

ISSUES IN GST - CHARITABLE TRUST



SEMINAR ORGANIZED BY
**The Chamber of Tax
Consultant**

PRESENTED BY



AN INVESTMENT IN KNOWLEDGE PAYS THE BEST RETURN

23rd March, 2018

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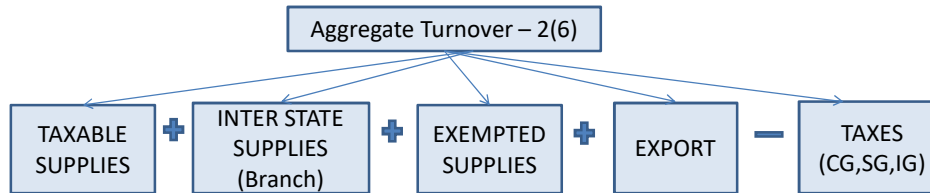
RELEVANT DEFINATION

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Aggregate Turnover



- Aggregate Turnover does not include value of inward supplies on which tax is payable under RCM
- Turnover to be computed on **All India Basis** of person having same PAN.

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Definition of Business – Section 2(17)

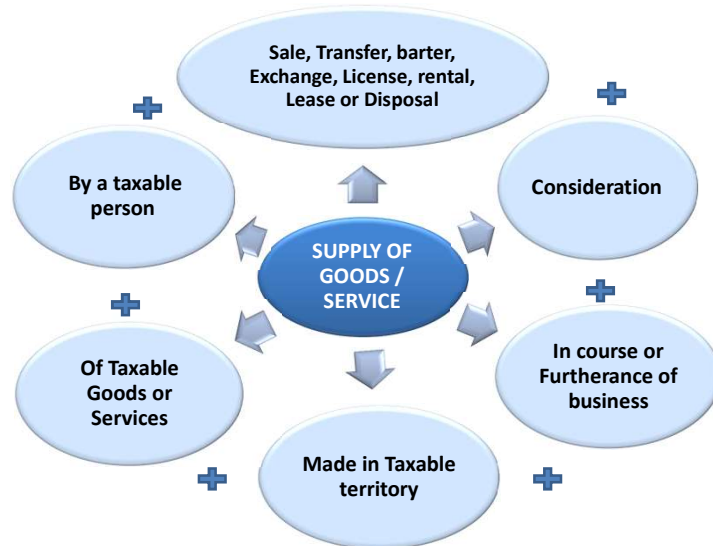


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CONCEPT OF SUPPLY

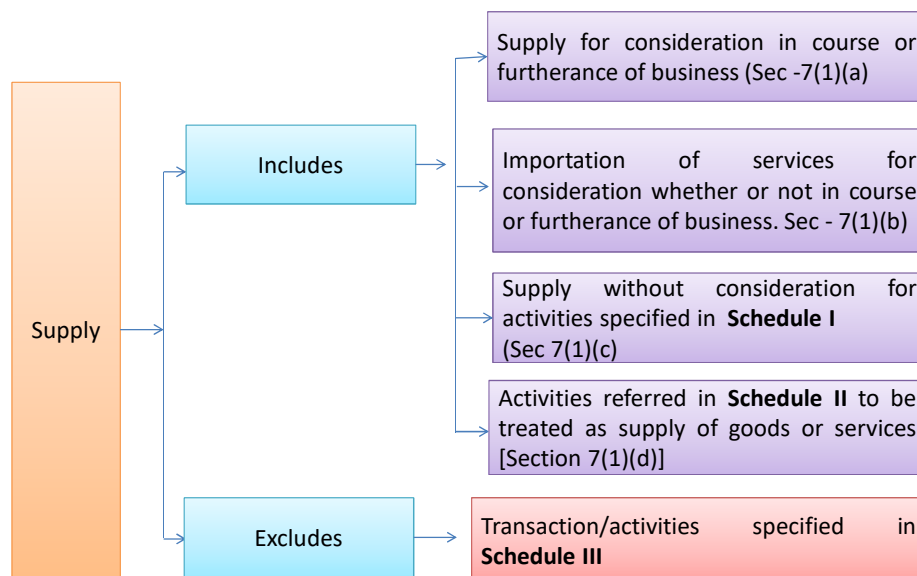


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MEANING & SCOPE OF SUPPLY



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In course or furtherance of Business



