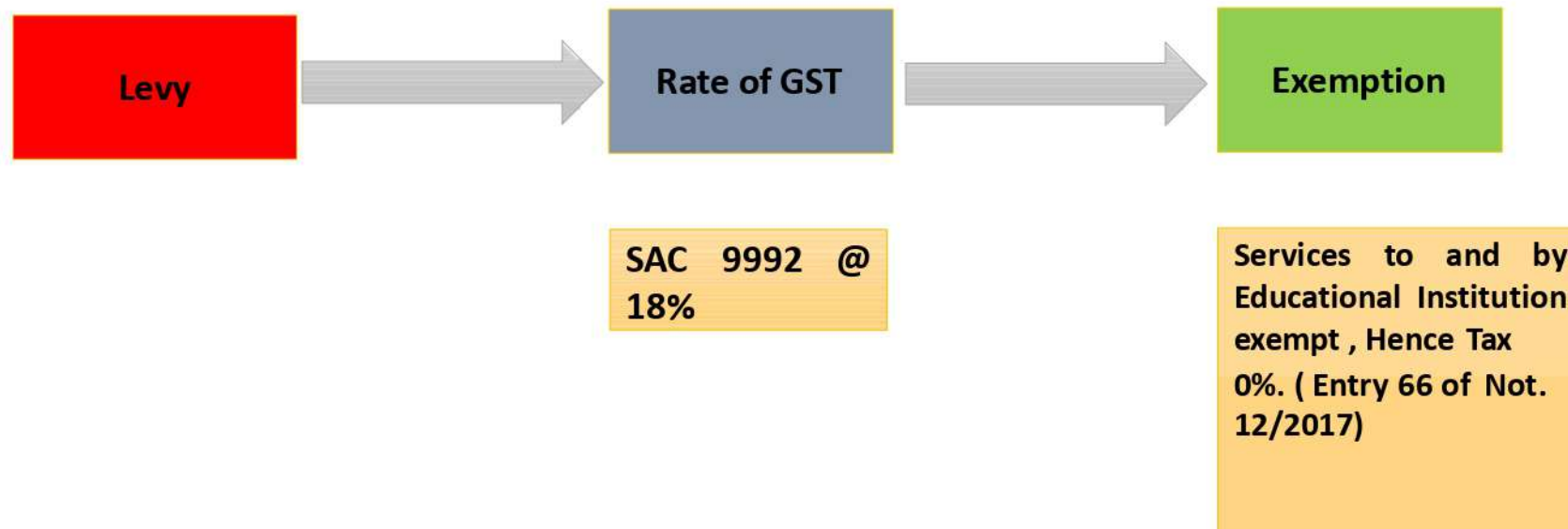


Section 9:- Levy and Rate of Tax

Section 9:- Levy & collection

(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person,

Thus from above section it is clear that section 9 covers within its ambit all the supplies of goods or services or both. Law makers had exempted certain supply of services by mentioning those supplies in GST Exemption notification 12/2017 CT Rate.





Meaning of Educational Institution



Play Schools ?

Institutes giving Foreign Degrees ?



Schools upto 5th Std.
without affiliation ?

IIM's, IIT's, ICAI, ICSI ?

Coaching Institutes ?

School Canteens?

Hostel ?

Sale of Books?

Illets Centres?

Educational Institution

As per [Definition 2\(y\) mentioned in notification 12/2017-CTRate](#)

“Educational institution” means an institution providing services by way of,-

i. pre-school education and education upto higher secondary school or equivalent;

Schools

Colleges, Institutes
like ICAI, IIT's

ii. education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;

iii. education as a part of an approved vocational education course;

Defined in law

Industrial Training
Institutes

Important points in definition

Pre-School
education

Eg. Play school, nursery,
kindergarden school.(Before 1st
) (Pre school are not regulated
by any authority in India)

Equivalent

Eg. International Schools

Qualification
recognized
by law

Law in India ?
Old ST Circular 107/1/2009

Circular 107/1/2009 ST

Institute recognized by UGC(University Grant Commission), AICTE(All India Council for Technical Education), Institutions through Union Acts

i. Indian Institute of Aircraft Engineering v. Union of India * [[2013] 34 taxmann.com 191 (Delhi)]

The expression "recognized by law" is a very wide one. The legislature has not used the expression "conferred by law" or "conferred by statute". Thus, even if the certificate/degree/diploma/qualification is not the product of a statute but has approval of some kind in 'law', would be exempt.

- Training given by private coaching institutes although imparting Coaching related to Degree Courses would not be covered as such training doesnot lead to grant of a recognized qualification/degree themselves.
- ILETS Institutes---Not covered by Exemption.
- Only Pre-schools are also covered by Exemption SAC 999210. ("and" word in 2(y)(i) is wrongly used and to meet intent shud be read as "OR").
- Day Care is covered under SAC 999351 @ 18%. Hence, Taxable. But if provided by Educational Institute to its students then Exempt.

Approved vocational education course

As per [Definition 2\(h\) mentioned in notification 12/2017-CTRate](#)

“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**;

Meaning of Education

The word “ Education” has not been defined in GST Law.

- Apex Court in case of **OLE TRUSTEE, LOKA SHIKSHANA TRUST VERSUS COMMISSIONER OF INCOME-TAX, MYSORE (1975 (8) TMI 1 – SC)** held that Education connotes in that clause is the process of training and developing the knowledge, skill, mind and character of students by normal schooling.



Relevant entries of notification
12/2017-CT(Rate)

Entry No. 66 of Notification No. 12/2017 CT Rate

Services provided –

Any Service

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

aa) **by** an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee.

b) **to** an educational institution, by way of,-

i transportation of students, faculty and staff;

i catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;

i 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;

Provided that nothing contained in ⁴[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:

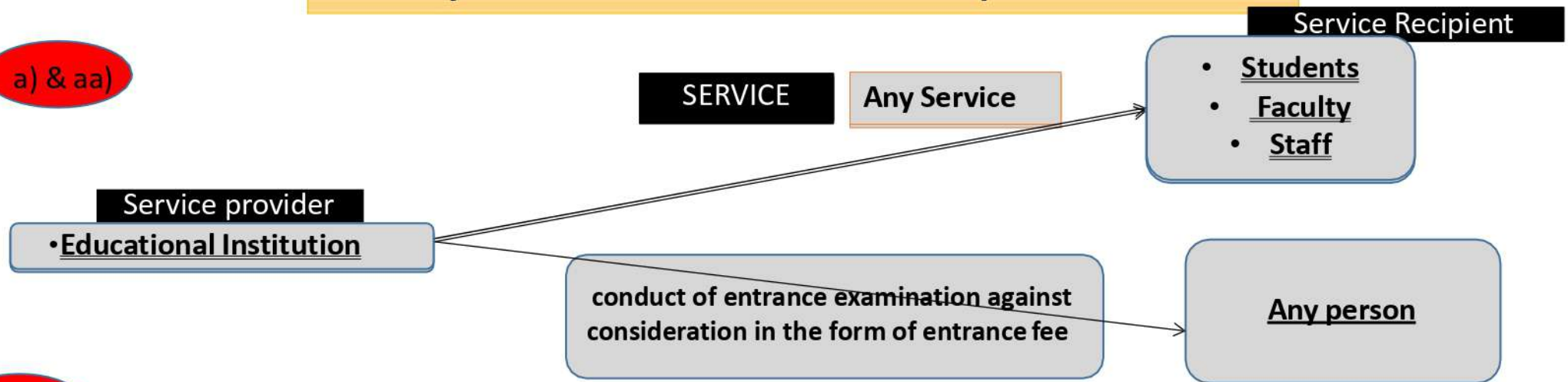
[**Provided further** that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,—

i. pre-school education and education up to higher secondary school or equivalent; or

