

The logo for Dronacharya, featuring a golden silhouette of a person in a dynamic pose holding a bow and arrow, is positioned above the main title.

# dronacharya

FOR  
**CA INTERMEDIATE**

2024

**GST**

**Lecture - 02**

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# Topics *to be covered*

1. Exemption
2. TDS/TCS
3. Supply
4. RCM



## TDS & TCS UNDER GST

### Section-51 Tax deduction at source (TDS)

- ❖ **Following Person Shall Deduct Tax u/s 51**
    - Central Govt./State Govt. → Department/Establishment
    - Local Authority
    - Government Agencies
    - Public Sector Undertakings
    - Society Established by CG/SG under Society Act
    - An Authority/Board or other body
      - Setup by an act of Parliament/State legislature
      - Where 51% or more equity/control with Govt
  
  - ❖ **When to Deduct TDS**  
Supply of taxable G/S under a **CONTRACT** Exceeds 250000 Excluding GST.
  
  - ❖ **TDS Rate**  
1% (CGST) + 1% (SGST) or 2% (IGST) on payment made or credited to supplier for taxable goods & services. [Value shall be taken for deduction of TDS, exclusive of GST shown in Invoices]
  
  - ❖ **When not Required to Deduct TDS**
    - Value of taxable Supplies in a Contract Value ≤ Rs 250000
    - Exempt Supplies
    - Supply Under RCM
    - Payment made to Unregistered Supplier
    - Goods / Services Supplied between person notified to deduct TDS
    - Location of Supplier & Place of Supply (In Same State & But Recipient's place in other State)
- Intra State Supply

Supplier's place [Rajasthan] ——— [CGST + SGST] Rajasthan ——— Place of Supply [Rajasthan]

↓

Recipient [Punjab]
- In Such Case TDS is deduct in form of Rajasthan's State tax that would not be possible to be deducted by Recipient in Punjab
    - ↓
    - Hence TDS N.A. on Such transaction
- ❖ **Other Points**
    - Deductor Shall Deposit TDS Deducted by 10<sup>th</sup> of Succeeding month
    - TDS Certificate in form GSTR-7A shall be provided to deductee
    - TDS deducted shall reflect in Cash ledger of deductee

- Failure to Deposit TDS- Interest @18% & Penalty

### Section-52 Tax Collected at source (TCS)

- ❖ **Who shall collect TCS**
  - Every E-Commerce Operator (Not an agent)
  - Amount collected by ECO.
- ❖ **TCS Rate**
  - 0.5% (CGST) + 0.5% (SGST) or 1% (IGST) on Net Value of taxable Supplies.
  - Net Value** = Value of G/S Supplied - Returned Supply
- ❖ **Eco Obligation**
  - Eco Shall File Statement in form GSTR-8 & Deposit TCS within 10 days from end of month
  - Eco Shall also file Annual Statement GSTR 9-B before 31<sup>st</sup> Dec following end of FY Detailing
    - Outward Supplies of G/S Including returns made
    - Amount collected as TCS
- ❖ **TCS Not applicable in following cases**
  - Supplies Own Product through website hosted by him
  - Supplies Different Vendor Product & amount collected by Vendor Only
  - Supply of Services notified under section 9(5)
  - Exempt Supplies
  - Recipient Required to pay tax on RCM.
  - Supply of Services by Supplier not liable to register.

### Clarifications

#### 1. Clarification on TCS liability in case of multiple ECOs in one transaction

In the case of the ONDC Network (Open Network for Digital Commerce) there can be multiple ECOs in a single transaction - one providing an interface to the buyer and the other providing an interface to the seller.

**Issue 1: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier in the said supply, who is liable for compliances under section 52 including collection of TCS?**



**Clarification:**

The compliances under section 52, including collection of TCS, is to be done by the supplier-side ECO who finally releases the payment to the supplier for a particular supply made by the said supplier through him.

**Issue 2 :** In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and the Supplier-side ECO is himself the supplier of the said supply, who is liable for compliances under section 52 including collection of TCS?

**Clarification:** In such a situation, TCS is to be collected by the Buyer-side ECO while making payment to the supplier for the particular supply being made through it.

