

CHAPTER 4

EXEMPTIONS FROM GST

1. ICAI STUDY MATERIAL QUESTIONS

Concept Problem 1

Sukhiya Das is engaged in providing following services. With the help of information given below, determine which of the services provided by Sukhiya Das are exempt from GST:

- Packaging of the onions purchased from village farmers into small packets of 1 kg each, in Sukhiya Das warehouse, so that same can be sold in a nearby city mall.
- Warehousing of jaggery and tea.
- Renting of warehouse for storage of agricultural produce.

Solution

- Entry 54, inter alia, exempts the processes/operations carried out at an agricultural farm on the agricultural produce which do not alter the essential characteristics of agricultural produce, but make it marketable only for the primary market. In the given case, though the packaging of onions does not alter their essential characteristic, it makes them marketable for retail market and not for the primary market and further, such packaging is being done at the warehouse of Sukhiya Das and not at an agricultural farm. Hence, said services are not exempt.
- Entry 54, inter alia, exempts the warehousing of agricultural produce. However, entry 24B exempts warehousing of certain specified items some of which are not agricultural produce. Although jaggery and tea do not qualify as agricultural produce, their warehousing is specifically exempt under entry 24B.
- Entry 54, inter alia, exempts the services of loading, unloading, packing, storage or warehousing of agricultural produce. Thus, warehousing of agricultural produce is exempt. However, in given case, services being provided are not warehousing services but renting of immovable property services. Such services are not exempt.

Concept Problem 2

Good Health Medical Centre, a clinical establishment, offers the following services:

- Reiki healing treatments.
- Plastic surgeries. One such surgery was conducted to repair cleft lip of a new born baby.
- Air ambulance services to transport critically ill patients from distant locations to the Medical Centre.
- Palliative care for terminally ill patients. On request, such care is also provided to patients at their homes. (Palliative care is given to improve the quality of life of patients who have a serious or life-threatening disease but the goal of such care is not to cure the disease).
- Alternative medical treatments by way of yoga.

Good Health Medical Centre also operates a cord blood bank which provides services in relation to preservation of stem cells. Good Health Medical Centre is of the view that since it is a clinical establishment, all the service provided by it as well as all the services provided to it are exempt from GST.

You are required to examine the situation in the light of relevant statutory provisions.

Solution

Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST under Entry 74. In light of the same, the eligibility to exemption in respect of each service offered by Good Health Medical Centre is examined below:

- (i) **Not Exempt.** Since reiki healing is not a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, it would not be exempt and thus, GST would be payable thereon.
- (ii) **Exempt.** Health care service does not include, inter alia, 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.
- Therefore, plastic surgeries will not be entitled to the said exemption and thus, GST would be payable thereon. However, plastic surgery conducted to repair a cleft lip will be eligible for exemption as it reconstructs anatomy or functions of body affected due to congenital defects (cleft lip).
- (iii) **Exempt.** Health care service includes services by way of transportation of the patient to and from a clinical establishment. Thus, air ambulance service to transport critically ill patients to Good Health Medical Centre would be eligible for exemption under the said notification.
- (iv) **Exempt.** Health care service means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India. It is immaterial whether such service is provided at the clinical establishment or at the home of the patient or at any other place. Thus, palliative care for terminally ill patients is exempt.
- (v) **Exempt.** Since Yoga is a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, the same would be eligible for exemption under the said notification.

Further, services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt from GST under Entry 73. Therefore, services provided in relation to preservation of stem cells by the cord blood bank operated by Good Health Medical Centre will be exempt from GST.

It is important to note that Entry 74 of the exemption notification grants exemption to health care services provided BY a clinical establishment and not to services provided TO a clinical establishment. Therefore, Good Health Medical Centre's contention that since it is a clinical establishment, all the services provided to it are also exempt from GST is not correct in law.