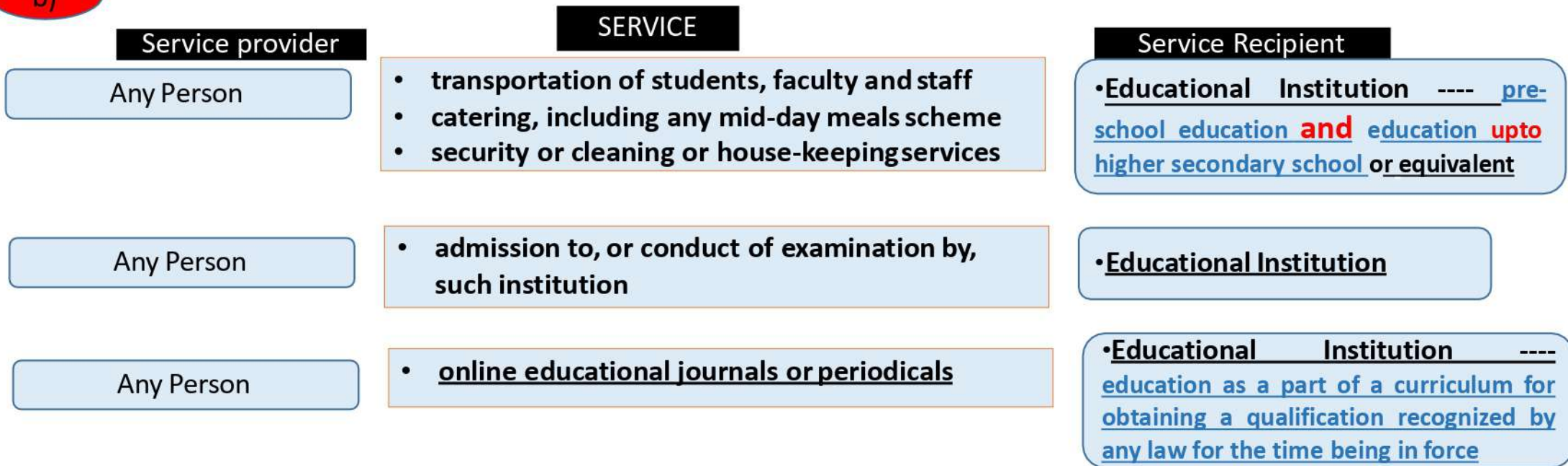
ii. education as a part of an approved vocational education course.]

Entry No. 66 of Notification No. 12/2017 CT Rate

a) & aa)



b)



Clarification No. 55/29/2018-GST

TAXABILITY OF SERVICES PROVIDED BY INDUSTRIAL TRAINING INSTITUTES:-

1. Representations have been received requesting to clarify the following:

- a) Whether GST is payable on vocational training provided by private ITIs in designated trades and in other than designated trades
- b) Whether GST is payable on the service, provided by a private Industrial Training Institute for conduct of examination against consideration in the form of entrance fee and also on the services relating to admission to or conduct of examination.

2. With regard to the first issue, [Para 1(a) above], it is clarified that Private ITIs qualify as an educational institution as defined under para 2(y) of notification No. 12/2017-CT(Rate) if the education provided by these ITIs is approved as vocational educational course.

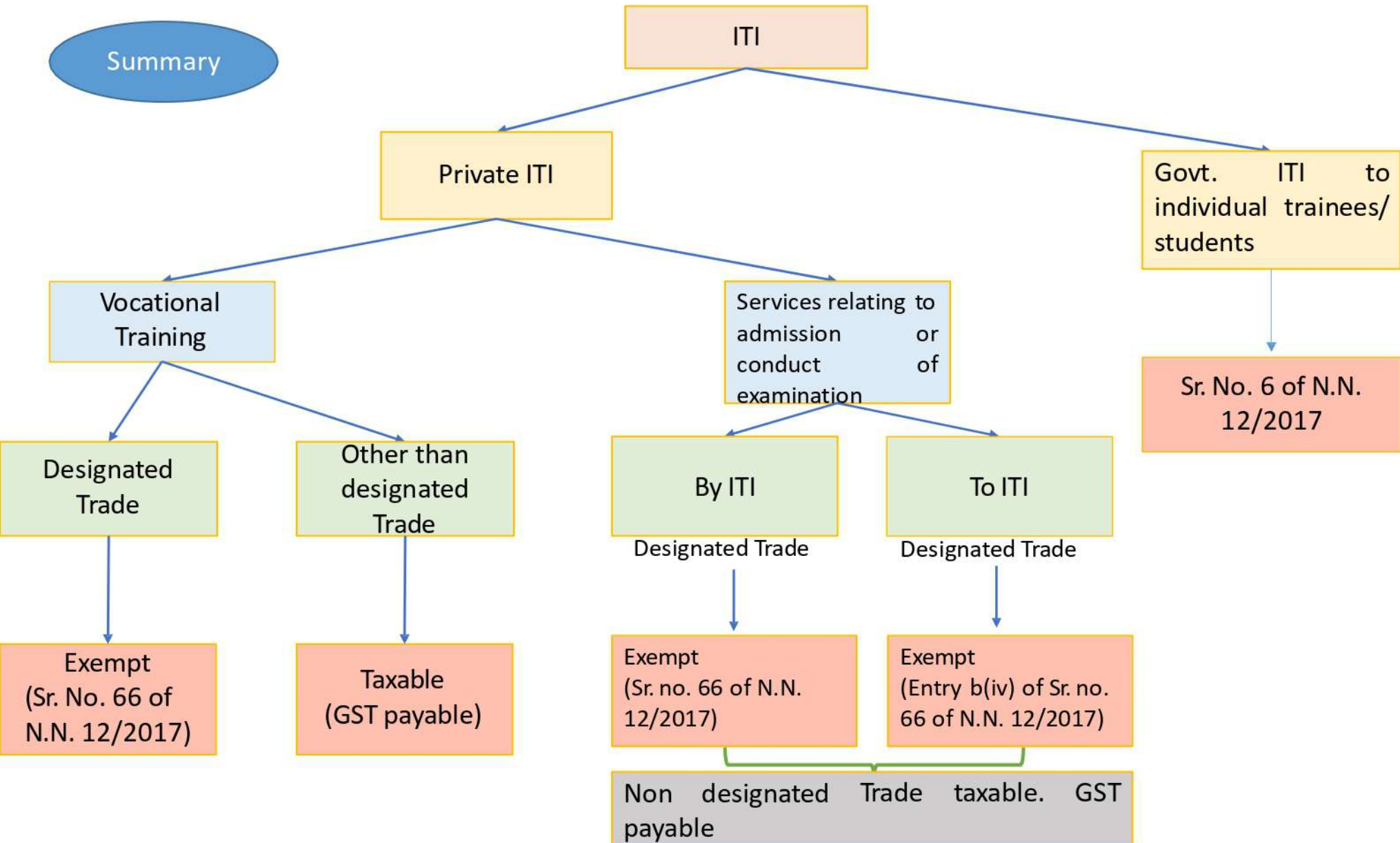
- The approved vocational educational course has been defined in para 2(h) of notification *ibid* to mean a course run by an ITI or an Industrial Training Centre affiliated to NCVT (National Council for Vocational Training) or SCVT (State Council for Vocational Training) offering courses in designated trade notified under the Apprenticeship Act, 1961; or a Modular employable skill course, approved by NCVT, run by a person registered with DG Training in Ministry of Skill Development.
- Therefore, services provided by a private ITI in respect of designated trades notified under Apprenticeship Act, 1961 are exempt from GST under Sr. No. 66 of Notification No. 12/2017-CT(Rate). As corollary, services provided by a private ITI in respect of other than designated trades would be liable to pay GST and are not exempt.