### Other Provisions Related To TCS

**1. Unregistered persons with aggregate turnover upto threshold limit permitted to supply goods through an ECO.**

Person not liable for registration u/s 22 shall be allowed to make supply Goods through ECO subject to following conditions:

- (i) Restricted from making inter-State supply of goods;
- (ii) Restricted from making supply of goods through ECO in more than one State/Union territory;
- (iii) Must be having PAN
- (iv) Before making any supply of goods through ECO, declare on the common portal:
  - a. PAN
  - b. address of business and
  - c. State/UT in which such persons seek to make such supply
- (v) enrolment number have been granted on the common portal on successful validation of the PAN declared above;
- (vi) such persons shall not be granted more than one enrolment number in a State/UT;
- (vii) no supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal; and
- (viii) the enrolment number shall cease to be valid from the effective date of registration.

**Obligations Of ECO where URP makes supply through it.**

- (i) ECO shall allow the supply of goods through it by the unregistered person only

if enrolment number has been allotted

- (ii) ECO shall not allow any inter-State supply of goods through it by the unregistered person;
- (iii) ECO shall not collect tax at source under section 52
- (iv) ECO shall furnish the details of supplies of goods made through it by the said person in the statement in Form GSTR-8 electronically on the common portal.

Where multiple ECOs are involved in a single supply of goods through ECO platform, “ECO” shall mean the ECO who finally releases the payment to the said person for the said supply made by the said person through him.

**2. Special procedure to be followed by ECOs in respect of supplies of goods through them by composition taxpayers**

- a. The ECO shall not allow any inter-State supply of goods through it by the said person;
- b. The ECO shall collect TCS
- c. The ECO shall furnish the details of supplies of goods made through it by the said person in the statement in Form GSTR-8 electronically on the common portal.

## Supply Under GST

**Section 9** is the charging provision of the CGST Act. It provides that

All intra-State supplies would be liable to CGST. The levy is on supply of all goods or services or both except on the supply of alcoholic liquor for human consumption. However, supply of petroleum crude, high speed diesel, motor spirit (petrol), natural gas and aviation turbine fuel are also included in GST.

Supply is the Taxable event to levy GST

### Section 7 Meaning Of Supply

#### Section 7(1) (a)

Supply includes all forms of supply (goods and / or services) and includes agreeing to supply when they are for a consideration and in the course or furtherance of business. It specifically includes

- |               |               |             |                  |
|---------------|---------------|-------------|------------------|
| (i) Sale      | (iii) Barter  | (v) License | (vii) Lease      |
| (ii) Transfer | (iv) Exchange | (vi) Rental | (viii) Disposal. |

#### Section 7(1) (aa)

Activities or transactions between an association, club or similar entities and its members or constituents as 'supply'. For the purpose of taxability, the members and the entity shall be deemed to be two distinct persons.

Example:

- a) Resident Welfare Association (RWA) of Sanskriti Society supplies air-conditioners to its members at a concessional price.
- b) A RWA collects maintenance charges from its members for services provided.

#### Section 7(1) (b)

Supply includes import of a service, made for a consideration and whether or not in the course or furtherance of business.

#### Section 7(1) (c)

The activities specified in Schedule I, made or agreed to be made without consideration.

### Schedule I

1. **Permanent transfer of business assets where input tax credit has been availed.**  
E.g. Infosys limited upgraded their 1000 Laptops and donated their old laptops (ITC Claimed) to the Government Schools. In this case, such donation is treated as supply as per Schedule I.

2. Supply of goods and / or services between related person, or between distinct persons:

E.g. Free supplies to related persons, stock transfers to a unit outside the State/a different business vertical, etc. will be reckoned as supplies.

**Meaning of Distinct person**

A person who has obtained/is required to obtain more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons [Section 25(4) of the CGST Act].