Concept Problem 3

Discuss whether GST is payable in respect of transportation services provided by Raghav Goods Transport Agency in each of the following independent cases:

Customer	Nature of services provided	Amount charged
A	Transportation of milk	20,000
B	Transportation of books on a consignment transported in a single goods carriage	3,000
C	Transportation of chairs for a single consignee in the goods carriage	600

Solution

Customer	Nature of services provided	Taxability
A	Transportation of milk	Exempt. Transportation of milk by GTA is exempt.
B	Transportation of books on a consignment transported in a single goods carriage	GST is payable. Exemption is available for transportation of goods only where the consideration for transportation of goods on a consignment transported in a single goods carriage does not exceed INR 1,500.
C	Transportation of chairs for a single consignee in the goods carriage	Exempt. Transportation of goods where consideration for transportation of all goods for a single consignee does not exceed 750 is exempt

Concept Problem 4

M/s. Apna Bank Limited, a scheduled commercial bank, has furnished the following details for the month of August:

Particulars	Amount (crores excluding GST)
Extended housing loan to its customers	100
Processing fees collected from its customers on sanction of loan	20
Commission collected from its customers on bank guarantee	30
Interest income on credit card issued by the bank	40
Interest received on housing loan extended by the bank	25
Minimum balance charges collected from current account and saving account holder	01

Compute the value of taxable supply.

Solution

Computation of value of taxable supply of M/s. Apna Bank Limited for the month of August:

Particulars	Amount (crores excluding GST)
Housing loan extended to customers [Since money does not constitute goods, extending housing loan is not a supply]	Nil
Processing fee collected on sanction of loan [Interest does not include processing fee on sanction of the loan. Hence, it is taxable]	20
Commission collected on bank guarantee [Any commission collected over & above interest on loan/ advance/ deposit are not exempt]	30
Interest income on credit card issued by the bank [Services by way of extending loans in so far as the consideration is represented by way of interest are exempt from tax. However, interest involved in credit card services is specifically excluded from this exemption entry]	40
Interest received on housing loan [Services by way of extending loans in so far as the consideration is represented by way of interest are exempt from tax]	Nil
Minimum balance charges collected from current account and saving account holder [Any charges collected over and above interest on loan, advance or deposit are not exempt]	01
Value of Taxable Supply	91

Concept Problem 5

Determine the GST payable, if any, in each of the following independent cases, assuming that the rate of GST is 18% and that the service providers are registered:

- Bollywood dance performance by a film actor in a film and consideration charged is ₹ 1,45,000.
- Carnatic music performance by a classical singer to promote a brand of readymade garments & consideration charged is ₹ 1,30,000.
- Carnatic music performance by a classical singer in a music concert and consideration charged is ₹ 1,55,000.
- Kathak dance performance by a classical dancer in a cultural programme. Consideration charged ₹ 1,45,000.

Solution

- (a) Bollywood Dance performance by a film actor in a film is not exempt from GST even though the consideration charged is less than threshold limit of ₹ 1,50,000. The reason for the same is that the dance performance by an artist is exempt only if it is a performance in folk or classical art forms of dance.
- (b) Carnatic music performance by a classical singer to promote a brand of readymade garments is not exempt from GST even though, the consideration charged is less than threshold limit of ₹ 1,50,000 and it is a performance in classical art forms of music. The reason for the same is that the said exemption is not applicable to service provided by such artist as a brand ambassador.
- (c) Carnatic music performance by a classical singer in a music concert is not exempt from GST even though it is a performance in classical art forms of music. The reason for the same is the consideration charged for the service exceeds ₹ 1,50,000. Consequently, entire consideration charged is subject to GST as follows:

$$= ₹ 1,55,000 \times 18\% = ₹ 27,900$$
- (d) Kathak dance performance by a classical dancer in a cultural programme is exempt from GST as it is a performance in classical art forms of dance & consideration charged does not exceed ₹1,50,000.

Concept Problem 6

Exempt supply includes supply of any goods or services or both which attracts nil rate of tax and which may be wholly exempt from tax, but excludes non-taxable supply. Discuss the validity of the statement.

Solution

The statement is not fully valid in law. 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.

Concept Problem 7

Services provided by an entity registered under section 12AA of the Income- tax Act, 1961 are exempt from GST if such services are provided by way of charitable activities. Elaborate the term 'charitable activities'.