3. With regard to the second issue, [Para 1(b) above], it is clarified that in case of designated trades, services provided by a private ITI by way of conduct of entrance examination against consideration in the form of entrance fee will also be exempt from GST [Entry (aa) under Sr. No. 66 of Notification No. 12/2017-CT(Rate) refers].

- Further, in respect of such designated trades, services provided to an educational institution, by way of, services relating to admission to or conduct of examination by a private ITI will also be exempt [Entry (b(iv)) under Sr. No. 66 of notification No. 12/2017-CT(Rate) refers].
- It is further clarified that in case of other than designated trades in private ITIs, GST shall be payable on the service of conduct of examination against consideration in the form of entrance fee and also on the services relating to admission to or conduct of examination by such institutions, as these services are not covered by the exemption *ibid*.

4. As far as Government ITIs are concerned, services provided by a Government ITI to individual trainees/students, is exempt under Sl. No. 6 of 12/2017-CT(R) dated 28.06.2017 as these are in the nature of services provided by the Central or State Government to individuals. Such exemption in relation to services provided by Government ITI would cover both - vocational training and examinations conducted by these Government ITIs.

Summary



Entry No. 67- CGST (Deleted vide notification No. 28/2018- Central Tax (Rate) dated, 31st December, 2019 w.e.f. 1st January 2019)

~~Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme:-~~

- ~~a) two year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management;~~
- ~~b) fellow programme in Management;~~
- ~~c) five year integrated programme in Management~~

CIRCULAR NO. 82/01/2019-GST - CENTRAL TAX

CLARIFICATION REGARDING APPLICABILITY OF GST ON VARIOUS PROGRAMMES CONDUCTED BY INDIAN INSTITUTE OF MANagements (IIMs)

I am directed to invite your attention to the Indian Institutes of Management Act, 2018 which came into force on 31st January, 2018.

According to provisions of the IIM Act, all the IIMs listed in the schedule to the IIM Act are "**institutions of national importance**". They are empowered to (i) grant degrees, diplomas, and other academic distinctions or titles, (ii) specify the criteria and process for admission to courses or programmes of study, and (iii) specify the academic content of programmes. **Therefore, with effect from 31st January, 2018, all the IIMs are "educational institutions"** as defined under [notification No. 12/2017- Central Tax \(Rate\) dated 28.06.2017](#) **as they provide education as a part of a curriculum for obtaining a qualification recognised by law for the time being in force.**

2. At present, Indian Institutes of Managements are providing various **long duration programs** (one year or more) for which they award diploma/degree certificate duly recommended by Board of Governors as per the power vested in them under the IIM Act, 2017. Therefore, it is clarified that **services provided by Indian Institutes of Managements to their students- in all such long duration programs (one year or more) are exempt from levy of GST.** As per information received from IIM Ahmedabad, annexure 1 to this circular provides a sample list of programmes which are of long duration (one year or more), recognized by law and are exempt from GST.

3. For the period from 1st July, 2017 to 30th January, 2018, IIMs were not covered by the definition of educational institutions as given in [notification No. 12/2017 Central Tax \(Rate\) dated 28.06.2017](#). Thus, they were not entitled to exemption under Sl. No. 66 of the said notification. However, there was specific exemption to following three programs of IIMs under Sl. No. 67 of notification No. 12/2017- Central Tax (Rate). (Given above)

CIRCULAR NO. 82/01/2019-GST - CENTRAL TAX

4. For the period from **31st January, 2018 to 31st December, 2018, two exemptions**, i.e. under Sl. No. 66 and under Sl. No. 67 of notification No. 12/2017-Central Tax (Rate), dated 28.06.2017 are available to the IIMs. The legal position in such situation has been clarified by Hon'ble Supreme Court in many cases that if there are two or more exemption notifications available to an assessee, the assessee can claim the one that is more beneficial to him. Therefore, from 31st January, 2018 to 31st December, 2018, IIMs can avail exemption either under Sl. No. 66 or Sl. No. 67 of the said notification for the eligible programmes. In this regard following case laws may be referred-

- i. *H.C.L. Limited v. Collector of Customs* [2001 (130) ELT 405 (SC)]
- ii. *Collector of Central Excise, Baroda v. Indian Petro Chemicals* [1997 (92) ELT 13 (SC)]
- iii. *Share Medical Care v. Union of India* reported at 2007 (209) ELT 321 (SC)
- iv. *CCE v. Maruthi Foam (P) Ltd.* [1996 (85) RLT 157 (Tri.) as affirmed by Hon'ble Supreme Court vide 2004 (164) ELT 394 (SC)]

5 Indian Institutes of Managements also provide various short duration/short term programs for which they award participation certificate to the executives/professionals as they are considered as "participants" of the said programmes. These participation certificates are not any qualification recognized by law. Such participants are also not considered as students of Indian Institutes of Management. Services provided by IIMs as an educational institution to such participants is not exempt from GST. Such short duration executive programs attract standard rate of GST @ 18% (CGST 9% + SGST 9%). As per information received from IIM Ahmedabad, annexure 2 to this circular provides a sample list of programmes which are short duration executive development programs, available for participants other than students and are not exempt from GST.

CIRCULAR NO. 82/01/2019-GST - CENTRAL TAX

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

Sr. No.	Periods	Programms offered by Indian Institutes of Management	Whether exempt from GST
1	1st July, 2017 to 30th January, 2018	<ul style="list-style-type: none"> i. two-year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management, ii. fellow programme in Management, iii. five years integrated programme in Management. 	Exempt from GST
		<ul style="list-style-type: none"> i. One- year Post Graduate Programs for Executives, ii. Any programs other than those mentioned at Sl. No. 67 of notification No. 12/2017- Central Tax (Rate), dated 28.06.2017. iii. All short duration executive development programs or need based specially designed programs (less than one year). 	Not exempt from GST
2	31st January, 2018 onwards	All long duration programs (one year or more) conferring degree/diploma as recommended by Board of Governors as per the power vested in them under the IIM Act, 2017 including one- year Post Graduate Programs for Executives.	Exempt from GST
		All short duration executive development programs or need based specially designed programs (less than one year) which are not a qualification recognized by law.	Not exempt from GST

Entry No. 69 of Notification No. 12/2017 CT- Rate

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
 - i any other Scheme implemented by the National Skill Development Corporation