Any Transaction involving supply of goods or service without consideration is not a supply unless it is deemed to be a supply under **Schedule I**

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COMPOSITE SUPPLY – Section 2(30)

- Composite Supply of goods and services is made by a taxable person to a recipient, and:
 - It comprises two or more supplies of goods or services, or
 - A combination of goods and services, which are **naturally bundled and supplied, in the ordinary course of business**.
- This means that the goods and services are bundled owing to natural necessities.
- The pre-dominant element in the supply of goods or services, forming part of composite supply, is **principal supply**, and any other dependent supply, forming part of composite supplies, are secondary to principal supply.

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MIXED SUPPLY – Section 2(74)

- The supply of two or more individual supplies of goods or services, or any combination of goods and services, by a taxable person, for a single price, is called Mixed Supply.
- In Mixed Supply, the combination of goods and/or services for single price which can otherwise supplied individually in the ordinary course of business.



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Person – Section 2(84)

- Person includes
 - Individual
 - Hindu Undivided Family
 - Company
 - Firm
 - Limited Liability partnership
 - An association of person or a body corporate, whether incorporated or not, in India or outside India
 - any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013);
 - any body corporate incorporated by or under the laws of a country outside India;
 - a co-operative society registered under any law relating to co-operative societies;
 - a local authority;
 - Central Government or a State Government;
 - society as defined under the Societies Registration Act, 1860 (21 of 1860);
 - **trust**; and
 - every artificial juridical person, not falling within any of the above;

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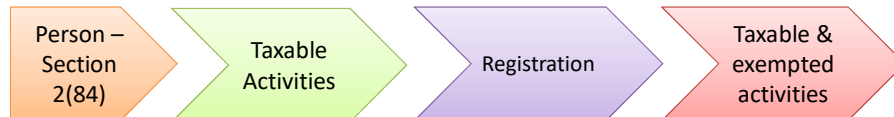
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Charitable Trust

Activities of Trust Covered in "Supply" in view of section definition of Supply/Business

Unless exempted, "supply" made by a Trust, liable to GST



Trust is included under the definition of "person" under GST

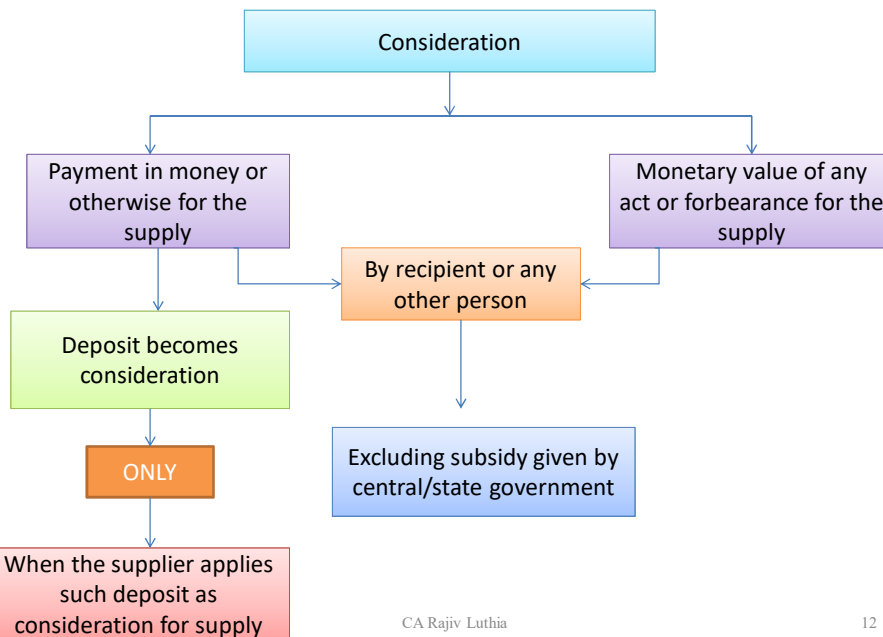
Trust liable to be registered if aggregate turnover in a financial year exceeds INR. 20 lakhs

