

GST

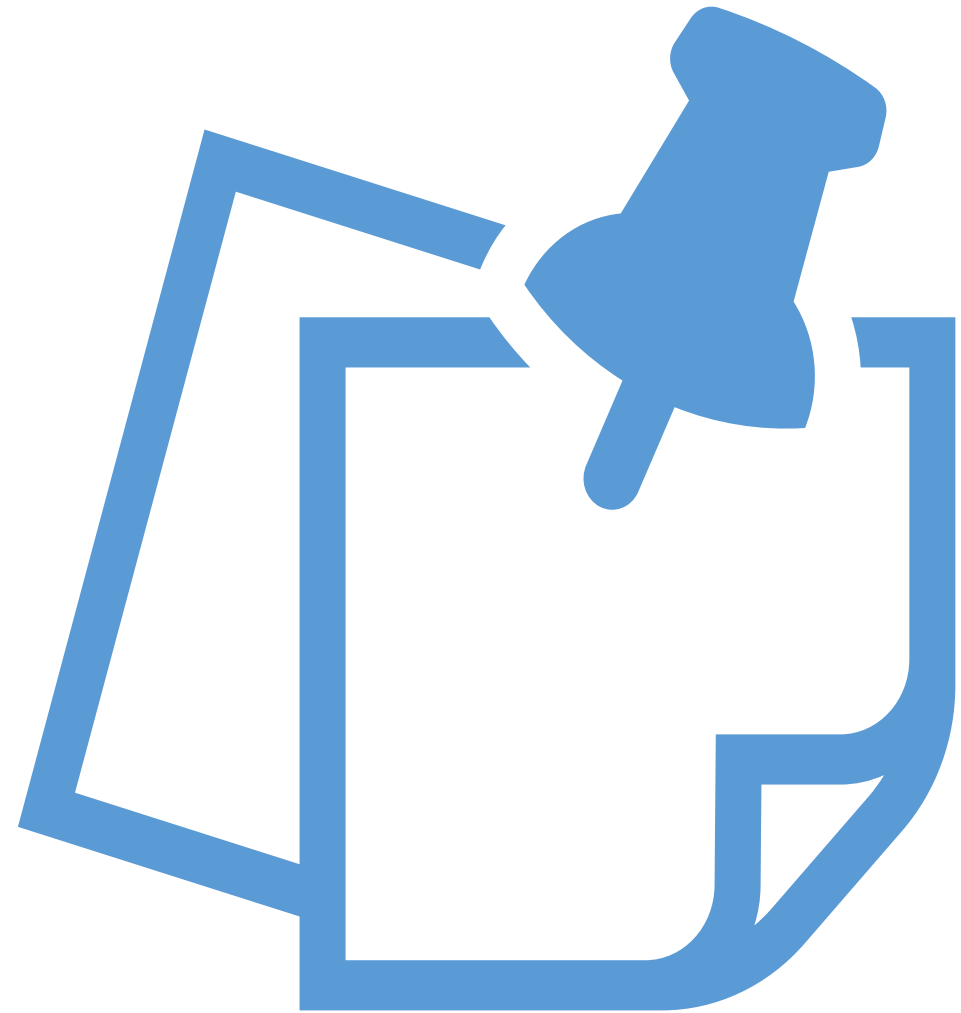
ON UNIVERSITIES!

CA Pritam Mahure and Associates

Click on the topic below!