Skill
Development/Enhancing
Programmes

Entry No. 70 of Notification No. 12/2017 CT- Rate

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

Entry No. 71 of Notification No. 12/2017 CT- Rate

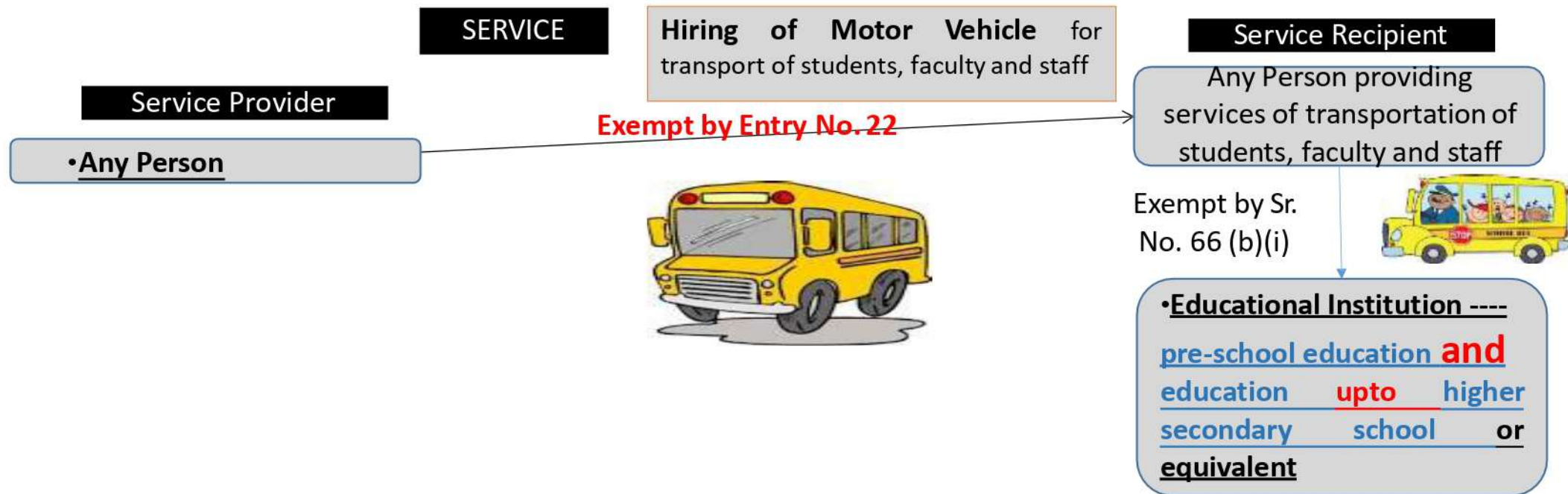
Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen K
ausalya Yojana implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational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

Entry No. 22 of Notification No. 12/2017 Ct- Rate

Services by way of giving on hire—

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.]



Entry no. 1 of Notification No. 12/2017- Ct Rate

Services **by an entity** registered under **section 12AA** of the Income-tax Act, 1961 (43 of 1961) by way of **charitable activities**

"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;
 - i 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;

CIRCULAR NO. 117/36/2019-GST

CLASSIFICATION OF SERVICES - CLARIFICATION ON APPLICABILITY OF GST EXEMPTION TO THE DG SHIPPING APPROVED MARITIME COURSES CONDUCTED BY MARITIME TRAINING INSTITUTES OF INDIA

A representation has been received regarding applicability of GST exemption to the Directorate General of Shipping approved maritime courses conducted by the Maritime Training Institutes of India. The same has been examined and following is clarified.

Therefore, the Maritime Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST. The exemption is subject to meeting the conditions specified at Sl. No. 66 of the notification No. 12/ 2017- Central Tax (Rate), dated 28-6-2017.

Press release dated 13.07.2017

GST - CLARIFICATION AS TO APPLICABILITY OF GST ON ANNUAL SUBSCRIPTION/FEE CHARGED AS LODGING/BOARDING CHARGES BY EDUCATIONAL INSTITUTIONS FROM ITS STUDENTS FOR HOSTEL ACCOMMODATION

There are some reports that GST@18% will be levied on annual subscription/fees charged for lodging in hostels. This is not true. There is no change in tax liability relating to education and related services in the GST era, except reduction in tax rate on certain items of education.

It may be mentioned that services provided by an educational institution to students, faculty and staff are fully exempt. Educational institution has been defined as an institution imparting

- Annual subscription/fees charged as lodging/boarding charges by such educational institutions from its students for hostel accommodation shall not attract GST.

Educational Institutions

Lodging/ Boarding charges
for hostel accommodation

Exempt



Case study

ABC Ltd. an educational institute has following receipts.:-

Particulars	Amount	Exempt/ taxable
Receipts from boarding School (including Rs. 1400000 from residential dwelling service)	3000000	Exempt
Receipts from 'Gyan Udhay' an Industrial Training Institute affiliated to National Council of vocational training	200000	Exempt
Receipts of 'Lakshya' an institute registered with DGET	100000	Exempt
Receipts from 'Wizard' a commercial coaching institute	80000	Taxable
Fees from employer for campus interview	400000	Taxable
Receipts from 'Concepts' a coaching institute providing coaching in field of commerce(certificate was awarded to each trainee after completion)	140000	Taxable
Receipts of Gurukul School providing education upto higher Secondary	500000	Exempt



Rate of GST on education
services

GST Rate on education Services

SAC /HSN Code	Description of Service	Rate
9992	Education services(Except services in Entry No. 66 of N.N. 12/2017 CT Rate)	18% (Notification 11/2017)
90 or any other chapter	Technical aids for education, rehabilitation, vocational training and employment of the blind such as Braille typewriters, braille watches, teaching and learning aids, games and other instruments and vocational aids specifically adapted for use of the blind	5% (Sr. Serial No. 257 of Schedule I of the Notification No.1/2017-Central Tax (Rate) dated 28th June, 2017)
9023	Instruments, apparatus and models, designed for demonstrational purposes (for example, in education or exhibitions), unsuitable for other uses	28 %/ Serial No. 191 of Schedule IV of the Notification No.1/2017-Central Tax (Rate) dated 28th June, 2017



Registration

Registration

- If an education Institution is providing only education as a service then fees received from students is chargeable at NIL rate of GST and educational institution is not required to register in GST.
- But if educational institution is also giving ground on rent for functions or sponsorship services, then they will be required to get themselves registered in terms of sec. 22 or 24 of the CGST Act, 2017. Aggregate Turnover (Sec. 2(6)) to be taken adding all Incomes whether Exempt or Taxable.



Place of supply

Place of Supply of Educational Services where the location of supplier of services and the location of the recipient of services is in India

➤ **12 (2)** The place of supply of services, except the services specified in sub-sections (3) to (14),—

- a) made to a registered person shall be the location of such person;
- b) made to any person other than a registered person shall be,—
 - i. the location of the recipient where the address on record exists; and
 - ii. the location of the supplier of services in other cases.



➤ Section 12(6) of IGST Act, 2017 *"The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, **educational**, entertainment event or amusement park or any other place and services ancillary thereto, shall be the place **where the** event is actually held or where the park or **such other place is located**."*

➤ Section 12(7) of IGST Act 2017 "The place of supply of services provided by way of,—

- a. organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or
- b. services ancillary to organisation of any of the events or services referred to in clause (a), or assigning of sponsorship to such events,—
 - i. to a registered person, shall be the location of such person;
 - ii. to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside

India, the place of supply shall be the location of the recipient

Place of supply of Educational Services where the location of the supplier of services or the location of the recipient of services is outside India

- 13(2) The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services:

Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

- Section 13(5) of IGST Act 2017,

“The place of supply of services supplied by way of

- admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a
- celebration, conference, fair, exhibition or similar events, and of services ancillary
- to such admission or organisation, shall be the place where the event is actually held.”

