



# GST ON TRUSTS – 360°

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# Key Discussions-

- Scope & Important Definitions
- GST Registration for Trusts
- Exemptions available to Trusts
- Input Tax Credits – Considerations for Trusts
- Compliances for Trust

# Scope & Important Definitions

- **Section 2(84) “person”** includes—

- (a) an individual;

- (b) a Hindu Undivided Family;

- .....

- .....

- (l) society as defined under the Societies Registration Act, 1860;

- (m) trust;** and

- (n) every artificial juridical person, not falling within any of the above;

- **Section 2(105) “supplier”** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

# Scope & Important Definitions

- Section 7-

(1) For the purposes of this Act, the expression “supply” includes—

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

- Section 2(52) “**goods**” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;
- Section 2(102) “**services**” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

# Scope & Important Definitions

- Section 2(17) “business” includes—

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, **whether or not it is for a pecuniary benefit;**

- Not for profit - Business
- Consideration – necessary
- Goods or Services
- Trusts can “Supply”
- Taxability based on Goods or Service?

# GST Registration for Trusts

- **Section 22 - Persons liable for registration.**

(1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, **if his aggregate turnover in a financial year exceeds twenty lakh rupees:**

- **Section 2(6) “aggregate turnover”** means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;

# GST Registration for Trusts

- Liable for registration if aggregate turnover exceeds 20 Lakhs.
- Exemption from registration:

## Section 23. Persons not liable for registration.

(1) The following persons shall not be liable to registration, namely:—

(a) any person engaged **exclusively** in the business of supplying goods or services or both that are **not liable to tax or wholly exempt from tax** under this Act or under the Integrated Goods and Services Tax Act;

- $(\text{Taxable T/o} + \text{Exempted T/o}) > 20 \text{ Lakhs} = \text{Liable for registration}$
- Completely exempted supply – Not liable for registration by virtue of Section 23

# Exemptions available to Trusts

## ■ Notification No. No.12/2017-Central Tax (Rate) Dated: June 28, 2017

### ■ S. No. 1- Services by an entity registered under section 12AA [or 12AB] of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.

#### ■ (r) "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;

##### (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;



# Exemptions available to Trusts

- “Charitable purposes” as per Income Tax Act, 1961
  - *relief of the poor,*
  - *education,*
  - *yoga,*
  - *medical relief,*
  - *preservation of environment (including watersheds, forests and wildlife) and*
  - *preservation of monuments or places or objects of artistic or historic interest, and*
  - *the advancement of any other object of general public utility*

# Exemptions available to Trusts

## ■ S. No. 9D

- *Services by an old age home run by Central Government, State Government or by an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 (43 of 1961) to its residents (aged 60 years or more) against consideration upto twenty-five thousand rupees per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.*

# Exemptions available to Trusts

- S. No. 27 –
  - *Services by way of—*
    - (a) extending deposits, loans or advances insofar as the consideration is represented by way of interest or discount (other than interest involved in credit card services);
  
- S. No. 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 [or 12AB] of the Income-tax Act, 1961** (hereinafter referred to as the Income-tax Act) or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act:
      - **Provided that nothing contained in entry (b) of this exemption shall apply to,—**
      - (i) renting of rooms where **charges are one thousand rupees or more per day;**
      - (ii) renting of premises, community halls, kalyanmandapam or open area, and the like where **charges are ten thousand rupees or more per day;**
      - (iii) renting of shops or other spaces for business or commerce where **charges are ten thousand rupees or more per month.**

# Exemptions available to Trusts

- Discussions –
  - Difference in treatment of Temple Precincts vs. Dharmshalas?
  - Dharmshalas charging room rentals more INR 1000 ?
  - Dharmshalas serving food?
  - Religious community halls renting out for more than INR 10000?
  - Prasad supplied religious bodies?
    - Entry No 98 of NN 02/2017 CTR - Prasadam supplied by religious places like temples, mosques, churches, gurudwaras, dargahs, etc.

# Exemptions available to Trusts

## ■ S. No. 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;*
- *(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; upto higher secondary
  - (v) supply of online educational journals or periodicals:
  - 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 byway of pre-school education and education up to higher secondary school or equivalent.
  - 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 upto higher secondary school or equivalent; or
  - (ii) education as a part of an approved vocational education course.

# Exemptions available to Trusts

## ■ Discussions

- *Sale of Uniforms by Schools*
- *Sale of Books by Schools – Entry No. 119 & 121 of NN 02/2017 CTR*
  - S.N. 119 - Printed books, including Braille books
  - S. N. 121 – Children’s picture, drawing or colouring books
- *Renting of Auditorium / Ground to outsider*
- *Supplying services like, summer camps, etc.*
- *Canteen supplying food to outsiders*
- *Coaching provided by Trust?*

# Exemptions available to Trusts

## ■ S. No. 74

Services by way of—

- (a) health care services by a clinical establishment, an authorised medical practitioner or para-medics;
- Provided that nothing in this entry shall apply to the services provided by a clinical establishment by way of providing room[other than Intensive Care Unit(ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU) having room charges exceeding Rs. 5000 per day to a person receiving health care services.
- (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.

# Exemptions available to Trusts

- (zg) "**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;
- (s) "**clinical establishment**" means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases;



# Exemptions available to Trusts

## ■ S. No. 74A

- Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992(34 of 1992) by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 (43 of 1961).

## ■ S. No. 80

- Services by way of training or coaching in—
  - *(a) recreational activities relating to arts or culture, by an individual, or*
  - *(b) sports by charitable entities registered under Section 12AA or 12AB of the Income Tax Act.*

# Input Tax Credits – Considerations for Trusts

- Completely taxable supplies – ITC available like normal supplier?
- Partly exempted & Partly taxable supplies – Rule 42 & Rule 43 applicable ?
- Completely exempted supplies – ITC available ?
- Blocked Credits
- Utilization
- Carry forward in Credit ledger
- ITC on Capital goods of Trusts

# Compliances for Trust – GST perspective

- Seek Registration if covered?
- Issue Bill of Supply for Exempt supplies?
- Issue Tax invoices for Taxable Supplies?
- File returns like normal taxpayers?
- ITC reversals to be done in every period – Follow Rule 42 & 43?
- Declare complete Exempted turnover in returns?

# Thank You!!

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