

NO.F.1-11(8)-TAX/GST/2019/422-521
GOVERNMENT OF TRIPURA
OFFICE OF THE CHIEF COMMISSIONER OF STATE TAX
PANDIT NEHRU COMPLEX, GURKHABASTI
AGARTALA, TRIPURA WEST, PIN-799006.

Dated, Agartala, the 3rd January, 2019.

Circular No. 04/2019 – GST (State)

To
The Additional Commissioner of State Tax /
Deputy Commissioner of State Tax/
Superintendent of State Tax (All) /
Inspector of State Tax (All)

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

The Department of Revenue, Tax Research Unit vide Circular No. 85/04/2019–GST dated 1st January, 2019 has issued clarifications on GST rate applicable on supply of food and beverage services by educational institution, in order to ensure uniformity in the implementation of the provisions of law across the field formations, which is annexed herewith.

In exercise of powers conferred by section 168 of the Tripura State Goods and Services Tax Act, 2017 (Tripura Act No. 9 of 2017) for the purpose of uniformity in the implementation of the Act it is instructed to follow the clarification issued vide Circular No. 85/04/2019–GST dated 1st January, 2019 by the Department of Revenue, Tax Research Unit.

Enlco: Circular No. 85/04/2019–GST.

(Nagesh Kumar B, IAS)
Chief Commissioner of State Tax
Government of Tripura

Copy to:

1. The P.S. to the Chief Secretary, Finance, Government of Tripura for favour of kind information.
2. The Assistant Statistical Officer, Statistical Section, O/o the Commissioner of Taxes & Excise, Agartala with request to upload the Circular in the Official website www.tripurataxes.nic.in.
3. Guard File.

(Nagesh Kumar B, IAS)
Chief Commissioner of State Tax
Government of Tripura

F. No. 354/428/2018-TRU

Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

Room No. 156, North Block,
New Delhi, the 1st January, 2019

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal
Commissioners/ Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

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. 11/2017-Central Tax (Rate) dated 28.06.2017 give rise to doubt whether supply of food and drinks by an educational institution to its students is eligible for exemption under Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 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. 11/2017-Central Tax (Rate) dated 28.06.2017, 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. 12/2017-Central Tax (Rate), 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. 11/2017-Central Tax (Rate) prescribing GST rates on service have to be read together with entries in exemption Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. A supply which is specifically covered by any entry of Notification No. 12/2017-Central Tax (Rate) dated 28-06-2017 is exempt from GST notwithstanding the fact that GST rate has been prescribed for the same under Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017.

2.1 Supply of all services by an educational institution to its students, faculty and staff is exempt under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, 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. 12/2017-Central Tax (Rate) dated 28.06.2017 Chapter, Section, Heading, Group or Service Codes mentioned in column (2) of the table in Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 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. 12/2017-Central Tax (Rate) dated 28.06.2017, 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. 11/2017-Central Tax (Rate) dated 28.06.2017 has been amended vide Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018 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. 12/2017-Central Tax (Rate) dated 28.06.2017, vide Notification No. 28/2018-Central Tax (Rate) dated 31.12.2018.

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

Yours Faithfully,

(Harish Y N)
Technical Officer, TRU
Email: harish.yn@gov.in
Tel: 011 2309 5547