- *Hostel-12(3) or 13(4), as the case may be-Location of Immovable Property.*

- *Online Coaching-12(2)/13(2) , as the case may be. (General Rule)-Location of Recipient/*



Case Laws

APPELLATE AUTHORITY FOR ADVANCE RULINGS, WEST BENGAL Global Reach Education Services (P.) Ltd., In re [[2018] 96 taxmann.com 107 (AAAR-WEST BENGAL)]

Section 2(13) of the Integrated Goods and Services Tax Act, 2017 - Intermediary - Appellant promotes courses of foreign Universities, finds suitable prospective students to **undertake courses, and, in accordance with University procedures and requirements, recruits and assists in recruitment of suitable students** –

Question :- Whether appellant is to be considered as an 'intermediary', in terms of section 2(13) and, therefore, services of appellant are not 'Export of Services' under GST Act, and are eligible to tax –

Answer:- Held, yes [Paras 23 & 24]

IGST : Where appellant promotes courses of foreign university in India, finds suitable prospective students to undertake courses, and assists in recruitment of suitable students, appellant is to be considered as an intermediary in terms of section 2(13) and, therefore, services of appellant are not 'Export of Services' under GST Act, and are eligible to tax.



Foreign University

Promotes the courses
offered by university
in India



Finds suitable
prospective students



This is **not Export of service.** This is considered as intermediary services u/s 2(13) and therefore liable to tax

Emrald Heights International School, In re vs. [[2019] 109 taxmann.com 377 (AAR - MADHYA PRADESH)]

Classification of service - Madhya Pradesh Goods and Services Tax Act, 2017 - Educational conference – Heading No. 9992 [Education services] - Applicant-school is a member of an **association which is a charitable organization** - Applicant and said association **intend to enter into an agreement for hosting and managing conference/gathering for students and staff of other member (participant) schools of said association** –

- **Many of member school are based outside India** as per agreement, applicant is responsible to hold an educative conference engaging skilled personnel and sufficient financial and material resources for planning conference, inviting participants, arranging accommodation, food etc. –
- Consideration for performing above mentioned functions would flow from **participant schools in form of fee along with list of individual student and staff** –
- **Whether consideration received by applicant from participant schools would not be exempted under Entry No. 66 or Entry No. 1 or Entry No. 80 of Notification No. 12/2017 - Central Tax (Rate) - Held, yes** –
- **Whether various services provided for organizing said conference shall be liable to tax at rate applicable to respective services - Held, yes [Para 8.1]**
- GST : Where applicant-school and an association (a charitable organization), of which applicant is a member, intend to enter into an agreement for hosting and managing an educative conference/gathering for students and staff of other member schools **(many of which are based outside India)** of said association, **consideration received by applicant from said schools in form of fee for participation of their students and staff would not be exempted under Entry No. 66 or Entry No. 1 or Entry No. 80 of Notification No. 12/2017 - Central Tax (Rate).**



Applicant school is hosting conference also for schools outside India

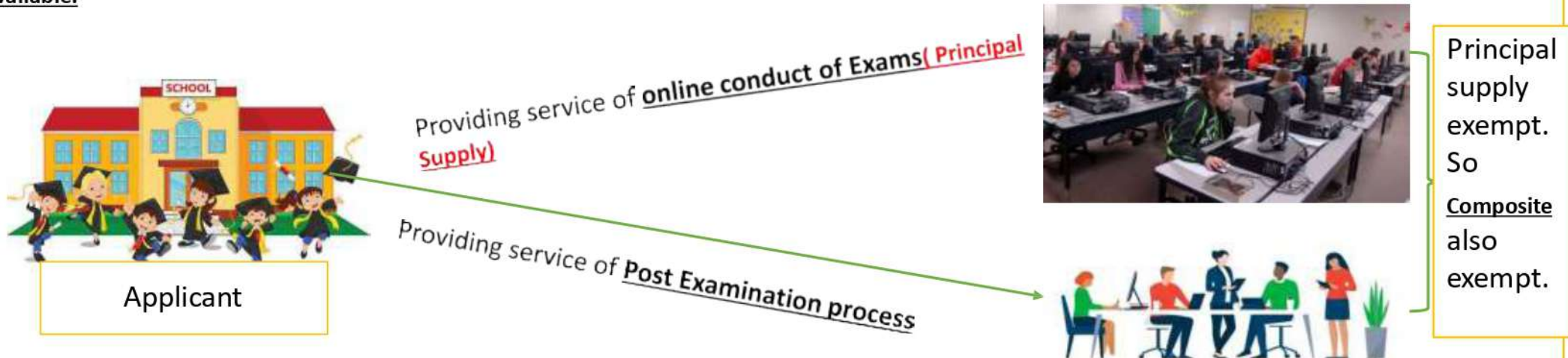


This service is **not covered by Entry No. 66 or 80** of N.N. 12/2017. Hence the **same is not covered by exemption**

Attest Testing Services Ltd., In re vs. [[2019] 109 taxmann.com 366 (AAR - MAHARASHTRA)/[2019] 29 GSTL 528 (AAR MAHARASHTRA)/[2019] 76 GST 512 (AAR - MAHARASHTRA)

Classification of services - Maharashtra Goods and Services Tax Act, 2017 - Educational Services - Heading No. 9992 [Education Services] - Section 2(30) of the Central Goods And Services Tax Act, 2017/Section 2(30) of the Maharashtra Goods and Services Tax Act, 2017 - **Supply - Composite supply** -

- Applicant is providing **services, viz., conducting online examinations along with pre-exam management processes, post exam management processes across different cities and examination centers** -
- Whether **services provided by applicant satisfy definition of 'composite services' in as much as it provides services to completely manage conduct of examinations electronically like facilitation of online booking of examination slots by candidates, setting up questions based on question bank management, conduction of online examinations in their authorized examination centers, invigilation and exam evaluation services, etc. - Held, yes** -
- Whether **services provided by applicant are naturally bundled with principal supply being conduct of examination and therefore, services supplied by applicant are in nature of naturally bundled services - Held, yes** -
- Whether thus, **services provided by applicant are composite supply in which conduct of examination can be considered as principal supply and exemption under Entry 66 of Notification 12/2017-Central Tax (Rate), dated 28-6-2017 will be available to applicant only when provisions mentioned therein are satisfied by them - Held, yes [Paras 5 6] [In favour of assessee]**
- GST: Where applicant is providing services, viz., conducting online examinations along with pre-exam management processes, post exam management processes across different cities and examination centers, services provided by applicant satisfy definition of 'Composite Services' under section 2(30) **in which conduct of examination is principal supply** and exemption under Entry 66 of Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 **will be available.**



Arivu Educational Consultants (P.) Ltd., In re vs. [[2019] 110 taxmann.com 426 (AAR - KARNATAKA)/[2020] 77 GST 25 (AAR - KARNATAKA)/[2020] 32 GSTL 353 (AAR - KARNATAKA)]

- Section 15 of the Central Goods and Services Tax Act, 2017 read with rule 33 of the Central Goods and Services Tax Rules, 2017 /Section 15 of the Karnataka Goods and Services Tax Act, 2017 read with rule 33 of the Karnataka Goods and Services Tax Rules, 2017 - Supply - Taxable supply, value of - Applicant provides coaching, learning and training services in relation to under-graduate, graduate and post-graduate degree, diploma and professional courses on a standalone bases to students–
- In this process, applicant collects certain amount as examination fee from students and remits same in bulk to respective institute or college or university without any additional charges or profit element –
- Whether activity of collecting examination fee (charged by any university or institution) from students and remitting same to that particular university or institution without any value addition to it is a service as a pure agent and hence value is excluded from taxable value of applicant as per rule 33 - Held, yes [Para 9] [In favour of assessee]
- GST : Where applicant provides coaching, learning and training services and collects certain amount as examination fee from students and remits same to respective college or university without any profit element, activity of collecting examination fee is a service as a pure agent.