**Meaning of Related Person**

"Related persons" means

- (i) Such persons are partners in business.
- (ii) Any person holds twenty-five per cent or more of shares of both of them.
- (iii) One of them controls the other (Holding Subsidiary company)
- (iv) Together they directly or indirectly control a third person
- (v) Such persons are employer and employee;
- (vi) They are members of the same family;

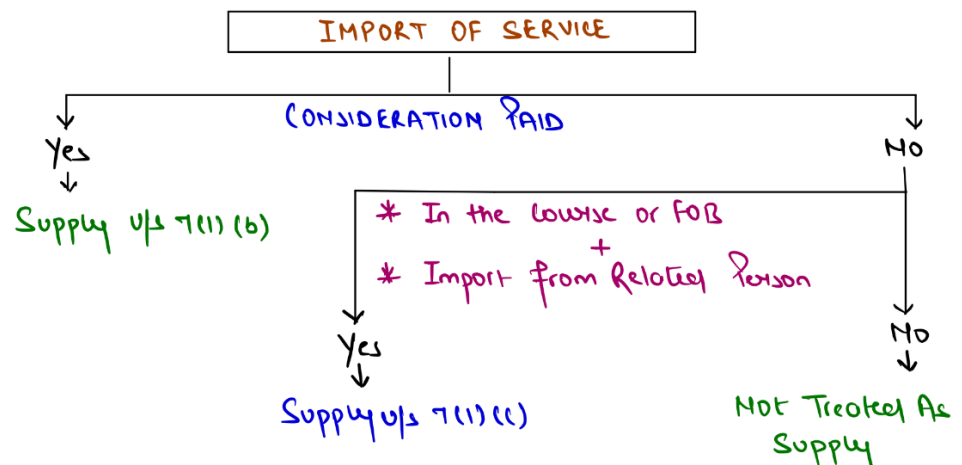
As per section 2(49) "family" means,— (i) the spouse and children of the person, and (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

3. Supply of goods by a principal to his agent or by agent to his principle, where the agent undertakes to supply or receive such goods on behalf of the principal.

Note:

- Where principal Invoices to Agent and Agent Invoices to customer: then such Agent will fall under Schedule-I and
- Where principal Invoices directly to customer and the transaction mediated by an Agent: then such agent will not be covered under Schedule-I

4. Import of services by a taxable person from a related person, in the course or furtherance of business





**Section 7(1A)**

Where transaction is considered as supply under sub section (1), they shall be treated either as supply of goods or supply of service as referred in schedule II.

<b>S. No</b>	<b>Activity/ Transaction</b>	<b>Type</b>	<b>Nature of Supply</b>
<b>1.</b>	<b>Transfer</b>	Any transfer of title in goods immediate or in future date.	Goods
		Any transfer of right in goods/ undivided share in goods without transfer of title in goods.	Services
<b>2.</b>	<b>Land and Building</b>	Any lease or letting out of land or building including a commercial, industrial or residential complex.	services
<b>3.</b>	<b>Treatment or Process</b>	Any treatment or process which is applied to another person's goods	Services
<b>4.</b>	<b>Transfer of Business Assets</b>	Goods forming part of business assets are permanently transferred or disposed off	Goods
		Goods held/used for business are put to private use or are made available to any person for non-business purpose	Services
		Goods forming part of assets of any business carried on by a person who ceases to be a taxable person, shall be deemed to be supplied by him, in the course or furtherance of his business, immediately before he ceases to be a taxable person. Eg. Mr. X, a Electronic trader, is winding up his business. Any goods left in stock shall be deemed to be supplied by him. Exception <ol style="list-style-type: none"> <li><b>1.</b> Business is transferred as a going concern to another person</li> <li><b>2.</b> Business is carried on by a personal representative who is deemed to be a taxable person.</li> </ol>	Goods
<b>5.</b>	<b>Following Supply shall be considered as supply of service</b>		
	<p>a) Sale of under construction building where whole or part of the consideration is received before issuance of completion certificate. However, where the entire consideration has been received after issuance of completion certificate or after its first occupation, whichever is earlier, then such transaction is neither supply of good nor supply of service.</p> <p>Eg. DLF has constructed individual residential units for agreed consideration of Rs. 2 crore per unit. Rs. 1 crore per unit were received before issuance of</p>		

	completion certificate by the competent authority and balance after completion
	b) Temporary transfer or permitting use or enjoyment of any intellectual property right
	c) Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software. Eg. XYZ software developers developed ERP software for A ltd.
	d) Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act. Above three activities must comply with the following Conditions: I. There must be an expressed or implied agreement or contract. II. Consideration must flow in return to this contract/agreement. Taxability of some of the transactions has been discussed in detail later.
6.	Following composite supplies :- a) Works contract services related to immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract b) Supply of food or any other article for human consumption or any drink (soft drink).