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Consideration



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EXEMPTION

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Exemption – Not. 12/2017-CT(R) Entry 1

- Services by an entity **registered under Section 12AA** of Income-tax Act, 1961 by way of **charitable activities**
- Thus exemption is given to charitable trusts, only if the following conditions are satisfied.
 - Entities must be registered under Section 12AA of the Income Tax Act, and
 - Such services or activities by the entity are by way of charitable activities.

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Exemption – Not. 12/2017-CT(R) Entry 1

“charitable activities” means 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;

(B) public awareness of preventive health, family planning or prevention of HIV infection

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Exemption – Not. 12/2017-CT(R) Entry 1

II. Advancement of religion, spirituality or yoga

III. advancement of educational programmes or 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 and wildlife;

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Exemption – Not. 12/2017-CT(R) Entry 13

- Services by a person by way of
 - a) conduct of any religious ceremony;
 - b) renting of precincts of a religious place meant for general public**, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 or a trust or an institution registered under 10(23C)(V) of the Income-tax Act or a body or an authority covered under section 10(23BBA) of the Income tax Act:

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Exemption – Not. 12/2017-CT(R) Entry 13

Provided that nothing contained in **entry (b)** of this exemption shall apply to

- I. Renting of rooms where charges are Rs. 1,000/- or more per day
- II. Renting of premises, community halls, kalyanmandapam or open area, and the like where charges are Rs 10,000/- or more per day
- III. Renting of shops or other spaces for business or commerce where charges are Rs. 10,000/- or more per month.

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Exemption – Not. 12/2017-CT(R) Entry 13

- “**General public**” means the body of people at large sufficiently defined by some common quality of public or impersonal nature – **Clause (ZC)**
- “**Religious place**” means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality – **Clause (ZY)**

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Exemption – Not. 12/2017-CT(R) Entry 80

- Services by way of training or coaching in recreational activities relating to:
 - a) arts or culture, or
 - b) sports by charitable entities registered under section 12AA of the Income-tax Act.

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Exemption – Not. 12/2017-CT(R) Entry 66

- 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 – **W.e.f. 25th January, 2018**

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Exemption – Not. 12/2017-CT(R) Entry 66

- b) to an educational institution, by way of,-
 - I. transportation of students, faculty and staff;
 - II. catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
 - III. security or cleaning or house-keeping services performed in such educational institution;
 - IV. services relating to admission to, or conduct of examination by, such institution
 - V. supply of online educational journals or periodicals – **w.e.f. 25th January, 2018**

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Exemption – Not. 12/2017-CT(R) Entry 66

Provided that nothing contained in sub-items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent. – w.e.f 25th January, 2018

Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,-

- I. pre-school education and education up to higher secondary school or equivalent; or
- II. education as a part of an approved vocational education course.

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Exemption – Not. 12/2017-CT(R)

- “**Educational institution**” means an institution providing services by way of,- (i) pre-school education and education up to higher secondary school or equivalent – **Entry 66**
- Services of **public libraries** by way of lending of books, publications or any other knowledge-enhancing content or material – **Entry 50**

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Exemption – Not. 12/2017-CT(R) Entry 74

- Services by way of-
 - health care services by a clinical establishment, an authorised medical practitioner or para-medics;
 - services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.
- “**Health care services**” means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or 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;

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Exemption – Not. 9/2017-IG(R) Entry 10

- Services received from a provider of service located in a non- taxable territory by –
 - a.
 - b. an entity registered under [section 12AA](#) of the [Income-tax Act, 1961 \(43 of 1961\)](#) for the purposes of providing charitable activities
 - c.