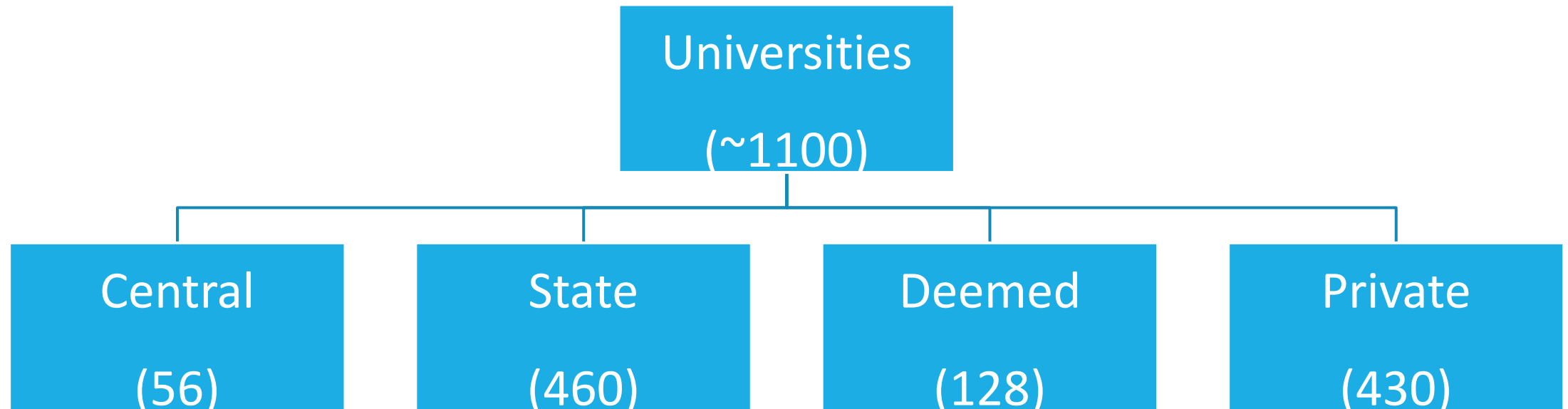
Universities in India	Act	Notification	Affiliation fees – Not liable
Affiliation fees – Liable	Rentals – Not liable	Rentals – Liable	Supplier Compliances
	RCM	Classification - SAC	

UNIVERSITIES IN INDIA!

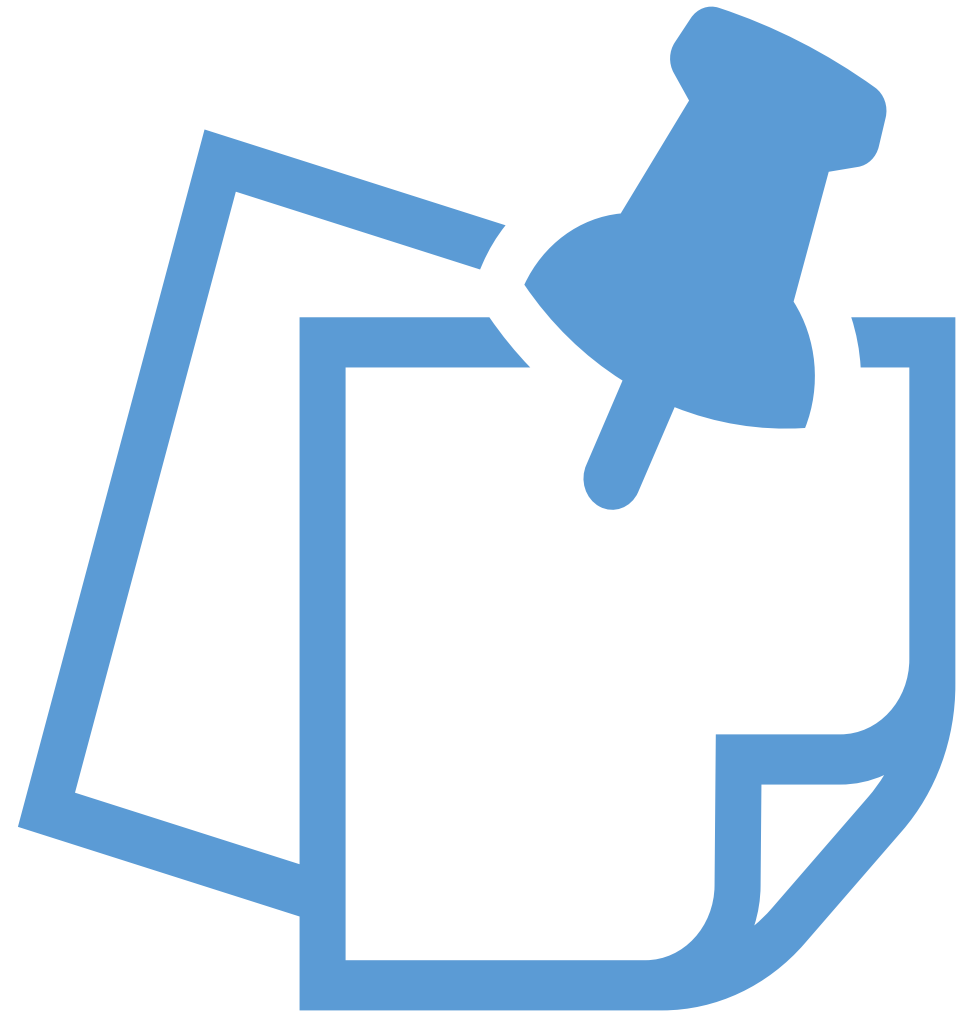


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Universities in India - UGC!



