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**CIRCULAR**

**(No. 47 / 2018-19 - GST)**

**Subject: Clarification on GST rate applicable on supply of food and beverage services by educational institution- reg.**

Representations have been received seeking clarification as to the rate of GST applicable on supply of food and beverages services by educational institution to its students. It has been stated that the words “school, college” appearing in Explanation 1 to Entry 7 (i) of Notification No. 38/1/2017-Fin(R&C)(11/2017-Rate) dated 30/06/2017, published in the Extraordinary Official Gazette no. 3, series I no. 13 dated 30/06/2017 give rise to doubt whether supply of food and drinks by an educational institution to its students is eligible for exemption under Notification No. 38/1/2017-Fin(R&C)(12/2017-Rate) dated 30/06/2017 published in Extraordinary Official Gazette no. 3, series I no. 13 dated 30/06/2017 Sl. No 66, which exempts services provided by an educational institution to its students, faculty and staff.

2. The matter has been examined. Notification No. 38/1/2017-Fin(R&C)(11/2017-Rate) dated 30/06/2017, Sl. No. 7(i) prescribes GST rate of 5% on supply of food and beverages services. Explanation 1 to the said entry states that such supply can take place at canteen, mess, cafeteria of an institution such as school, college, hospitals etc. On the other hand, Notification No. 38/1/2017-



Fin(R&C)(12/2017-Rate) dated 30/06/2017 Sl. No. 66 (a) exempts services provided by an educational institution to its students, faculty and staff. There is no conflict between the two entries. Entries in Notification No. 38/1/2017-Fin(R&C)(11/2017-Rate) prescribing GST rates on service have to be read together with entries in exemption Notification No. 38/1/2017-Fin(R&C)(12/2017-Rate). A supply which is specifically covered by any entry of Notification No. 38/1/2017-Fin(R&C)(12/2017-Rate) is exempt from GST notwithstanding the fact that GST rate has been prescribed for the same under Notification No. 38/1/2017-Fin(R&C)(11/2017-Rate).


2.1 Supply of all services by an educational institution to its students, faculty and staff is exempt under Notification No. 38/1/2017-Fin(R&C)(12/2017-Rate), Sl. No. 66. Such services include supply of food and beverages by an educational institution to its students, faculty and staff. As stated in explanation 3 (ii) to Notification No. 38/1/2017-Fin(R&C)(12/2017-Rate) Chapter, Section, Heading, Group or Service Codes mentioned in column (2) of the table in Notification No. 38/1/2017-Fin(R&C)(12/2017-Rate) are only indicative. A supply is eligible for exemption under an entry of the said notification where the description given in column (3) of the table leaves no room for any doubt. Accordingly, it is clarified that supply of food and beverages by an educational institution to its students, faculty and staff, where such supply is made by the educational institution itself, is exempt under Notification No. 38/1/2017-Fin(R&C)(12/2017-Rate), vide Sl. No. 66 w.e.f. 01-07-2017 itself. However, such supply of food and beverages by any person other than the educational institutions based on a contractual arrangement with such institution is leviable to GST@ 5%.

3. In order to remove any doubts on the issue, Explanation 1 to Entry 7(i) of Notification No. 38/1/2017-Fin(R&C)(11/2017-Rate) has been amended vide Notification No. 38/1/2017-Fin(R&C)(27/2018-Rate) dated 31/12/2018 published in the Extraordinary Official Gazette no. 2, Series I no. 39 to omit from it the words "school, college". Further, heading 9963 has been added in Column (2) against entry at Sl. No. 66 of Notification No. 38/1/2017-Fin(R&C)(12/2017-Rate), vide Notification No. 38/1/2017-Fin(R&C)(28/2018-Rate) dated 31/12/2018, published in the Extraordinary Official Gazette no. 2, Series I no. 39.



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



  
(Dipak M. Bandekar)  
Commissioner of State Tax

Note: Similar circular is issued under Central Goods and Services Tax Act, 2017 by the Tax Research Unit, Department of Revenue, Ministry of Finance, GOI, New Delhi vide Circular No. 85/04/2019-GST dated 01/01/2019.