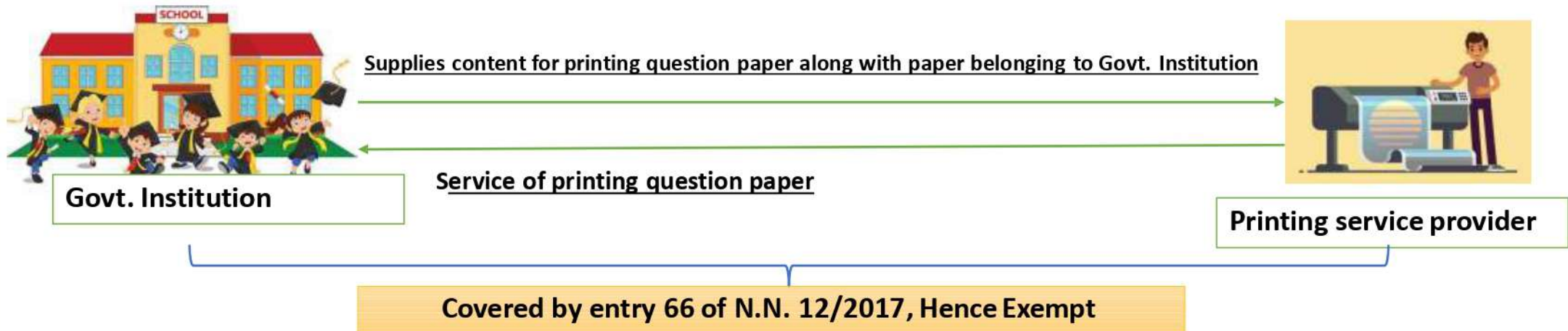
As the exam fees is remitted to institute without charging any profit element, so it is considered as **service as pure agent**

AUTHORITY FOR ADVANCE RULINGS, KARNATAKA Bangalore Printing & Publishing Co. Ltd., In re *[[2019] 110 taxmann.com 239 (AAR - KARNATAKA)] Classification of services - Karnataka Goods and Services Tax Act, 2017 - Printing of question papers - Heading No. 9989 [Other manufacturing services; publishing, printing and reproduction services; material recovery services] –

- Applicant is engaged in activity of printing of books, journals, question papers, calendars, etc. - It has received an order from State Government Institution for printing of question papers for State Level Higher Secondary Examinations - Said Institution would supply to applicant only content for printing and printing inputs including paper belong to applicant - Whether supply made by applicant would constitute supply of service falling under Heading No. 9989 - Held, yes [Para 7][In favour of assessee]
- Classification of services - Karnataka Goods and Services Tax Act, 2017 - Printing of question papers - Heading No. 9992 [Education services] - Applicant is engaged in activity of printing of books, journals, question papers, calendars, etc. - It has received order from State Government Institution for printing of question papers for State Level Higher Secondary Examinations - Said Institution would supply to applicant only content for printing and printing inputs including paper belong to applicant –
- Whether services supplied by applicant would be covered under Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017 - Held, yes [Para 7][In favour of assessee]

GST : Where applicant has received order from State Government Institution for printing of question papers for State Level Higher Secondary Examinations and said Institution would supply to applicant only content for printing and printing inputs including paper belong to applicant, supply made by applicant would constitute supply of services falling under Heading No. 9989

GST : Where applicant has received order from State Government Institution for printing of question papers for State Level Higher Secondary Examinations and said Institution would supply to applicant only content for printing and printing inputs including paper belong to applicant, services supplied by applicant would be covered under Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017



[2019] 110 taxmann.com 361 (AAR - KARNATAKA) AUTHORITY FOR ADVANCE RULINGS, KARNATAKA Informatics Publishing Ltd., In re* _
Classification of services - Karnataka Goods and Services Tax Act, 2017 - Providing of access to online content to users - Heading No. 998431
[Online text based information such as online books, newspapers, periodicals, directories and like] –

- Applicant is in business of only **providing access to articles published in various journals and papers to its subscribers** - It has a portal called J-Gate, which is a platform for searching various educational journals - It itself is not publishing any online journal, but only **maintaining a database of links to all journals** –
- Links to articles are maintained in a metadata form and subscriber when accesses to platform can access to individual article published in any of journal available in platform after reading catalogue of articles –
- Whether **activity of providing of access to online content by applicant to its users is covered under Service Code No. 998431 and liable to tax at 9 per cent CGST + 9 per cent SGST** - Held, yes [Para 6] [In favour of revenue]

GST: Where applicant is in business of only providing access to articles published in various journals and papers to its subscribers and it has a portal called J-Gate, which is a platform for searching various educational journals, and it itself is not publishing any online journals, but only maintaining a database of links to all journals, **activity of providing of access to online content by applicant to its users is covered under Services Code No. 998431 and liable to tax at 9 per cent CGST and 9 per cent SGST**



Providing access to articles published in various journals and papers to its subscribers



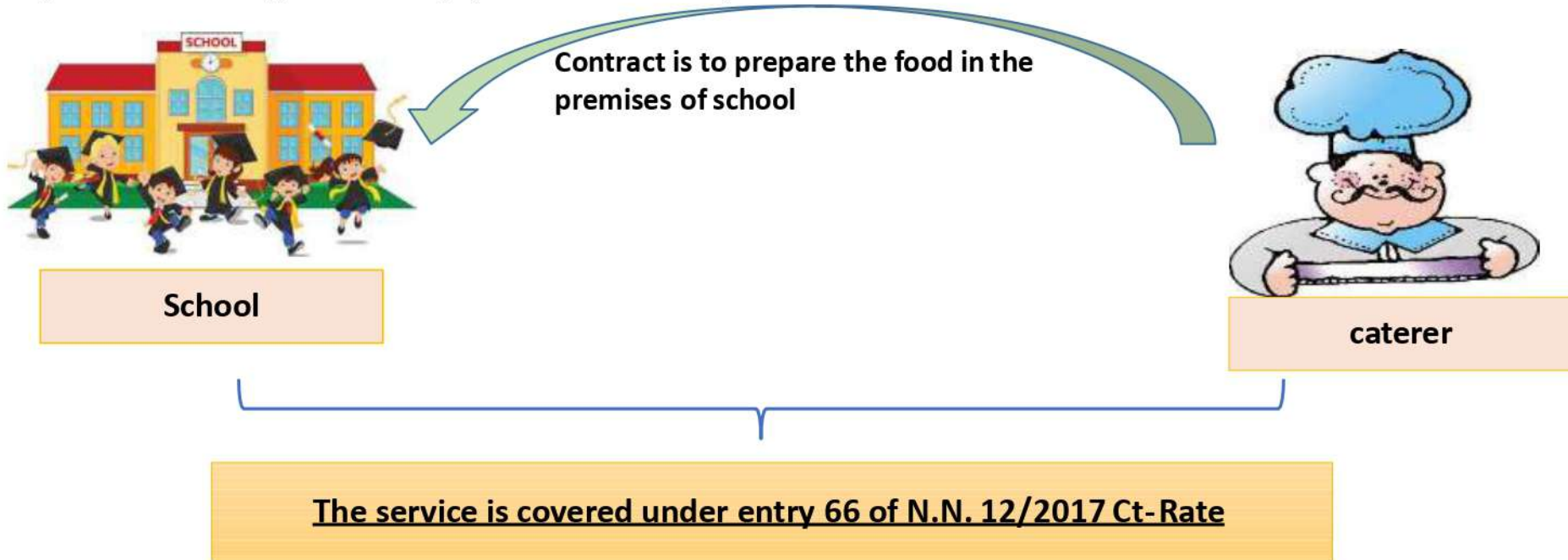
Covered under SAC Code 998431 and liable to tax @ 18%