### Section 7(2)

Certain supplies will be neither a supply of goods, nor a supply of services: The law lists down matters which shall not be considered as 'supply' for GST. This list includes:

#### A. Activities/ transactions in Schedule III(Negative List)

- (a) Services by an employee to an employer in the course or in relation to his employment.
- (b) Services by any Court or Tribunal established under any law for the time being in force;
- (c) Functions performed by MPs, MLAs, etc.; the duties performed by a person who holds any post in pursuance of the provisions of the Constitution in that capacity; the duties performed by specified persons in a body established by the Central State Government or local authority, not deemed as an employee;
- (d) Sale of land and Sale of Building (except sale of under-construction premises where the part or full consideration is received before issuance of completion certificate or before its first occupation, whichever is earlier.
- (e) Actionable claims, other than lottery, betting and gambling and
- (f) Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

*“Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee shall be neither supply of Goods nor supply of Services”*

It may be noted that services provided by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Tax is required to be paid by the business entities on such services under reverse charge.

- B.** Gifts not exceeding Rs. 50,000 in value in a financial year by an employer to employee shall not be treated as supply of goods or services or both.

Perquisites provided by the employer to the employee not liable to GST if following conditions are satisfied:

- a) It should be as per contractual agreement between employer & employee.
- b) Employer should not avail ITC on inward supply of such goods/service. If employer has already availed ITC, needs to reverse it

### Section 7(3)

The Central Government or the State Government may notify such other transactions to either qualify as 'supply of goods' or as 'supply of services' This notification must be issued only upon recommendations from the Council.

## Section 8 Composite And Mixed Supplies

As per section 2(30), "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary

**Eg.** When a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance services are ancillary.

**Eg.** Charger supplied alongwith mobile phone is a composite supply.

As per section 2(74), "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply:

**Eg.** A gift pack comprising of chocolates and sweets is a mixed supply

**Eg.** A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply.

The tax liability on a composite or a mixed supply

- a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
- b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

## Clarifications

### 1. Art works sent by artists to galleries for exhibition

Sending artworks to a gallery for exhibition does not entail any financial transaction or consideration flowing from the gallery to the artist.

As a result, this does not qualify as a taxable supply. The actual supply occurs when a buyer buys artwork from the gallery and applicable gst shall be levied at the time of such supply.

### 2. Donations / Charity / Gift

GST is not leviable where all the following three conditions are satisfied namely:

- a) Gift or donation is made to a charitable organization
- b) Payment has the character of gift or donation
- c) Purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement

Bhushan donated a blackboard to Yoganisht Sansthan - a charitable yoga institution. Yoganisht Sansthan printed underneath the blackboard so donated - "Good wishes from Mr. Bhushan".

### 3. Taxability of 'tenancy rights'/pagadi under GST

- Transfer of tenancy rights against tenancy premium is a form of lease or renting of property and such activity is specifically declared to be a service in of Schedule II i.e. Any lease, tenancy, easement, licence to occupy land is a supply of services.
- The transfer of tenancy rights cannot be treated as sale of land/ building.
- Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable
- Services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of tenancy premium is liable to GST.

### 4. Inter-State movement of various modes of conveyance

Inter-State movement of various modes of conveyance, between distinct persons for

- i) carrying goods or passengers or both; or

ii) for repairs and maintenance, shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

However, where such movement is for further supply of the same conveyance then such movement shall be treated as supply and GST shall be levied.

## 5. Supply of printed books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such printed goods

a) In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only **CONTENT IS SUPPLIED** by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer,

- supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore,
- such supplies would constitute supply of service

b) In case of supply of printed envelopes, letter cards, printed boxes, tissues, pen, napkins, wall paper etc. by the printer using its physical inputs including paper to print the design, logo etc. supplied by the recipient of goods,

- predominant supply is supply of goods and
- the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore
- such supplies would constitute supply of goods.