WHAT ACT SAYS!



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Article 366 (12A) 'Goods and services tax'

- *'Goods and Services tax' means any tax on **supply** of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption*

Section 7. Scope of Supply

(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, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of **business**,*

(b) ...

(1A) Where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section

(1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

Exemption Notification – To be interpreted strictly!

Dilip Kumar & Co.

[2018 (361) ELT
577 (SC)]

Para 66

*Constitution Bench

- “66. To sum up, we answer the reference holding as under :
66.1 **Exemption notification should be interpreted strictly**; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification.
66.2 When there is **ambiguity** in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted **in favour of the Revenue...**

WHAT NOTIFICATION SAYS!



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KEY!

Income
(Supply)



Taxable



Unless
exempted

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SR. NO. 66 OF NOT. NO. 12/2017

Sr.	SAC	Description	Rate	Condition
30	9992/ 9963	<p><i>Services provided –</i></p> <p>(a) by an educational institution to its students, faculty and staff;</p> <p>(aa) by an educational institution by way of conduct entrance examination against consideration in the form of entrance fee;</p> <p>(b) to an educational institution, by way of,-</p> <p>(i) transportation of students, faculty and staff;</p> <p>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</p> <p>(iii) security or cleaning or housekeeping services performed in such educational institution;</p> <p>(iv) services relating to admission to, or conduct of examination by, such institution;</p> <p>(v) supply of online educational journals or periodicals</p>	18%	-

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EDUCATIONAL INSTITUTE!

2. Definitions

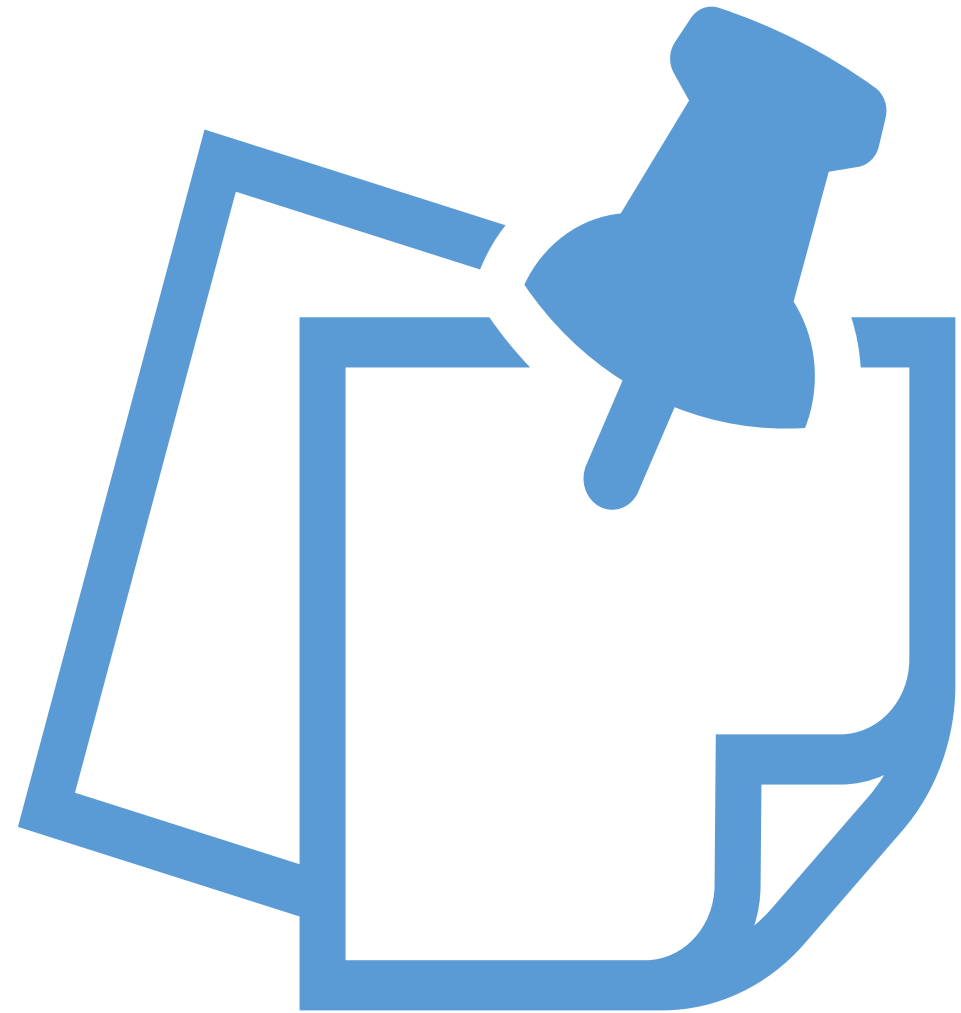
(y) ***“educational institution”*** means an institution providing services by way of,-