➤ **2020 (5) TMI 602 - AUTHORITY FOR ADVANCE RULINGS, KARNATAKA IN RE: M/S. MAHALAKSHMI MAHILA SANGHA,**

Applicability of TDS under GST - catering services to educational institutions sponsored by State/ Central / Union territory - Sl. No. 66 of the Notification No.12/ 2017-Central Tax (Rate) dated 28.06.2017 - Circular 65/ 39/ 2018 –

- **HELD THAT:-** The agreements for the supply of services are entered between the Heads of the Residential Schools and the applicant and the recipient of service is hence, the Residential Schools.
- The nature of the contract is verified and found that the successful bidders have to prepare the food in the respective schools only and there is no provision of providing food cooked outside the premises or from one school to another. Hence the applicant has to prepare the food in the school premises and supply it to the students of the school for a monthly consideration. Further, it is seen that the students to whom the service is provided are from the Primary School category. **Hence the service is a catering service provided to an educational institution which is a primary school and hence is covered under the Entry No.66 of Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 as amended from time to time and is exempted from the payment of GST.**

The provision of tax deduction at source is applicable on the payment made to a supplier of taxable services and since the applicant is supplying exempt services, the said provisions are not applicable to the payments made to him by the educational institutions.



➤ **2019 (6) TMI 1172 - AUTHORITY FOR ADVANCE RULING, MAHARASHTRA IN RE: M/S. ORIENT PRESS LTD.**

- Classification of supply of services - rate of tax - Printing of Pre-examination items - Printing of Post-examination items - **Scanning and processing of results of examinations - exempt supply or not - business of providing the services of printing of security documents to various clients like Government Authorities and agencies, Banks, Educational Boards / Institutions and Private Companies.**
- Supply of service of Printing of examination items like question papers OMR sheets (Optical Mark Reading), Answer booklets for conducting of an examination by the educational boards or institutions - exempt services or not - N/N. 12/2017 - CT (Rate), dated 28th June, 2017 as amended - Circular No. 11/11/2017-GST dated 20.10.2017 - HELD THAT:- As per under Entry No. 66 of the Notification No. 122017 - C T (Rate), dated 28th June, 2017 as amended, **services provided to an educational institution, by way of Services relating to admission to, or conduct of examination by, such institution falls under Heading 9992 (Education Services and exempted from payment of GST. Such services are exempted only if they are, in the subject case, related to conduct of examination by such institution.**
- The question papers, OMR sheets (Optical Mark Reading), answer booklets are very essential and necessary requirements to conduct any examination. **To print question papers the content i.e. the questions will be provided by the institution conducting the examination.** The contents of the **OMR sheets and answer sheets will also be provided accordingly by the institution** - in the subject case **there is a supply of services and since the same are provided to educational institutions, the same shall be classified under Heading 9992 and will be exempted from payment of GST vide Entry No. 66 of the Notification No. 12/2017 - Central Tax (Rate), dated 28th June, 2017 as amended.**
- Whether **supply of service of Printing of Post examination items like marks card, grade card, certificates to educational boards (up to Higher Secondary) after scanning of OMR Sheets and processing of data are also exempted under the said Notification?** - HELD THAT:- Conduct of **any examination by an educational Institute includes both pre examination works, actual conduct of the exams and post-examination works.** Hence for reasons mentioned in para no. 5.4 above we hold that such supply is also a supply of services and classifiable under Heading 9992 and will be exempted from payment of GST vide Entry No. 66 of the Notification No. 122017 - Central Tax (Rate), dated 28th June, 2017 as amended. We do not agree with the **jurisdictional officer who has opined that the said supply is a supply of goods and not services.**

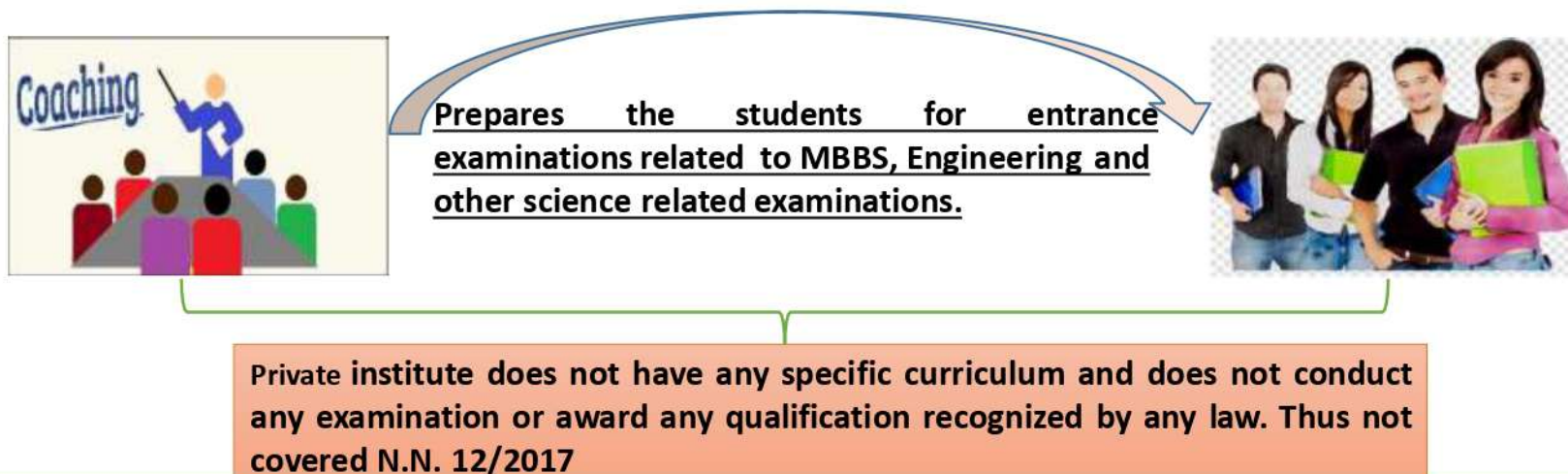
2018 (5) TMI 648 - AUTHORITY FOR ADVANCE RULING – MAHARASHTRA IN RE : SIMPLE RAJENDRA SHUKLA

Levy of GST - activity of preparing students for entrance exams - whether the services related to providing the coaching for entrance examination will come in the ambit of Goods and Service Tax? - applicant has argued that the word "Education" and "institution" has not been defined in GST Act - N/N. 12/2017- Central Tax (Rate) dated 28/06/2017.

Held that: - The applicant runs private institute, Simpple Shukla's Tutorials and is engaged in providing the service of teaching to the students of Class XIth and XIIth science. This activity prepares the students for entrance examinations related to MBBS, Engineering and other science related examinations. However the institution "Simpple Shukla's Tutorials" is in no way covered in the definition of Educational institution as given in the above notification.

The private institute does not have any specific curriculum and does not conduct any examination or award any qualification recognized by any law which would be covered in the above notification, The activity of applicant is not covered by the specific definition provided for interpretation of exemption notification.

The education service provided in the case is taxable at the rate of 9 percent under CGST ACT and 9 percent SGST Act - question answered in affirmative.