## 6. Retreading of tyres

Pre-dominant element is process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply.

Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods.

## 7. Buy one get one free offer

- It may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being "supplied free of cost" without any consideration. In fact, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

- Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined accordingly

## 8. Clarification regarding GST Applicability on Liquidated Damages, Compensation and Penalty arising out of Breach of Contract or Other Provisions of Law.

### a) Liquidated Damages

- 'Liquidated Damages' refers to cash compensation payable to aggrieved party for breach of contract.
- Liquidated damages cannot be said to be a consideration received for tolerating the breach or non-performance of contract. They are rather payments for not tolerating the breach of contract.
- Hence, where 'liquidated damages' is paid only to compensate for loss or damage suffered by the aggrieved party due to breach of the contract, and
  - ✓ there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages,
  - ✓ such payments do not constitute consideration for a supply & are not taxable.
- Eg. Penalty stipulated in a contract for delayed construction of houses
- Eg. Forfeiture of earnest money by a seller in case of breach of 'an agreement to sell' an immovable property by the buyer.  
Forfeiture of such earnest money is not a consideration for tolerating the breach of contract but as a compensation for the losses suffered and as a penalty for discouraging the non-serious buyers  
Such payments being merely flow of money are not a consideration for any supply and are not taxable.
- The main element in such cases is to consider whether payments constitute consideration for another independent contract envisaging tolerating an act or situation or refraining from doing any act or situation or simply doing an act. If the answer is yes, then it constitutes a 'supply' irrespective of by what name it is called.  
Eg. A contract for package tour may stipulate forfeiture of security deposit in the event of cancellation of tour by the customer.  
Eg. A contract for lease of movable or immovable property may stipulate that the lessee shall not terminate the lease before a certain period and if he does so he will have to pay certain amount as early termination fee or penalty.

**b) Cheque dishonor fine/ penalty**

- The supplier wants payment to be received on time and does not want cheque to be dishonoured.
- There is never an implied or express offer or willingness on part of the supplier that he would tolerate deposit of an invalid, fake or unworthy instrument of payment against consideration in the form of cheque dishonour fine or penalty.
- Therefore, cheque dishonor fine or penalty is not a consideration for any service and not taxable.

**c) Penalty imposed for violation of laws**

- Penalty imposed for violation of laws such as traffic violations, or for violation of pollution norms or other laws are also not consideration for any supply received and are not taxable
- Laws are not framed for tolerating their violation. They stipulate penalty not for tolerating violation but for not tolerating, penalizing and deterring such violations.
- There is no agreement between the Government and the violator specifying that violation would be allowed or permitted against payment of fine or penalty.

**d) Forfeiture of salary or payment of bond amount in the event of employee leaving employment before the minimum agreed period.**

- The said amounts are recovered by the employer not as a consideration for tolerating the act of such premature quitting of employment but as penalties for dissuading the non-serious employees from taking up employment and to discourage and deter such a situation.
- Further, the employee does not get anything in return from the employer against payment of such amounts.
- Therefore, such amounts recovered by the employer are not taxable as consideration for the service of agreeing to tolerate an act or a situation.

**e) Late payment surcharge or fee.**

- Facility of accepting late payments with interest or late payment fee, fine or penalty is a facility granted by supplier naturally bundled with the main supply.
- Almost all service providers across the world provide the facility of accepting late payments with late fine or penalty

- Since it is ancillary to and naturally bundled with the principal supply such as of electricity, water, telecommunication, cooking gas, insurance etc. it should be assessed at the same rate as the principal supply.
- However, same cannot be said of cheque dishonor penalty as discussed earlier.

**f) Fixed charges for power**

- The price charged for electricity by the power generating companies from the State Electricity Boards (SEBs)/DISCOMS or by SEBs/DISCOMs from individual customers has 2 components namely,
  - a) Minimum fixed charge, and
  - b) Variable per unit charge
- are charged for sale of electricity and are thus not taxable, as electricity is exempt from GST.

