

The CBIC vide [Circular No. 177/09/2022-TRU dated August 03, 2022](#) has issued clarifications regarding applicable GST rates & exemptions on certain services which is summarized below:

1. **Rate of GST applicable on supply of ice-cream-by-ice-cream parlours during the period from 01.07.2017 to 05.10.2021**
 - Ice cream parlours sell already manufactured ice-cream and they do not have a character of a restaurant. Hence ice cream sold by parlour, or any similar outlet will be taxable as good @18% GST with input tax credit (ITC) as earlier clarified vide Circular 164/20/2021 dated 6.10.2021.
 - Thus, past cases of payment of GST on supply of ice-cream-by-ice-cream parlours @ 5% without ITC shall be treated as fully GST paid upto 6.10.2021 to avoid litigation.
 - Since the decision is only to regularize the past practice, no refund of GST shall be allowed, if already paid at 18%.
2. **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**
 - Vide entry 66 of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017, educational services supplied by educational institutions to its students are exempt from GST
 - It is clarified that all services supplied by an 'educational institution' to its students are exempt from GST including fee charged from prospective students for entrance or admission, or for issuance of eligibility certificate to them in the process of their entrance/admission as well as the fee charged for issuance of migration certificates by educational institutions to the leaving or ex-students.
3. **Whether storage or warehousing of cotton in baled or ginned form is covered under entry 24B of Notification No. 12/2017-Central Tax (Rate) which exempted services by way of storage and warehousing of raw vegetable fibres such as cotton before 18.07.2022**
 - It is clarified that cotton in baled or ginned form is to be considered as raw vegetable fibers such as cotton.
 - Thus, earlier entry 24B of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, which exempts services by way of storage and warehousing would be applicable to such cotton in baled or ginned form being raw vegetable fibers. However, w.e.f 18.07.2022 it is made taxable.

4. **Whether exemption under Sl. No. 9B of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 covers services associated with transit cargo both to and from Nepal and Bhutan**
 - Due to the regulations governing transit / transshipment and an electronic track and trace facility which uses container numbers to locate the cargo, it is verifiable that the empty container returning from Nepal or Bhutan is the same container which was used to deliver goods to Nepal or Bhutan. Hence, it is clarified that exemption is available to services associated with transit cargo both to and from Nepal and Bhutan.
5. **Applicability of GST on sanitation and conservancy services supplied to Army and other Central and State Government departments**
 - It is clarified that sanitation and conservancy services procured by Indian Army or any other Government Ministry/Department which does not perform any functions listed in the 11th and 12th Schedule, such as irrigation, public health etc. in the manner as a local authority does for the general public the same are not eligible for exemption under Sl. No. 3 and 3A of Notification 12/2017- Central Tax (Rate) when procured from any person.
6. **Whether the activity of selling of space for advertisement in souvenirs is eligible for concessional rate of 5%**
 - It is clarified that 'book' has been defined in the Press and Registration of Books Act, 1867 in an inclusive manner with a wide ambit which would cover souvenir book also. Hence sale of space for advertisement in souvenir book by different institutions/organizations is covered under serial number (i) of entry 21 of Notification No.11/2017-Central Tax (Rate) and attracts GST @ 5%.
7. **Taxability and applicable rate of GST on transport of minerals from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time**
 - It is clarified that renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles with operator falling under Heading 9966 and not service of transportation of goods by road.
 - It is not eligible for exemption under Sl. No. 18 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.
 - On such rental services of goods carriages where the cost of fuel is included in the consideration charged from the recipient of service, GST rate has been reduced from 18% to 12% with effect from 18.07.2022.
 - Prior to 18.07.2022, it attracted GST at the rate of 18%.
8. **Whether location charges or preferential location charges (PLC) collected in addition to the lease premium for long term lease of land constitutes part of the lease premium or upfront amount charged for long term lease of land and are eligible for the same tax treatment**
 - It is clarified that allowing choice of location of plot is integral part of supply of long-term lease of plot and therefore, location charges or PLC paid upfront in addition to the lease premium for long term lease of land is nothing, but part of consideration charged for long term lease of plot.

- Hence eligible for exemption under Sl. No. 41 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017.

9. Applicability of GST on payment of honorarium to the guest anchors

- Supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'.
- Thus, it is clarified that if guest anchors are registered under GST, services provided by them in lieu of honorarium attract GST liability.