(i) *pre-school education and education up to higher secondary school or equivalent;*

(ii) education ***as a part of*** a curriculum for obtaining a qualification recognised by any law for the time being in force;

(iii) *education as a part of an approved vocational education course*

AFFILIATION
FEES – NOT
LIABLE!



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AFFILIATION FEES – PART OF EDUCATION AND THUS, NOT LIABLE!

**Madurai Kamaraj
University**

[2021 (54) GSTL
385 (Mad.)]

Para 22/23

* Service Tax

- *...for ...providing the services of **education**, both the **university** as well as the **college** concerned, who get affiliated to the university, **cannot be separated**...The **examination is the examination of the university**, for which, facilitation is given by the college, wherein the examinations are conducted and ultimately, valuation is to be done by the university and marks are awarded and degree is conferred by the university. ...The word **“educational institution”**, cannot denote only the college affiliated to the university, but, it **includes the university**. As stated above, **without the university, college cannot impart education** on its own.... Accordingly, the stand taken by the revenue for levying service tax for the services being provided by the petitioner university cannot be approved....*

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AFFILIATION FEES – PART OF EDUCATION AND THUS, NOT LIABLE!

Rajiv Gandhi Uni.
of Health Sciences,
Karnataka

[2022 (64) GSTL
465 (Kar.)]

Para 8

* Service Tax

• **Universities are established** by the State **for** furthering the advancement of learning and **pursuing of higher education** and research. For this purpose, apart from they themselves **imparting education through** their constituent **colleges**, it also admits educational Institutions not maintained by the University as affiliated colleges ...In the process, for providing services for imparting education, it **charges affiliation fee to the said colleges** and the University has to be considered as an Educational Institution imparting education by itself and also through its affiliated colleges and the services being provided by the University by collecting affiliation fee has to be considered as the **service by way of education as a part of curriculum for obtaining a qualification** recognized by any law for the time being in force

AFFILIATION FEES – PART OF EDUCATION AND THUS, NOT LIABLE!

**Tamil Nadu Dr.
MGR Medical
University**

[2022 (64) G.S.T.L.
475 (Mad.)]

Para 16

- *The services rendered by the petitioner Universities by way of **affiliation and allied activities** including the **conduct of examinations, awarding of degrees, diplomas, etc.**, ... are also **exempted**.*

* Service Tax

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AFFILIATION AND INSPECTION FEES – STATUTORY LEVIES AND THUS NOT LIABLE!

**Manonmaniam
Sundaranar Uni.**

[2022 (58) GSTL 27
(Mad.)]