Provided that the exemption shall not apply to “online information and database access or retrieval services” received by charitable trust

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Issue - 1

- A religious and charitable trust is registered u/s 12AA of Income Tax Act and owns a temple.
- It also runs Dharamshala (accommodation), Bhojanshala (mess) and Paathshala (religious teaching) in temple precincts.
- The definition of 'business' u/s 2(17) of CGST Act is very wide and hence trustees intend to examine tax implications of following under GST regime:

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Issue - 1

1. Donations:

- a) Voluntary donations in cash
- b) Donations in kind such as Jewellery
- a) Donations entitling donor to perform religious rituals
- a) Donations against naming of hall or furniture etc. in the name of donor or his family member

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Issue - 1

2. Sale of jewellery received as donations
3. Sale of religious texts, Idols of God / Goddess, Pooja Samagri and prasadam
4. Sale of scrap such as oil tins, jute bags, construction scrap, etc. –
5. Charges received for accommodation at Dharamshala
6. Charges received for food provided at bhojanshala
7. Fees received from students of Paathshala

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Issue - 2

- An education institution providing education from pre-school (Nursery) upto degree college
- It provide following services to its students
 - Transport of Students upto 7th Standard for Rs. 1,000 Per Month
 - Uniforms & books at subsidised Prices
 - Hostel accommodation with food Rs. 10,000/- per month per student
 - Collect Rs. 1,000/- from students towards fees for online entrance examination fees for entry to degree course

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Issue - 2

- It avails following services from various service provider
 - Pays Rs 10,000/- per month to ABC transporter for transports of students (upto 7th Standard) for a Rs. 10,000/- per Month.
 - Appoint a caterer to run a canteen for providing foods to student, faculty etc. The institution recovers loyalty of Rs 20,000/- per month
 - Hire security agency for a consideration of Rs. 20,000/- per month
 - Hire housekeeping agency for a consideration of Rs. 25,000/- PM
 - It also pays Rs. 3,000/- per hour to visiting faculty

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Issue 3

- PRAGATI HEALTH CARE FOUNDATION, a charitable trust running hospital. It conducts fitness & counselling session for women during pregnancy. It provide following service
 - Exercise session for women during pregnancy in order to manage weight, fitness & maintain mental strength
 - Counselling session to parents on how to cope with their little once
- They charge a fees of Rs. 5,000/- for above service
- Discuss the GST implication ?
- It runs a medical shop where medicines are sold to indoor patients & outdoor patients

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Issue 3

- It runs a canteen from where foods is sold to indoor & outdoor patients/relative on to-pay basis.
- It provide ambulance service for transportation of patient
- It provide Bed at Rs. 200/- for night stay of relative of patient
- Discuss the GST implication?

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Issue 4

- Maharashtra Seva Sangh, a charitable Trust, is having community hall which it rents out for carrying out various function such as
 - Conducting puja & other religious ceremony
 - Conducting seminars
 - Conducting social function like marriage, birthday party, get-together
 - Running a reading room/libraries & recovers fees from person
- Discuss the GST implication?

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Issue 5

- A Trust has subscribed for 8% GOI Taxable Bond through its agent. Trust in turn has received an incentive from its agent. Whether incentive received by trust is liable for GST or not? Trust is already registered under GST & providing some taxable services.
- Whether trust is liable to collect GST from its agent and pay to government? If yes then under what category trust should raise an invoice?

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Issue 6

- Birla Charitable Trust, running residential school & collects Rs. 2,00,000/- per year per students.
- The above charges includes School fees, Hostel Fees including mess charges, cost of uniform.
- Discuss GST implication

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WITH KNOWLEDGE..... WE KNOW THE WORDS,
BUT WITH EXPERIENCE..... WE KNOW THE MEANING



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29th April, 2017

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