10. Whether the additional toll fees collected in the form of higher toll charges from vehicles not having fastag is exempt from GST

- Entry 23 of Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 exempts service by way of access to a road or a bridge on payment of toll charges.
- Hence, it is clarified that additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and may be given the same treatment as given to toll charges. Thus, such charges may also be exempt.

11. Applicability of GST on services in the form of Assisted Reproductive Technology (ART)/ In vitro fertilization (IVF)

- It is clarified that services by way of IVF are also covered under the definition of health care services and hence exempt vide Sl. No. 74 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017.

12. Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST

- 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 Sr. No. 5 of Schedule III of the Central Goods and Services Tax Act, 2017 and accordingly does not attract GST.
- However, 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.

13. Situations in which corporate recipients are liable to pay GST on renting of motor vehicles designed to carry passengers

- Renting of motor vehicle with operator for transport of passengers falls under Heading 9966, where the renter defines how and when the vehicles will be operated, determines schedules, routes and other operational considerations.
- Thus, where the body corporate hires the motor vehicle (for transport of employees etc.) for a period of time, during which the motor vehicle shall be at the disposal of the body corporate, the service would fall under Heading 9966, and the body corporate shall be liable to pay GST on the same under reverse charge mechanism (RCM).
- Passenger transport services on the other hand fall under Heading 9964

- Thus, where the body corporate avails the passenger transport service for specific journeys or voyages and does not take vehicle on rent for any particular period of time, the service would fall under Heading 9964 and the body corporate shall not be liable to pay GST under RCM.

14. Whether hiring of vehicles by firms for transportation of their employees to and from work is exempt under Sr. No. 15(b) of Notification No. 12/2017-Central Tax (Rate) transport of passengers by non-air-conditioned contract carriage

- Sr. No. 15 (b) of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 exempts “transport of passengers, with or without accompanied belongings, by non-air-conditioned contract carriage, other than radio taxi, for transport of passengers, excluding tourism, conducted tour, charter or hire.”
- It is clarified that the said exemption would apply to passenger transportation services by non-air-conditioned contract carriages falling under Heading 9964 where, transportation takes place over pre-determined route on a pre-determined schedule.
- 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).

15. Whether supply of service of construction, supply, installation and commissioning of dairy plant on turn-key basis constitutes a composite supply of works contract service and is eligible for concessional rate of GST prior to 18.07.2022

- It is clarified that construction, installation and commissioning of a dairy plant constitutes supply of works contract though a dairy plant which comes into existence as a result of such contracts is an immovable property.
- Such works contract services were eligible for concessional rate of GST @ 12% vide serial number 3(v)(f) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 prior to 18.07.2022. However, w.e.f. 18.07.2022 the same is taxable @18%.

16. Applicability of GST on tickets of private ferry used for passenger transportation

- Clarification has been sought on applicability of GST on private ferry tickets. It has been stated that these private ferries are used as means of transport from one island to another in Andaman and Nicobar Islands.
- As per Sl. No. 17(d) of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017, “transportation of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India” is exempt.
- Thus, 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 public sector unit (PSU)/government.
- ‘Public transport’ means transport open to public. It can be privately or publicly owned.

- However, such exemption is not available 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.

The CBIC vide [Circular no 179 dated August 03, 2022](#) has issued clarifications regarding applicable GST rates & exemptions on certain services which is summarized as below:

- 1. Electric vehicles whether fitted with a battery pack, attract GST rate of 5%**
 - It is clarified that electrically operated vehicle including three wheeled electric vehicle means “a vehicle that runs solely on electrical energy derived from an external source or from electrical batteries.” The fitting of batteries cannot be considered as a concomitant factor for defining a vehicle as an electrically operated electric vehicle.
 - Thus, electrically operated vehicle is to be classified under HSN 8703 even if the battery is not fitted to such vehicle at the time of supply and thereby attract GST at the rate of 5% in terms of entry 242A of Schedule I of Notification No. 1/2017-Central Tax (Rate).
- 2. Stones otherwise covered in S. No. 123 of Schedule-I (such as Napa stones), which are not mirror polished, are eligible for concessional rate (5%) under said entry**
 - Napa Stone is a variety of dimensional limestone, which is a brittle stone and cannot be subject to extensive mirror polishing. Being brittle in nature, stones like Napa Stone, even though ready for use, are not subject to extensive polishing. Therefore, such minor polished stones do not qualify as mirror polished stones. It is clarified that S. No. 123 in Schedule-I to the Notification No. 1/2017- Central Tax (rate) dated 28.06.2017 covers minor polished stones; hence applicable GST rate on such building stones is 5%.
- 3. Mangoes under CTH 0804 including mango pulp, but other than fresh mangoes and sliced, dried mangoes, attract GST at 12% rate**
 - The Circular has clarified that mangoes, fresh falling under Heading 0804 are exempt.
 - Mangoes, sliced and dried, falling under 0804 are chargeable to a concessional rate of 5%
 - All other forms of dried mango, including Mango pulp, attract GST at the rate of 12%.
 - To bring absolute clarity, the relevant entry at S. No. 16 of Schedule-II of Notification no. 1/2017-Central Tax (Rate), dated 28.06.2017, has been amended vide Notification No. 6/2022-Central Tax (Rate), dated the 13.07.2022.
- 4. Treated sewage water attracts Nil rate of GST**
 - The Circular has clarified that supply of treated sewage water, falling under Heading 2201, is exempt under GST.
 - Further, to clarify the issue, the word 'purified' is being omitted from S. No. 99 of Notification No. 2/2017-Central Tax (Rate), dated the 28.06 2017 vide Notification No. 7/2022-Central Tax (Rate), dated the 13.07.2022.

5. Nicotine Polacrilex Gum attracts a GST rate of 18%

- The Circular has clarified that the Nicotine Polacrilex gum which is commonly applied orally and is intended to assist tobacco use cessation is appropriately classifiable under tariff item 24049100 with applicable GST rate of 18%.
- Sl. No. 26B in Schedule III of Notification No. 1/2017-Central Tax (Rate), dated the 28.06.2017 is supplemented by the HS Explanatory notes 2022 which states that Heading 2404 includes nicotine containing products for recreational use, as well as nicotine replacement therapy (NRT) product intended to assist tobacco use cessation, which are taken as part of a nicotine intake reduction programme in order to lessen the human body's dependence on this substance.

6. Fly ash bricks and aggregate - condition of 90% fly ash content applied only to fly ash aggregate, and not fly ash bricks

- The Circular has clarified that in Entry No 176B of the Schedule III, the condition 90% or more fly ash content is applicable only to fly ash aggregates and not to fly ash bricks and fly ash blocks is applicable up to 17.07.2022. Further, w.e.f. 18.07.2022 the condition is omitted from the description.

7. Applicability of GST (5%) on by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi

- The Circular clarifies that the subject goods (dal/ pulses) which inter alia is used as cattle feed ingredient are appropriately classifiable under Heading 2302 and attract GST at the rate of 5% vide S. No. 103A of Schedule-I of Notification No. 1/2017-Central Tax (Rate), dated 28.06.2017
- Earlier the said goods were thought to be classified under S no. 102 of Notification No.2/2017 Central Tax (Rate), dated the 28.06.2017 having nil rate.
- However, it is clarified that the issues for the past period are to be regularised on as is basis.

Disclaimer and Statutory Notice

This e-publication is published by CNK & Associates LLP, Chartered Accountants, India, solely for the purposes of providing necessary information to employees, clients and other business associates. Whilst every care has been taken in the preparation of this publication, it may contain inadvertent errors for which we shall not be held responsible.

This document is a proprietary material created and compiled by CNK & Associates LLP. All rights reserved. This newsletter or any portion thereof may not be reproduced or sold in any manner whatsoever without the consent of the publisher.

This publication is not intended for advertisement and/or for solicitation of work.

MUMBAI

www.cnkindia.com

3rd Floor, Mistry Bhavan, Dinshaw Vachha Road,
Churchgate, Mumbai. 400 020, India.
Tel: +91 22 6623 0600

501/502, Narain Chambers, M.G. Road,
Vile Parle (East), Mumbai 400 057, India.
Tel: +91 22 6250 7600

Bengaluru: +91 80 2535 1353

Chennai: +91 44 3500 3458

Vadodara: +91 265 234 3483

Ahmedabad: +91 79 2630 6530

GIFT City: +91 79 2630 6530

Delhi: +91 11 2735 7350

Pune: +91 020 2998 0865

Dubai: +971 4 3559533