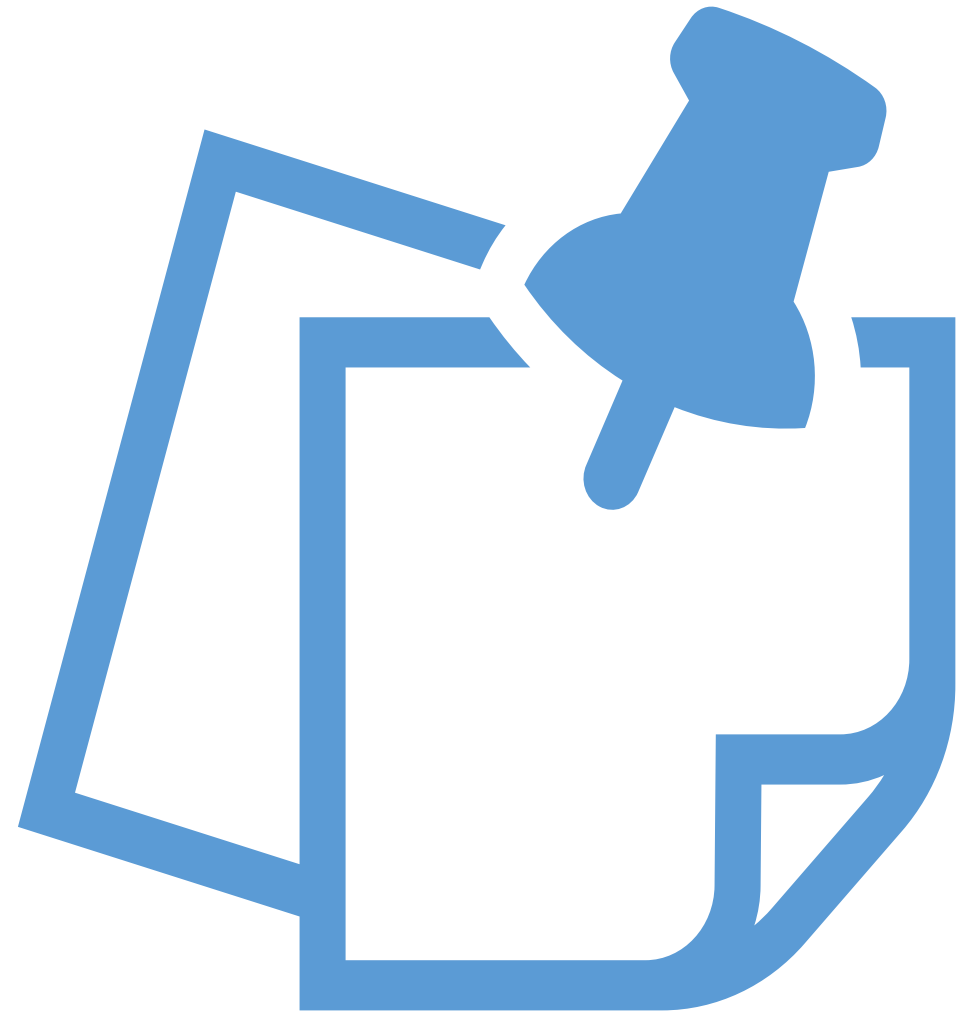
Para 6/7/8

* Service Tax

- *The activities performed by the petitioner University is in the nature of **statutory obligation**.... the fee collected by the petitioner will be in the nature of compulsory levy as per the provisions of the relevant statute. The petitioner University was **established by legislation**. Section 24(16) of the said statute enables the Syndicate of the University to prescribe the fees ...There can be no doubt that a college as per the **UGC regulations** will have to be **affiliated to some University**. Therefore, the **affiliation fees** as well as the **inspection commission** collected by the University are in the nature of statutory levies...the fees collected by the petitioner **cannot be amenable to** levy of **Service Tax**.*

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AFFILIATION FEES – LIABLE!



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AFFILIATION / INSPECTION FEES – STATUTORY LEVIES, THUS, NOT LIABLE!

**Sree Ramu College
of Arts and
Science**

[2024 (83) GSTL
411 (Mad.)]

