

GST – DIFFERENTIAL AMEMNDMENTS AS PER ICAI SUPPLEMENTARY

Clarification regarding applicability of GST on application fee charged for entrance or the fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions

Services supplied by an 'educational institution' to its students are exempt from GST. Consideration charged by the educational institutes by way of entrance fee for conduct of entrance examination is also exempt.

The exemption is wide enough to cover the amount or fee charged for admission or entrance, or amount charged for application fee for entrance, or the fee charged from prospective students for issuance of eligibility certificate to them in the process of their entrance/admission to the educational institution.

Services supplied by an educational institution by way of issuance of migration certificate to the leaving or ex-students are also covered by the exemption. Accordingly, such activities of educational institutions are also exempt. [Circular No. 177/09/2022 GST dated 03.08.2022]

Clarification regarding applicability of GST on transportation of empty containers returning from Nepal and Bhutan after delivery of transit cargo, to India

The issue which arose for consideration was regarding applicability of GST on transportation of empty containers returning from Nepal and Bhutan to India, after delivery of transit cargo.

Entry 9B exempts GST on supply of services associated with transit cargo to Nepal and Bhutan.

In this regard, it is clarified that exemption under Entry 9B covers services associated with transit cargo both to and from Nepal and Bhutan.

It is also clarified that movement of empty containers from Nepal and Bhutan, after delivery of goods there, is a service associated with the transit cargo to Nepal and Bhutan and is therefore covered by the exemption. **[Circular No. 177/09/2022 GST dated 03.08.2022]**

Clarification regarding applicability of GST on sanitation and conservancy services supplied to Army and other Central and State Government Departments
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The issue which arose for consideration was regarding taxability of sanitation and conservancy services supplied to Army and other Central and State Government Departments.

It is clarified that if such services are procured by Indian Army or any other Government Ministry/Department which does not perform any functions listed in the 11th and 12th Schedule, in the manner as a local authority does for the general public, the same are not eligible for exemption under Entries 3 and 3A.

Exemption on preferential location charges or location charges in case of LTL (Entry 41)

Allowing choice of location of plot is integral part of supply of long-term lease of plot and therefore, location charge is nothing, but part of consideration charged for long term lease of plot. Being charged upfront along with the upfront amount for the lease, the same is exempt.

Location charges or preferential location charges (PLC) collected in addition to the lease premium for long term lease of land constitute part of the lease premium or of upfront amount charged for long term lease of land and thus exempted. **[Circular No. 177/09/2022 GST dated 03.08.2022]**

Taxability of honorarium received by guest anchor [Circular No. 177/09/2022 GST dated 03.08.2022]

It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability. However, guest anchors whose aggregate turnover in a financial year does not exceed Rs. 20 lakh (Rs. 10 lakh in case of specified Special Category States) shall not be liable to take registration and pay GST.

Whether IVF / ART are covered under healthcare services?

Health care services provided by a clinical establishment, an authorized medical practitioner or para-medics are exempt vide Entry 74. Since, the abnormality/disease/ailment of infertility is treated using ART procedure such as IVF, it is clarified that services by way of IVF are also covered under the definition of health care services.

Sale of land after levelling, laying down of drainage lines etc.

Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by Para 5 of Schedule III and accordingly, does not attract GST.

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

Clarification regarding applicability of GST on tickets of private ferry used for passenger transportation

The circular clarifies the applicability of GST on private ferry tickets. For instance, private ferries are used as means of transport from one island to another in Andaman and Nicobar Islands. As per Entry 17(d), transportation of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India is exempted.

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

It is further clarified that, the expression 'public transport' used in the exemption notification only means that the transport should be open to public. It can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc.

GST practitioner permitted only to furnish the details of outward supplies on behalf of a registered person [Rule 83(8) amended]

Section 48 relating to Goods and Services Tax Practitioners has been amended³⁰ to remove reference to section 38 [Communication of details of inward supplies and input tax credit] therefrom.

Rule 83(8) enlists activities that can be undertaken by a GST Practitioner on behalf of a registered person if authorised by him.

Earlier, as per rule 83(8)(a), GST practitioners were allowed to furnish the details of both outward and inward supplies on behalf of a registered person if so authorised.

However, with effect from 01.10.2022, rule 83(8)(a) has been amended. Now, a GST practitioner is only allowed to furnish the details of only outward supplies and not inward supplies on behalf of a registered person if authorised by him. [Notification No. 19/2022 CT dated 28.09.2022]

Change in Formula of Inverted Duty Structure [R. 89(5)]:

Turnover of Inverted supply of goods & services <hr style="width: 80%; margin-left: 0;"/> Adjusted Total Turnover	X	Net ITC	(-)	<i>Tax payable on such inverted rated supply of goods and services x Net ITC / ITC availed on inputs and input services</i>
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Refund of accumulated ITC on account of inverted duty structure allowed in cases where rate of tax on outward supply is less than the rate of tax on inputs (same goods) at the same point of time.

Typing Error in existing amendment sheet shared:

Wherever words “Services by Department of Post” was strike off, kindly remove the strike off. Words Strike off are “~~by way of speed post, express parcel post, life insurance, and agency services (SALE) provided to a person other than CG / SG/ UT/ LA~~”

Thus, statements would read as “~~Services by the Department of posts by way of speed post, express parcel post, life insurance, and agency services (SALE) provided to a person other than CG / SG/ UT/ LA.~~”

Impact would be same as per analysis mentioned in previous sheet i.e., all services of department of post are taxable except few as discussed at exemption chapter.