**g) Cancellation charges**

- Suppliers of services such as hotel accommodation, tour and travel, transportation etc. provide the facility of cancellation of the intended supplies within a certain time period on payment of cancellation fee.
- This cancellation facility against payment of charges is a natural part of supply.
- The amount forfeited in the case of non-refundable ticket for air travel or security deposit or earnest money forfeited in case of the customer failing to avail the travel, tour operator or hotel accommodation service or such other intended supplies should be assessed at the same rate as applicable to the service contract, say air transport or tour operator service, or other such services.



## Exemption Under GST

1. Services related to charitable and religious activities
  - A. Services by an entity registered under section 12AA / 12AB of the Income-tax Act, 1961 by way of charitable activities. 'Charitable Activities' mean activities relating to
    - PUBLIC HEALTH
    - ADVANCEMENT OF RELIGION, spirituality or yoga;
    - ADVANCEMENT OF EDUCATIONAL PROGRAMMES/SKILL DEVELOPMENT relating to,
      - (i) abandoned, orphaned or homeless children;
      - (ii) physically or mentally abused and traumatised persons;
      - (iii) prisoners; or
      - (iv) persons over the age of 65 years residing in a rural area
    - PRESERVATION OF ENVIRONMENT
  - B. Services by a person by way of
    - i. conduct of any religious ceremony;
    - ii. renting of precincts of a religious place except where,
      - a) renting of rooms where charges are ₹1,000 or more per day
      - b) renting of premises, halls, kalyana mandapam or open area where charges are ₹10,000 or more per day
      - c) renting of shops or other spaces for business or commerce where charges are ₹10,000 or more per month.
  - C. Services by a specified organization
    - i. Kumaon Mandal Vikas Nigam Limited (KMVN), a Government of Uttarakhand Undertaking;
    - ii. 'Haj Committee of India' or 'State Haj Committee including Joint State Committee'.
  - D. Services by way of training or coaching in
    - (a) recreational activities relating to arts or culture, by an individual, or
    - (b) sports by charitable entities registered under section 12AA of the Income-tax Act.
2. Agriculture
  - (a) loading, unloading, packing, storage or warehousing of rice.
  - (b) warehousing of minor forest produce.
  - (c) storage/warehousing of Agricultural produce, rice, cereals, pulses, fruits and vegetables.
  - (d) Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of
    - i. agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing
    - ii. supply of farm labour

- iii. processes which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market
  - iv. renting or leasing of agro machinery or vacant land
  - v. loading, unloading, packing, storage or warehousing of agricultural produce
  - vi. agricultural extension services
  - vii. services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce
- (e) Services by way of artificial insemination of livestock (other than horses)
- (f) job work in relation to cultivation of plants and rearing of all life forms of animals.

### 3. Education services

- i. Educational institution means
  - a) pre-school education and education up to higher secondary school or equivalent.
  - b) education as a part of a curriculum for obtaining a qualification recognised by any Indian law
  - c) education as a part of an approved vocational education course.
- ii. Services Provided BY an educational institution
  - a) to its students, faculty and staff
  - b) by way of conduct of entrance examination against consideration
- iii. Services Provided To an educational institution

Services	School	College/Universities
transportation of students, faculty and staff;	Exempt	Taxable
catering, including any mid-day meals	Exempt	Taxable
security or cleaning or house-keeping services	Exempt	Taxable
services relating to admission to, or conduct of examination	Exempt	Exempt
supply of online educational journals or periodicals	Taxable	Exempt

Note:

- a) IIMs provide various long duration programs (1 year or more) for which they award diploma/ degree certificate → Exempt
- b) IIMs also provide various short duration/short term programs (less than 1 year) for which they award participation certificate → Taxable.