Solution

The term 'charitable activities' mean 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/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 & wildlife

Concept Problem 8

Examine which of the following independent services are exempt from GST:

- (a) Food supplied by the canteen run by a hospital to the in-patients as advised by the doctors.
- (b) An RWA, registered under GST, collects the maintenance charges of ₹ 6,500 per month per member

Solution

- a) Services by way of health care services by a clinical establishment, an authorised medical practitioner or paramedics are exempt from GST. Food supplied to the in-patients by a canteen run by the hospital, as advised by the doctor/nutritionists, is a part of composite supply of healthcare and not separately taxable. Thus, said services are exempt from GST.
- b) Supply of service by a RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of ₹ 7500 per month per member for providing services and goods for the common use of its members in a housing society/a residential complex are exempt from GST.

Hence, in the given case, services provided by the RWA are exempt from GST since the maintenance charges collected per month per member do not exceed ₹ 7500.

Concept Problem 9

An individual acts as a referee in a football match organized by Sports Authority of India. He has also acted as a referee in another charity football match organized by a local sports club, in lieu of a lump sum payment. Discuss whether any GST is payable on the activities undertaken by him.

Solution

Services provided to a recognized sports body by an individual, inter alia, as a referee in a sporting event organized by a recognized sports body is exempt from GST.

Since in the first case, the football match is organized by Sports Authority of India, which is a recognized sports body, services provided by the individual as a referee in such football match will be exempt.

However, when he acts as a referee in a charity football match organized by a local sports club, he would not be entitled to afore-mentioned exemption as a local sports club is not a recognized sports body and thus, GST will be payable in this case.

Concept Problem 10

RXL Pvt. Ltd. manufactures a beauty soap with the brand name 'Forever Young'. RXL Pvt. Ltd. has organized a concert to promote its brand. Ms. Ahana Kapoor, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert. The proceeds of the concert worth ₹ 1,20,000 will be donated to a charitable organization.

Examine whether Ms. Ahana Kapoor will be required to pay any GST.

Solution

Services by an artist by way of a performance in folk or classical art forms of music, or (ii) dance, or (iii) theatre are exempt from GST, if the consideration charged for such performance is not more than ₹ 1,50,000. However, such exemption is not available in respect of service provided by such artist as a brand ambassador.

Since Ms. Ahana Kapoor is the brand ambassador of 'Forever Young' soap manufactured by RXL Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by RXL Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST.

The fact that the proceeds of the concert will be donated to a charitable organization will not have any bearing on the eligibility or otherwise to the above-mentioned exemption.

Concept Problem 11

Determine taxable value of supply under GST law with respect to each of the following independent services provided by the registered persons:

Particulars	Amount
Fees charged for yoga camp conducted by a charitable trust	50,000
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts	1,00,000
Amount charged by cord blood bank for preservation of stem cells	5,00,000
Amount charged for service provided by commentator to a recognized sports body	5,20,000

Solution**Computation of value of taxable supply**

Particulars	Amount
Fees charged for Yoga camp conducted by a charitable trust	Nil
Amount charged by business correspondent for the services provided to the rural of a bank with respect to savings bank account	Nil
Amount charged by cord blood bank for preservation of stem cells	Nil
Service provided by commentator to a recognized sports body	5,20,000

Notes

- Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. The activities relating to advancement of Yoga are included in the definition of charitable activities. So, such activities are exempt from GST.
- Services by business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch have been exempted from GST.
- Services provided by cord blood banks by way of preservation of stem cells or any other services in relation to such preservation are exempt from GST.

Concept Problem 12

Examine whether GST is exempted on the following independent supplies of services:

- Service provided by a private transport operator to a recognized School in relation to transportation of students to and from a School.
- Services provided by way of vehicle parking to general public in a shopping mall.

Solution

- Yes. Services provided to educational institution by way of transportation of students are exempted from GST.
- No. Services provided by way of vehicle parking to general public are not exempted from GST. Therefore, GST is payable on the same.

Concept Problem 13

A State Transport Undertaking has hired motor vehicles meant to carry 8 - 10 passengers from Fast Cab Renting, a motor vehicle renting company. Give your comments as to whether any GST is payable in this case.

Solution

Services by way of giving on hire, inter alia, to a State Transport Undertaking, a motor vehicle meant to carry more than 12 passengers is exempt from GST.

Since the motor vehicles given on hire by Fast Cab Renting to the State Transport Undertaking are meant to carry 8-10 passengers, the same would not be eligible for exemption and would thus, be liable to GST.

