

2. This issue has been examined by the GST Council in its 43rd meeting held on 28th May, 2021.

2.1 GST is exempt on service, falling under heading 9967 (service code), by way of access to a road or a bridge on payment of annuity [entry 23A of notification No. 38/1/2017-Fin(R&C)(12/2017-Rate)]. Heading 9967 covers “supporting services in transport” under which code 996742 covers “operation services of National Highways, State Highways, Expressways, Roads & streets; bridges and tunnel operation services”. Entry 23 of said notification exempts “service by way of access to a road or a bridge on payment of toll”. Together the entries 23 and 23A exempt access to road or bridge, whether the consideration are in the form of toll or annuity [heading 9967].

2.2 Services by way of construction of road fall under heading 9954. This heading inter alia covers general construction services of highways, streets, roads railways, airfield runways, bridges and tunnels. Consideration for construction of road service may be paid partially upfront and partially in deferred annual payments (and may be called annuities). Said entry 23A does not apply to services falling under heading 9954 (it specifically covers heading 9967 only). Therefore, plain reading of entry 23A makes it clear that it does not cover construction of road services (falling under heading 9954), even if deferred payment is made by way of instalments (annuities).

3. Accordingly, as recommended by the GST Council, it is hereby clarified that Entry 23A of notification No. 38/1/2017-Fin(R&C)(12/2017-Rate) does not exempt GST on the annuity (deferred payments) paid for construction of roads.

4. Difficulty if any, in the implementation of this circular may be brought to the notice of the undersigned.

Hemant Kumar, IAS, Commissioner State Tax, Goa.
Panaji, 6th July, 2021.

Note: Similar circular under Central Goods and Services Tax Act, 2017 is issued by the Department of Revenue, Ministry of Finance, GOI, New Delhi vide Circular No. 150/06/2021-GST dated 17th June, 2021.

CCT/26-4/2017-18/E/854

Circular

(No. 4/2021-22-GST)

Subject: Clarification regarding GST on supply of various services by Central and State Board (such as National Board of Examination)-reg.

Certain representations have been received seeking clarification in respect of taxability of various services supplied by Centre and State Boards such as National Board of Examination (NBE). These services include entrance examination (on charging a fee) for admission to educational institution, input services for conducting such entrance examination for students, accreditation of educational institutions or professional so as to authorise them to provide their respective services. The issue was examined by GST Council in its 43rd meeting held on 28th May, 2021.

2. Illustratively, NBE provides services of conducting entrance examinations for admission to courses including Diplomat National Board (DNB) and Fellow of National Board (FNB), prescribes courses and curricula for PG medical studies, holds examinations and grant degrees, diplomas and other academic distinctions. It carries out all functions as are normally carried out by central or state educational boards and is thus a central educational board.

3. According to explanation 3(iv) of the notification No. 38/1/2017-Fin(R&C)(12/2017-Rate), “Central and State Educational Boards” are treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students. Therefore, NBE is an ‘Educational Institution’ in so far as it provides services by way of conduct of examination, including any entrance examination, to the students.

3.1 Following services supplied by an educational institution are exempt from GST vide Sl. No. 66 of the notification No. 38/1/2017-Fin(R&C)(12/2017-Rate), dated 30-06-2017,

Services provided-

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

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

3.2 Similarly, services provided to an educational institution, relating to admission to, or conduct of examination is also exempt from GST [sl. No. 66 (b)(iv)-38/1/2017-Fin(R&C)(12/2017-Rate)].

3.3 Educational institutions are defined at 2(y) of the said notification as follows-

“(y) educational institution” means an institution providing services by way of,-

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

- (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
- (iii) education as a part of an approved vocational education course;”;

Further, clause (iv) of Explanation of said notification reads as below:

- “(iv) For removal of doubts, it is clarified that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students”

4. Taking into account the above, the GST Council has recommended, to clarify as below:

- (i) GST is exempt on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution [under S. No. 66 (aa) of notif. No. 38/1/2017-Fin(R&C)(12/2017-Rate)]. Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.
- (ii) GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc., when provided to such Boards [under S. No. 66 (b) (iv) of notif No. 38/1/2017-Fin(R&C)(12/2017-Rate),].
- (iii) GST at the rate of 18% applies to other services provided by such Boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorise them to provide their respective services.

5. Difficulty if any, in the implementation of this circular may be brought to the notice of the undersigned.

Hemant Kumar, IAS, Commissioner State Tax, Goa.

Panaji, 6th July, 2021.

Note: Similar circular under Central Goods and Services Tax Act, 2017 is issued by the Department of Revenue, Ministry of Finance, GOI, New Delhi vide Circular No. 151/07/2021-GST dated 17th June, 2021.

CCT/26-4/2017-18/E/855

Circular

(No. 5/2021-22-GST)

Subject: Clarification regarding rate of tax applicable on construction services provided to a Government Entity, in relation to construction such as of a Ropeway on turnkey basis-reg.

Reference has been received for a clarification whether services supplied to a Government Entity by way of construction such as of “a ropeway” are eligible for concessional rate of 12% GST under entry No. 3 (vi) of Notification No. 38/1/2017-Fin(R&C)(11/2017-Rate) dated 30-06-2017. On the recommendation of the GST Council, this issue is clarified as below.

2. According to entry No. 3(vi) of notification No. 38/1/2017-Fin(R&C)(11/2017-Rate) dated 30-06-2017, GST rate of 12% is applicable, inter alia, on-

“(vi) Composite supply of works contract as defined in clause (119) of Section 2 of the Central Goods and Services Tax Act, 2017, (other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above) provided to the Central Government, State Government, Union Territory, a local authority a Governmental Authority or a Government Entity, by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of-

- (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;”

2.1 Thus, said entry No. 3 (vi) does not apply to any works contract that is meant for the purposes of commerce, industry, business of profession, even if such service is provided to the Central Government, State Government, Union Territory, a local authority a Governmental Authority or a Government Entity. The doubt seems to have arisen in the instant cases as Explanation to the said entry states, the term ‘business’ shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public