Commissioner of Service Tax, Delhi v. Indian Institute of Planning & Management[[2018] 92 taxmann.com 221 (New Delhi - CESTAT)]

Classification of services - Section [65\(27\)](#) of the Finance Act, 1994 - Commercial training or coaching centre - Assessee 'IIPM' was engaged in **conducting management courses leading to award of Certificate of Associate Fellow**

in Indian Institute of Planning and Management (AFIIPM), Fellow Indian Institute of Planning and Management of IIPM and also MBA, BBA Degrees of International Management Institute (IMI), Europe –

Question :- Whether assessee would fall under category of **'commercial training or coaching centre' as defined under section 65(27)** and was liable to service tax - Held, yes [Para 12] [In favour of revenue] GST/Service Tax : Where assessee 'IIPM' was engaged in conducting management courses leading to award of Certificate of Associate Fellow in Indian Institute of Planning and Management (AFIIPM), Fellow Indian Institute of Planning and Management of IIPM and also MBA, BBA Degrees of International Management Institute (IMI), Europe, it would fall under category of 'commercial training or coaching centre']

➤ **AUTHORITY FOR ADVANCE RULINGS, KARNATAKA Emerge Vocational Skills (P.) Ltd., In re**[[2018] 97 taxmann.com 320 (AAR - KARNATAKA)]

Section 9 of the Central Goods and Services Tax Act, 2017 - Levy and collection of tax - General (NR) - Whether services provided by an educational institution to its students, faculty and staff is exempt from tax vide entry no. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 - Held, yes - Whether thus, **where assessee qualified as an educational institution in so far as those courses for which affiliation had been obtained from University in State of Karnataka and for which University curriculum was prescribed and qualifications recognized by law for time being in force was given after conduct of examinations by such university, assessee was exempt from GST** - Held, yes [Para 4] [In favour of assessee]

CGST: Services provided by educational institution providing degree courses to students under related curriculums is exempt from GST

➤ **2019 (7) TMI 1332 - AUTHORITY FOR ADVANCE RULING, MAHARASHTRA IN RE: M/S. SECURITY AND INTELLIGENCE SERVICES (INDIA) LTD.**

Educational Institution - services provided to Visvesvaraya National Institute of Technology, Nagpur - exemption under Serial No. 66 of Notification No. 12/2017 - Central Tax (Rate) dated 28th June 2017 - Rate of tax.

Security Services

Whether the services provided to Visvesvaraya National Institute of Technology, Nagpur will qualify for exemption under Serial No. 66 of Notification No. 12/2017 - Central Tax (Rate) dated 28th June 2017, considering it to be an educational Institution? - HELD THAT:- The applicant is of the opinion that the said Sr.No. 66 is not applicable in their case but VNIT has informed them that GST is not applicable on security services provided by the applicant to them. As per Sr.No.66 (b) (iii)

security services or cleaning services or housekeeping services supplied to an educational institution attracts NIL rate of GST. Hence to avail of the benefit of Sr. No.66 mentioned above in the subject case, since the security' services are provided by the applicant to VNIT, the latter must fall under the definition of an 'educational institution'.

VNIT as per the submissions made by the applicant is not engaged in providing preschool education and education up to higher secondary school or equivalent.

Since VNIT as a **technical institute is engaged in imparting under-graduate courses, post-graduate courses and Ph. D programs in the field of engineering, architecture and science thereby being engaged in imparting education as a part of a curriculum for obtaining a qualification recognised by law for the time being in force, it would get covered under the definition of "educational institution" vide clause (ii) mentioned above and therefore it is seen that the security services as in the subject case are provided to an educational institution i.e. VNIT.**

The applicant has been given the status of a Deemed University by the University Grants Commission. The UGC was formally established 1956 as a statutory body of the Government of India through an Act of Parliament for the coordination, determination and maintenance of standards of university education in India.

The proviso to Sr. No. 66 mentioned above very clearly states that only services provided to an educational institution which provides services by way of **pre-school education and education up to higher secondary school or equivalent, will be exempt.** In the subject case the applicant is not providing services, **as an educational institution, by way of pre-school education and education up to higher secondary school or equivalent. Hence Security services provided in the instant case will not be exempt from payment of GST.**

Whether rate of tax on services provided to Visvesvaraya National Institute of Technology, Nagpur (VNIT) is nil as per Serial no 3 of Notification No 12/2017- Central Tax (Rate) dated 28th June 2017? - HELD THAT:- Sr. No. 3 of Notification No. 12/2017, exempts 'pure services' provided to a Governmental authority 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 243 W of the Constitution. Thus it is seen that not all services supplied to Governmental authority are exempt from the provisions of goods and services tax. The services supplied should be in nature of, or conform to the function entrusted to them under the Constitution.

VNIT has neither been set up by an Act of Parliament or a State Legislature; nor has been established by any Government, with ninety percent or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243 W of the Constitution or to a Panchayat under Article 243G of the Constitution. Hence they cannot be considered as a "Governmental Authority" - Sr. No. 3 of Notification No, 12/2017 is also not applicable in the subject case.



FAQ

FAQ

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

Reply – Boarding schools provide service of education coupled with other services like providing dwelling units for residence and food. This may be a case of bundled services if the charges for education and lodging and boarding are inseparable. Their taxability will be determined in terms of the principles laid down in section 2(30) read with section 8 of the CGST Act, 2017. Such services in the case of boarding schools are naturally bundled and supplied in the ordinary course of business. Therefore, the bundle of services will be treated as consisting entirely of the principal supply, which means the service which forms the predominant element of such a bundle. In this case since the predominant nature is determined by the service of education, the other service of providing residential dwelling will not be considered for the purpose of determining the tax liability and in this case the entire consideration for the supply will be exempt.

Let's take another example where a course in a college leads to dual qualification only one of which is recognized by law. Would service provided by the college by way of such education be covered by the exemption notification? Provision of dual qualifications is in the nature of two separate services as the curriculum and fees for each of such qualifications are prescribed separately. Service in respect of each qualification would, therefore, be assessed separately.

If an artificial bundle of service is created by clubbing two courses together, only one of which leads to a qualification recognized by law, then by application of the rule of determination of taxability of a supply which is not bundled in the ordinary course of business, it shall be treated as a mixed supply as per provisions contained in section 2(74) read with section 8 of the CGST Act, 2017. The taxability will be determined by the supply which attracts highest rate of GST. However incidental auxiliary courses provided by way of hobby classes or extra-curricular activities in furtherance of overall well-being will be an example of naturally bundled course, and therefore treated as composite supply.

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

FAQ – Whether Institutions providing Degree under Foreign Laws but eligible for Equivalence Degree by AIU will be eligible for exemption?

Reply – Involves question of Law.

FAQ – Taxability of E-Book (Other than Educational Institutions) ?

Reply – 9984 @ 5%. However, the access to Online Database is taxable @18%. SAC—998431. (AAR-Venbakkam Commandur Janardhana)

Taxability of goods

Uniform



Taxable at normal rates

Stationery



Taxable

Printed Books



Exempt

Printing of question paper, OMR Sheets



~~Goods~~

Service

Taxability of services

Annual function/ sports function



Fees charged from students

Exempt

Amount charged from others

Taxable

Services received by education institution of printing question paper, OMR sheets



Exempt

Security/ Housekeeping/ cleaning services Edu. Inst. under 2(y)(i)



Exempt

Manpower supply to Edu. Inst. under 2(y)(i)



Taxable

Day Care Services by Educational Institution



Exempt only if to Students

Hostel

Exempt

Canteen Income to School



Exempt
(For Students)

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