Concept Problem 14

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Indiana Engineering College, a recognised educational institution, has conducted an entrance test examination for various courses run by it and charged entrance fees from the applicants.

Solution

Services provided by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee are exempt from GST.

Since in the given case, services provided by Indiana Engineering College, an educational institution are by way of conduct of entrance examination against entrance fee, the same is exempt and thus, GST is not payable in this case.

Concept Problem 15

Ram, an agriculturist, has stored sugarcane in a warehouse. He has taken fumigation services in the said warehouse from Gupta Pest Control Co. for which he paid the consideration of ₹ 6,000. He seeks your advice on the taxability or otherwise of the service so availed by him.

Solution

Services by way of fumigation in a warehouse of agricultural produce are exempt from GST. In the present case, since Gupta Pest Control Co. provides services by way of fumigation in the warehouse of sugarcane [being an agricultural produce], said services are exempt and GST is not payable on the same.

Concept Problem 16

Poorva acts as a team manager for Indian Sports Authority (ISA), a recognised sports body, for a tennis tournament organised by a multinational company and received a remuneration of ₹ 2,00,000. Determine whether GST is payable on the remuneration received by Poorva.

Solution

Services provided by a team manager to a recognised sports body for participation in a sporting event are exempt from GST provided said sporting event is organised by a recognized sports body.

In the given case, the services are being provided by a team manager to a recognised sports body, but the sporting event is not organised by a recognised sports body. Therefore, services provided by Poorva are not exempt from GST.

Concept Problem 17

Babloo Transporters, a GTA, transported relief materials meant for victims of Kerala floods, a natural disaster, by road from Delhi to Ernakulam, for a company. Babloo Transporters is of the view that it is not liable to pay GST on the said services provided as said services are exempt. You are required to advise it on the said issue.

Solution

Services provided by a goods transport agency, by way of transport in a goods carriage of relief materials meant for victims of, inter alia, natural or man-made disasters, calamities, are exempt from GST. Therefore, services provided by Babloo Transporters will be exempt from GST.

Concept Problem 18

Keyan Enterprises, an event organizer, provided services to Breathing Wall Ltd. by way of organizing business exhibition in New Delhi as part of Make in India initiative. Keyan Enterprises claims that it is not required to pay GST as the services provided by way of organizing business exhibition are exempt from GST. Examine the technical veracity of the claim of Keyan Enterprises, in the given case.

Solution

No, the claim made by Keyan Enterprises that it is not required to pay GST is not correct. Services provided by an organiser to any person in respect of a business exhibition are exempt from GST only when such business exhibition is held outside India. However, since in the given case, the exhibition is being organized in India, the services of organization of event by Keyan Enterprises will not be exempt from GST.

Concept Problem 19

Ekta Charitable trust, registered under section 10(23C)(v) of the Income-tax Act, 1961, manages a temple in Rohini, Delhi. It has given on rent a community hall, located within temple premises, to public for celebration of Teej Mela. Rent charged is ₹ 9,500. You are required to determine whether services provided by Trust are liable to GST.

Solution

Services by a person by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a trust or an institution under section 10(23C)(v) of the Income-tax Act are exempt provided renting charges of premises, community halls or open area are not ₹ 10,000 or more per day.

Thus, renting of community hall by Ekta Charitable Trust is exempt from GST, as rent is less than ₹ 10,000 per day.

Concept Problem 20

ST Ltd. has given on hire 5 trucks to Titu Transporters of Delhi (a goods transport agency) for transporting goods in Central and West Delhi. The hiring charges for the trucks are ₹ 7,500 per truck per day. Examine whether GST is payable in the given case.

Solution

GST is not payable in case of hiring of trucks to Titu Transporters since services by way of giving on hire, inter alia, to a goods transport agency, a means of transportation of goods are exempt.

2. ICAI RTPS, MTPS AND PAST YEAR QUESTIONS**Concept Problem 21**

Wisdom Public School, a higher secondary school in Delhi, is of the view that no tax is payable on the education provided by it to its students as education plays a significant and remedial role in balancing the socio-economic fabric of the country.

Examine whether GST law provides any scope of exemption to supply of goods or services with particular reference to the contention raised by school?

