

GST on Charitable and Religious Trusts

Alex G SJ

Jnana-Deepa Vidayepeth, Pune 411014

Goods and Services Tax (GST), a major tax reform in India, came in to effect from July 1, 2017. But are we prepared for it?

GST is any supply of goods or services for a consideration, in cash or kind, in the course of business. It is applicable under different rates for different goods (0%, 5%, 12%, 18% and 28%), based on whether they are basic commodities or luxuries. Goods have different slabs, but all services attract a uniform rate of 18%.

The following services/activities of the Charitable or Religious Trusts registered under 12AA are GST exempt (no need to register under GST):

- 1. Charitable activities** related to public health, public awareness programmes in preventive health, family planning or prevention of HIV infection, activities related to advancement of religion, spirituality and yoga, advancement of educational programmes or skill development relating to abandoned, orphaned or homeless children, physically or mentally abused and traumatized persons, prisoners or persons over the age of 65 years residing in a rural area and preservation of environment including watershed, forests and wildlife. Similarly, service by way of public

libraries (not private libraries) is exempt from GST. *Other activities such as renting of premises, renting of playground, grant of sponsorship and advertising rights during events or functions will attract GST. Similarly, any income from the participants of yoga or other fitness camps will be chargeable under GST as it is different from advancement of religion, spirituality or yoga.*

2. **Religious** precincts: Income by way of conducting a religious ceremony, renting of a religious place meant for general public (a parish church premise), where the rent of the room is less than Rs. 1,000/- per day, the rent of premises, community hall, kalyanamandapam or open area is less than Rs. 10,000/- per day and the rent of shops or other spaces for business or commerce is less than Rs. 10,000/- per month is exempt from GST. Seminaries and religious societies may take shelter under this provision, if there is no other taxable supply. Thus, income from a religious ceremony like Christmas or Navratri functions and religious events/poojas conducted on special occasions like religious festivals is exempt from GST. *However, in some cases, when the income loses its religious nature, it is chargeable under GST. E.g. Renting out space during Ganeshutsav or other religious functions to agencies for advertisement hoardings to promote their business or donations received for a religious ceremony with instruction to advertise the name of the donor, such income is chargeable under GST.*
3. Services by way of **educational activities** specifically for the abandoned, orphans, homeless children, physically or mentally abused persons, prisoners or person over age of 65 years or above residing in a rural area are exempt from GST. To understand the applicabil-

ity of GST on other type of educational activities, we have to first understand what the output service and input service mean. Output services are those rendered by a service provider to others. Here, education is the output service rendered. Input services are those that are used for providing an output service. Here, bus service, catering service, security service, etc. are the input services used for providing education. According to the GST rules, all output services by a school and pre-school to its own students, faculty and staff are fully exempt from GST. So also input services by way of catering, canteen, security, house-keeping, maintenance, cleaning and services relating to admission or conduct of exams hired by a school and pre-school for providing education are also exempt from GST. Output services by approved colleges and approved vocational service centres to its own staff and students are exempt under GST, **but input services by way of catering, canteen, security, house-keeping, cleaning, services relating to admission or conduct of exams provided for them by the third parties are all taxable under GST.** *Services of all other types of educational institutions (e.g. Unaided courses in approved colleges, all unapproved private educational institutions, seminary colleges, IIT coaching centres, etc.) fall under the ambit of GST. So also all services given, in the nature of a “commercial activity”, i.e., for a consideration/payment, like rentals, uniform supplied (both material and stitching), badges, bookstore, etc. even in schools and pre-school centres will attract GST.*

- 4. Health related activities:** Health care services by a clinical establishment, an authorized medical practitioner or para-medics and services provided by way of

transportation of a patient in an ambulance are GST exempt. But services such as hair transplant, cosmetic or plastic surgery done purely as a luxury are not GST exempt. Similarly, if charitable trusts running a hospital appoint specialist doctors, nurses and provide medical services to patients at a concessional rate, such services are not liable to GST. But on the other hand, if hospitals hire visiting doctors or specialists and deduct some money from the consultation fees payable to doctors, there may be GST on such amount deducted from fees paid to doctors. All services other than mentioned here provided to charitable trusts will attract GST. There is no exemption for supply of goods by a charitable trust. Thus any goods or services supplied by such charitable trusts for consideration (sale) shall be liable to GST.