### 4. Health care services

- a) Services by a veterinary clinic in relation to health care of animals or birds
- b) health care services by a clinical establishment, an authorised medical practitioner or para medics
- c) transportation of a patient in an ambulance

Health care services Means diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy → Recognized System Of Medicine ( Allopathy/Ayurveda/Homeopathy/Naturopathy/ Yoga/Siddha/Unani. Naturopathy)

Note:

- a) Reiki is not recognised system of medicine.
  - b) hair transplant or cosmetic or plastic surgery is taxable, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.
  - c) Room Rent
    - Intensive Care Unit (ICU) or Critical Care Unit (CCU) or Intensive Cardiac Care Unit (ICCU) or Neo-Natal Intensive Care Unit (NICU), there would be full exemption irrespective of amount of rent
    - In case of other categories of rooms, Exemption is available only when rent charges do not exceed ` 5,000 per day.
  - d) services provided by such senior doctors/consultants/technicians, whether employees or not, are healthcare services which are exempt from GST.
  - e) Health care services provided by the clinical establishments will include food supplied to the patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. However, other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable
  - f) Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements etc. will be subject to GST.
  - g) 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
5. Passenger transportation services
- i. Transport of passengers, with/without accompanied belongings, by:
    - a) air, in economy class embarking from or terminating in an airport located in the State of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;
    - b) non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or
    - c) stage carriage other than air- conditioned stage carriage.

However, nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the CGST, 2017
  - ii. Service of transportation of passengers, with or without accompanied belongings, by:

- A. railways in a class other than—
  - a) first class; or
  - b) an air-conditioned coach;
- B. metro, monorail or tramway;
- C. inland waterways;
- D. public transport, other than predominantly for tourism purpose, in a vessel between places located in India

The expression 'public transport' used in this Entry 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.

- E. metered cabs or auto rickshaws (including e-rickshaws). Except services supplied through an electronic commerce operator covered u/s 9(5).

**Note:**

Hiring of non-air conditioned contract carriages by firms for transportation of their employees to and from work

The exemption shall not be applicable where contract carriage is hired for a period of time, during which the contract carriage is at the disposal of the service recipient and the recipient is thus free to decide the manner of usage (route and schedule) subject to conditions of agreement entered into with the service provider.

## 6. Goods transportation services

- i. Services by way of transportation of goods
  - a) by road except the services of— (i) a goods transportation agency; (ii) a courier agency
  - b) by inland waterways.
- ii. Services by way of transportation by rail or a vessel or by GTA of following items
  - (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
  - (b) defence or military equipments;
  - (c) newspaper or magazines registered with the Registrar of Newspapers;
  - (d) agricultural produce;
  - (e) milk, salt and food grain including flours, pulses and rice; and
  - (f) organic manure.

## 7. Banking and financial services

- i. Services by way of:
  - (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);

- (b) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.

Note:

1. Service charges/fees, documentation fees, broking charges, administrative charges, entry charges or such like fees or charges collected over and above interest on loan, advance or a deposit are not exempt.
  2. Invoice discounting/cheque discounting or any other similar form of discounting → Exempt
  3. Any interest/delayed payment charges charged to clients for delay in payment of brokerage amount/settlement obligations/margin trading facility: is exempt from GST.
  4. Interest charged on outstanding credit card balances → Taxable
- ii. Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).
  - iii. Services by an acquiring bank, to any person in relation to settlement of an amount up to ₹2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service.
8. Business facilitator/correspondent
- Services by the following persons in respective capacities
- a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;
  - b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a) above.
  - c) business facilitator or a business correspondent to an insurance company in a rural area.
9. Performance by an artist
- Services by an artist by way of a performance in folk or classical art forms of
- (a) music, or (b) dance, or (c) theatre, if the consideration charged for such performance is not more than ₹1,50,000 are exempt from GST.
10. Services by an unincorporated body or a non-profit entity
- Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution up to an amount of ₹7,500 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.
- Note: If amount recovered exceeds 7500 then entire amount shall be taxable.