Solution

Yes, GST law provides the scope of exemption to supply of goods and services. Section 11 of CGST Act, 2017 provides that in the public interest, the Central or the State Government can exempt either wholly or partly, on the recommendations of the GST council, the supplies of goods or services or both from the levy of GST either absolutely or subject to conditions.

As regards the contention raised by Wisdom Public School, the same is valid in law since Notification No. 12/2017 CT (R) specifically wholly exempts services provided by an educational institution to its students, faculty and staff.

Concept Problem 22

- M/s X Ltd. paid penalty under section 49 of the CGST Act, 2017 ₹ 20,00,000 to the Government Department in the month of October. Is it taxable supply under the GST law? Give reason.
- Teja & Co, a tour operator, provides services to a foreign tourist for tour conducted in Jammu & Kashmir and receives a sum of INR 3,00,000.

Solution

- It is not a supply of service. The fine or penalty chargeable by Government or local authority imposed for violation of statute, bye-laws, rules or regulations are not leviable to GST. Such fines or penalty are not recovered for tolerating non-performance of a contract.
- Services provided by a tour operator to a foreign tourist are exempt from GST provided such services are in relation to a tour conducted wholly outside India. Thus, since in the given case, services provided by Teja & Co. are in relation to a tour conducted within India, the same are not exempt from GST.

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Concept Problem 23

Mr. X being a contractor undertaken construction work of an individual residential unit otherwise than as part of a residential complex. You are required to determine:

- Whether Mr. X is liable to pay GST where he undertaken pure labour contract?
- Whether Mr. X is liable to pay GST where he undertaken both labour and material contract?
- Mr. X gives contract to a sub-contractor. Can sub-contractor also get exemption if it is pure labour contract?

Solution

As per Notification No. 12/2017 Central tax (rate) - 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 from GST.

- Since, Mr. X has undertaken services by way of pure labour contracts of construction of single residential unit, it is exempt from GST.
- In case Mr. X is providing service with both labor and material i.e., termed as works contract, it is a taxable supply of service & liable for GST.
- Yes. Services by way of pure labour contract provided by a sub-contractor to a contractor are also exempt as he is providing labor for the construction of residential house.

Concept Problem 24

Indian Institute of Management, Ahmedabad provided the following services in the month of July:

- Post Graduate Diploma in Management services provided to those candidates who selected through Common Admission Test (CAT) for ₹ 25 lakhs.
- Services provided by way of Executive Development Programme INR 55 lakhs. Find the GST liability.

Solution

- Post Graduate Diploma in Management where admission to such programme is through Common Admission Test (CAT) is exempted supply of service and exempted from GST.
- Executive Development Programme is taxable supply. GST will be ₹ 9.9 lakhs (₹ 55 lakhs x 18%).

Concept Problem 25 [MTP May 2019]

Sungrow Pvt. Ltd. (a registered taxable person) having the gross receipt of INR 50 lakhs in the previous financial year provides the following information relating to their services for the month of July.

S.No.	Particulars	Amount
(1)	Running a boarding school	2,40,000
(2)	Fees from prospective employer for campus interview	1,70,000
(3)	Education services for obtaining the qualification recognised by law of foreign country	3,10,000
(4)	Renting of furnished flats for temporary stay to different persons (Rent per day is INR 1,000 per flat)	1,20,000
(5)	Conducting Modular Employable Skill Course, approved by National Council of Vocational Training	1,40,000
(6)	Conducting private tuitions amount	3,00,000
(7)	Running martial arts academy for young children	55,000
(8)	Conducting career counselling session	1,65,000

Compute the value of taxable supply and the amount of GST payable. The above receipts don't include the GST amount. Rate of GST is 18%.

Solution**Computation of value of taxable supply and amount of GST payable**

S No	Particulars	Amount
(1)	Running a boarding school [Services provided by an educational institution to its students, faculty and staff are exempt.]	Nil
(2)	Fees from prospective employer for campus interview [Not exempt.]	1,70,000
(3)	Education services for obtaining the qualification recognised by law of foreign country [Institution providing education services for obtaining qualification recognized by a foreign country does not qualify as educational institution. Thus, it is not exempt.]	3,10,000
(4)	Renting of furnished flats for temporary stay of different persons [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 upto 1,000 per day or equivalent are exempt]	Nil
(5)	Conducting Modular Employable Skill Course [An institution providing Modular Employable Skill Course qualifies as educational institution. Services provided by an educational institution to its students, faculty and staff are exempt]	Nil
(6)	Conducting private tuitions [Not exempt]	3,00,000
(7)	Running martial arts academy for young children [Not exempt under GST laws]	55,000
(8)	Conducting career counselling session [Not exempt under GST laws]	1,65,000
	Value of taxable supply	10,00,000
	GST payable @ 18%	1,80,000