5. Services by a **hotel, inn, guest house, club or camp-site, by whatever name called, for residential or lodging purposes**, having declared tariff of a unit of accommodation below Rs 1,000 per day or equivalent are free of GST. Hence, **hostels, old age homes, working women hostels, hotels, clubs, guest houses**, etc., if they charge below Rs 1,000 per day for lodging (accommodation) only, then they are free from GST. *Here boarding is a taxable supply and will attract GST.*
6. **Agricultural activities:** Cultivation of plants and rearing of all types of animals (except horse) for the purpose of food, fibre, fuel or raw material are kept out of GST. Hence, all agricultural related activities, supply of labour for agriculture, processes involved in an agricultural farm, renting or leasing of agro machinery or vacant land with or without structure, harvesting, drying, packing, loading, unloading and transport to warehouse, agents purchasing from farmers and even

agricultural activity by a job worker are all exempt from GST. Hence, any farm produce, poultry, bee keeping, etc. and the service providers for this industry like seeds, manure, chicks, feed, medicine, etc. are GST exempt.

Here, it can also be added that since any **donation received** without any consideration is a supply of neither goods nor service, it is exempt from GST. **Mass wine**, because of the alcohol content, will not attract GST, but will incur the usual sales tax. **Normal unpacked food items** like rice, dal, pulses, grains, vegetables, fruits, etc. will not attract any GST. Any **rental income out of a residential property** is also GST exempt.

The following services/activities of the Charitable or Religious Trusts will attract GST and hence need GST registration:

1. Any person who is registered under earlier laws of excise, service tax, VAT, etc.
2. If there is even a **single item taxable** under GST, and the aggregate value crosses Rs 20 lakhs (Rs 10 lakhs for NE states).
3. Any **inter-state sale or service**, irrespective of the aggregate value of Rs 20 or 10 lakhs.
4. Any occasion of **reverse charge mechanism (RCM)**, esp. while getting the services of an advocate or an author writing for a publishing agency.
5. Any **job work related to printing and textile processing**
6. **Input services of all approved educational institutions of higher studies** as well as **input and output services of all unrecognized educational institutions**

of higher studies will attract GST. Hence, services by way of catering, canteen, security contracts for an organization other than the pre-school and school up to higher secondary will attract GST.

7. Similarly, activities such as working women's hostel, hostel of higher studies for private students, seminars (if taken as an educational activity), old age homes, etc., will attract GST, if the inmates are charged for their boarding (food). Here, if the charge is only for accommodation and it is below Rs 1,000 per day will, it will be out of GST.
8. Any **e-commerce** or online buying and selling will attract GST.
9. GST of 5% is applicable on rosaries and 12% on statues, *but clay statue will not attract GST.*
10. Any activity of a “**business nature**” that involves a **sale component or consideration** (e.g. Sale of school uniform, badges, stationery or other handicraft material, sale of scrap, etc) will attract GST.
11. Ordinary but **packed food items and sugar** will carry a GST of 5%.
12. Similarly, any **incentive received**, income on **advertisement in souvenirs, hoarding rent, events income, entry tickets of more than Rs 250 for events**, etc. will attract GST.

Note: There are two options available for those falling under GST:

(1) A composite scheme facility is available for small businesses with an annual turnover of less than Rs 1.5 crores (Rs Rs 1 crore for NE states) per annum, who have to pay

GST at the rate of 1% for manufacturers and traders and 5% for restaurants, canteens and food suppliers. See if you fall under any of these categories. However, those dealing only with non-GST supplies or involved in inter-state business or doing e-commerce or providing services other than restaurants and canteens cannot avail this scheme. However, construction work, which is considered a supply of service, cannot avail the composite scheme. Those registered under the composite scheme of GST have to file 5 returns (4 quarterly returns and one annual). Under this scheme, you can only issue a bill of supply and not a tax invoice. There is no input tax credit too. Neither can you collect the GST tax from the beneficiaries. You have to pay GST out of your own income on the total annual turnover, including the tax exempt items.

(2) The normal GST, where your GST liability is on the taxable items only. Those registered under normal GST, and whose annual turnover is below Rs 1.5 crores also have to file 5 returns (4 quarterly returns and one annual), but whose annual turnover crosses Rs 1.5 crores have to file 37 returns in a year (3 returns every month and one final consolidated return at the end of the year). In this option, you could collect the GST amount from the beneficiaries and deposit the same in the Govt treasury, because you would issue a tax invoice. You also have the advantage of input tax credit on the input tax you have paid. **The competency and knowledge required to do this would mean hiring a qualified person to handle these demanding requirements. Hence, if you are falling under GST due to a negligible amount of income (e.g. Income from hoarding rent, uniform, sale of handicraft items, etc.), it may be worth considering dropping such activities so that you are out of GST and all its cumbersome demands.**