**11. Tour Operator Services**

Services provided by a tour operator shall be exempt from tax, if they are provided:-

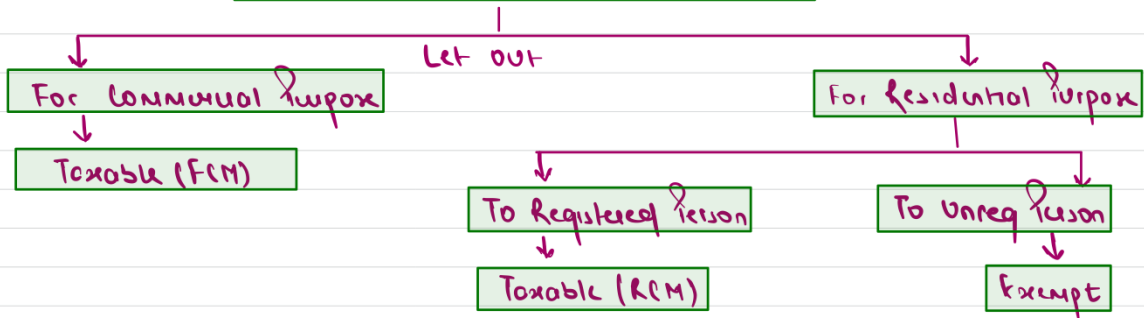
- A.** to a foreign tourist
- B.** in relation to a tour conducted wholly outside India or Partly in India & Partly Outside India
- C.** Exemption for tour Partly in India and partly outside India shall be restricted to lower of following:
  - a)**  $\frac{\text{Total consideration charged for the entire tour}}{\text{Total number of days comprising the tour}} \times \text{No. of days for outside India}$
  - b)** 50% of the total consideration charged for the entire tour

While making the above calculations, any duration of time equal to or exceeding 12 hours shall be considered as one full day and any duration of time less than 12 hours shall be taken as half a day.

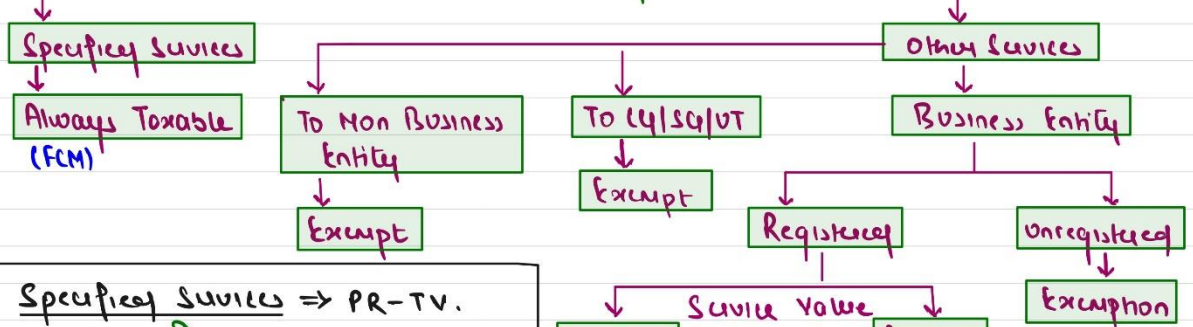
**12. Other exempt services**

- A.** Services by way of giving on hire (including renting of vehicle):
  - (a)** to a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers
  - (b)** to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers;
  - (c)** to a goods transport agency, a means of transportation of goods
  - (d)** motor vehicle by a person providing services of transportation of students, faculty and staff to School.
- B.** Services by an organiser to any person in respect of a business exhibition held outside India.
- C.** Services provided to a recognised sports body by
  - (a)** an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body;
  - (b)** another recognised sports body
- D.** Services provided to a Governmental Authority by way of —
  - (a)** water supply;
  - (b)** public health;
  - (c)** sanitation conservancy;
  - (d)** solid waste management; and
  - (e)** slum improvement and upgradation.

**RENTING OF RESIDENTIAL DWELLING**



**Services Provided by Govt**



**Specified Services** ⇒ PR-TV.  
 P ⇒ Dept of Post  
 R ⇒ Ministry of Railways.  
 T = Transp. of Goods/Passenger.  
 V = Services in relation to vessel or Aircraft whether inside or outside the points of Port or Airport.

- Note** Following services of Dept of Post are Exempt :-
- Post card
  - Book Post
  - Inland letter
  - Ordinary Post (envelop < 10gm)

Analysis.

- Govt → Other Services → Taxable if
  - SR = Reg. Business Entity
  - Service Value > 5000
- Otherwise Govt → Other → Exempt Services