Concept Problem 26 [MTP May 2019]

Determine taxable value of supply under GST law with respect to each of the following independent services provided by the registered persons:

Particulars	Gross amount charged (₹)
Amount charged for loading, unloading, packing and warehousing of potato chips	25,000
Fees charged for yoga camp conducted by a charitable trust registered under section 12AA of the Income-tax Act, 1961	50,000
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts	1,00,000
Amount charged by cord blood bank for preservation of stem cells	5,00,000
Amount charged for service provided by commentator to a recognized sports body	6,00,000
Amount charged for service provided by way of right to admission to circus where consideration for the same is ₹ 750 per person.	12,000

Solution**Computation of value of taxable supply**

Particulars	Amount
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Particulars	Amount
Amount charged for loading, unloading, packing and warehousing of potato chips [Note-1]	25,000
Fees charged for yoga camp conducted by a charitable trust registered under section 12AA of the Income-tax Act, 1961 [Note-2]	Nil
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts [Note-3]	Nil
Amount charged by cord blood bank for preservation of stem cells [Note-4]	Nil
Service provided by commentator to a recognized sports body [Note-5]	6,00,000
Amount charged for service provided by way of right to admission to circus where consideration for the same is ₹ 750 per person. [Note-6]	12,000

Notes:

- Services by way of loading, unloading, packing, storage or warehousing of agricultural produce are exempt from GST. Further, potato chips are manufactured through processes which alter the essential characteristic of agricultural produce, thus is not covered under definition of agricultural produce
- Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. The activities relating to advancement of yoga are included in the definition of charitable activities. So, such activities are exempt from GST.
- Services by business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch have been exempted from GST.
- Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt from GST.
- Services provided to a recognized sports body only by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST. Thus, services provided by commentators are liable to GST.
- Services provided by way of right to admission to circus where consideration for the same is upto ₹ 500 per person are exempt from GST. Since in the present case, the consideration is more than ₹ 500 per person, so the same is liable to GST.

Concept Problem 27 [MTP May 2020]

- Richmond” is a Play School located in Delhi. Richmond Kids has outsourced the catering services for supply of food and drink in the canteen of Play School to Ashoka Caterers, Delhi for a consideration of ₹ 8,00,000 per annum. Examine whether supply of food and drink/catering services from Ashoka Caterers to “Richmond kidz” is exempt from GST.
- Balaji Hospital, a clinical establishment located in Tirupati, is specialised in cardiac treatment. The hospital has its own canteen - Healthy Foods. The canteen serves the food and drink to the in-patients as advised by the doctors/nutritionists of the hospital. Apart from this, other patients (who are not admitted) or attendants or visitors of the in-patients also take food and drink from the canteen. Examine whether supply of food and drink/catering services to the in- patients and other patients (who are not admitted) or attendants or visitors of the in-patients is exempt from GST.

Solution

- Services provided to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent, by way of catering is exempt from GST vide exemption notification under GST. Thus, in this case, services provided by Ashoka Caterers to Richmond Kidz are exempt from GST.
- Services by way of health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST vide exemption Notification under GST. In this regard, CBIC has clarified that food supplied by the hospital canteen to the in- patients as advised by the doctor/nutritionists is a part of

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composite supply of healthcare services and is not separately taxable. Thus, it is exempt from GST.

However, other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable. In view of the same, GST is exempt on the food supplied by Healthy Foods to the inpatients as advised by doctors/nutritionists while other supplies of food by it to patients (not admitted) or attendants/visitors of the in-patients is taxable.

Concept Problem 28 [MTP May 2020]

Explain the services provided by way of tolerating non-performance of a contract and its chargeability under the provisions of the CGST Act, 2017.

Solution

Non-performance of a contract is the failure to fulfill the obligations under a contract. It is generally one of the conditions stipulated in any contract for supply of goods/services.

The agreement entered into between the parties stipulates that both the service provider and service recipient abide by the terms and conditions of the contract. In case any of the parties breach the contract for any reason including non-performance of the contract, then such person is liable to pay damages in the form of fines or penalty to the other party.

Tolerating non-performance of a contract in lieu of damages or fines is a supply in terms of section 7 of the CGST Act, 2017 as it is made for a consideration by a person in the course or furtherance of business.

Further, tolerating non-performance of a contract is treated as a supply of service in terms of section 7 read with Schedule II of CGST Act, 2017.

However, in case of supplies to Government, non-performance of contract by the supplier of service for which consideration in the form of fines or liquidated damages is payable is exempt from GST.

Concept Problem 29

Gyaani Public School – a higher secondary school – has hired Suvidha Services Ltd. for security and housekeeping services in the school. The school subsequently hired Suvidha Services Ltd. for providing the security and housekeeping services at School's Annual Day function organised in an auditorium outside the school campus. Discuss taxability of such services provided by Suvidha Services Ltd. to Gyaani Public School

Solution

Security and housekeeping services provided within the premises of, inter alia, a higher secondary school are exempt. Therefore, said services provided by Suvidha Services Ltd. are exempt.

Security and housekeeping services provided to Gyaani Public School for School's Annual Day function organised outside the school campus will be taxable as only the security and housekeeping services performed within the premises of the higher secondary school are exempt.

Concept Problem 30 [ICAI Jan 2021]

Green Agro Services, a registered person, provides the following information relating to its activities during the month of February:

Gross Receipt from	Amount
Services relating to rearing of sheep	6,00,000
Services by way of artificial insemination of horses	4,00,000
Processing of sugarcane into jaggery	8,00,000
Milling of paddy into rice	7,50,000
Services by way of fumigation in a warehouse of agricultural produce	1,80,000

All the above receipts are exclusive of GST.

Compute the value of taxable supplies under GST laws for the month of February.

Solution

Computation of value of taxable supplies

Particulars	Amount
Services relating to rearing of sheep [Exempt since services relating to rearing of all life forms of animals, except horses are exempt]	Nil
Services by way of artificial insemination of horses [Not exempt since services of artificial insemination are exempt only of livestock other than horses]	4,00,000
Processing of sugarcane into jaggery [Not exempt, since processes which alter the essential characteristics of agricultural produce are not exempt and processing of sugarcane into jaggery changes the essential characteristics of sugarcane].	8,00,000
Milling of paddy into rice [Not exempt, since this process, being carried out after cultivation is over, is not an intermediate production process in relation to cultivation and it also changes essential characteristics of paddy].	7,50,000
Services by way of fumigation in a warehouse of agricultural produce [Specifically exempt from GST].	Nil
Value of taxable supplies	19,50,000

Concept Problem 31 [ICAI Jan 2021]

Satya Sai Residents Welfare Association, a registered person under GST has 30 members each paying 8,000 as maintenance charges per month for sourcing of goods & services from third persons for common use of its members.

The Association purchased a water pump for 59,000 (inclusive of GST of 9,000) and availed input services for 23,600 (inclusive of GST of 3,600) for common use of its members during February 20XX.

Compute the total GST payable, if any, by Satya Sai Residents Welfare Association, for February 20XX.

GST rate is 18% . All transactions are intra-state. There is no opening ITC and all conditions for ITC are fulfilled.

Solution

Computation of total GST payable by Satya Sai Residents Welfare Association

Particulars	Value	GST @18%
Maintenance Charges received [8,000 x 30 members] [Services by RWA to its members for sourcing of goods or services from a third person for the common use of its members in a housing society are exempt provided the share of contribution per month per member is upto 7,500. Otherwise, entire amount is taxable].	2,40,000	
Total GST payable [It has been logically presumed that maintenance charges are exclusive of GST].		43,200

Note: Residents Welfare Association is entitled to take ITC of GST paid by them on capital goods, goods and inputs services, used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than 7,500 per month per member.

Thus, Satya Sai Residents Welfare Association can avail ITC of GST paid on water pump purchased (9,000) and input services availed (3,600). Net GST payable in that case will come out 30,600.