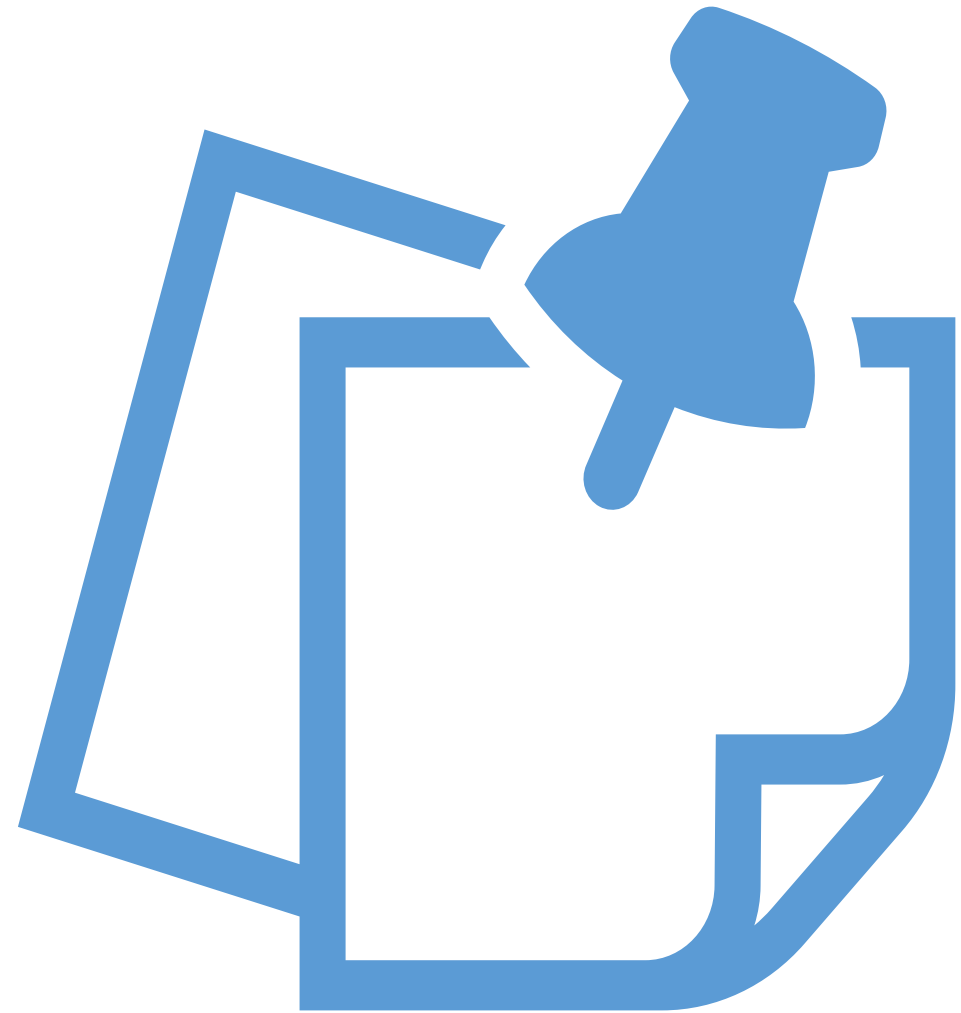
Para 85/86/89

* GST

- **Only** such ancillary services provided in relation to **admission or to conduct of examination** by the petitioner alone would have been **exempted** from payment of tax ...It is therefore held that Entry (b) (iv) to Entry 66 to Notification No.12/2017 – CT (Rate) dated 28.06.2017 as amended by Notification No.2/2018-CT dated 25.01.2018 is confined only to services relating to admission to, or conduct of examination by educational institution and **not to services relating to affiliation** of constituent colleges.

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RENTAL – NOT
LIABLE!



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RENTAL – INCIDENTAL TO MAIN ACTIVITY!

Rajiv Gandhi Uni.
of Health Sciences,
Karnataka

[2022 (64) GSTL
465 (Kar.)]

Para 14

* Service Tax

- *It is not in dispute that petitioner has **let out** some of its buildings for **canteen, Bank** and other facilities which are essential for effective running of an University in furtherance to imparting education and the said activity has to be considered as an **activity incidental to provide services of education** and it is a service **naturally bundled** in the ordinary course of business as contemplated in the aforementioned Clause (3) of Section 66F of the Act and the rent received also **deserves to be exempted** once the activity of providing education by the petitioner-Institution is exempted from service tax.*

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RENTAL – IS ALLIED SERVICES AND THUS, NOT LIABLE!

**Madurai Kamaraj
University**

[2021 (54) GSTL
385 (Mad.)]

Para 24

* Service Tax

- ...services such as **renting** of immovable property for the purpose of bank, post office, canteen etc...these are all **allied services** of education which are also included in the purview of educational services, in view of clause (9), which has given an expanded meaning of educational services which includes the services to be provided not only to the students, but also faculty and staff...Therefore, ... **demand** made for levying service tax on ...renting of immovable property ..., **cannot be sustained**

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RENTAL – IS ALLIED SERVICES AND THUS, NOT LIABLE!

**Tamil Nadu Dr.
MGR Medical
University**

[2022 (64) G.S.T.L.
475 (Mad.)]

Para 16

- *The services rendered by the petitioner Universities ... the income they derived from rent paid by the third parties like Postal Department, Banks, etc., and also to run Canteen for the purpose of Students and Staff, were considered to be **allied services** attached with the educational activities undertaken by the Universities and therefore they are also **exempted**.*

* Service Tax

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RENTAL – LIABLE!



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RENTAL– COMMERCIAL ACTIVITY AND THUS, LIABLE!

**Manonmaniam
Sundaranar Uni.**

[2022 (58) GSTL 27
(Mad.)]

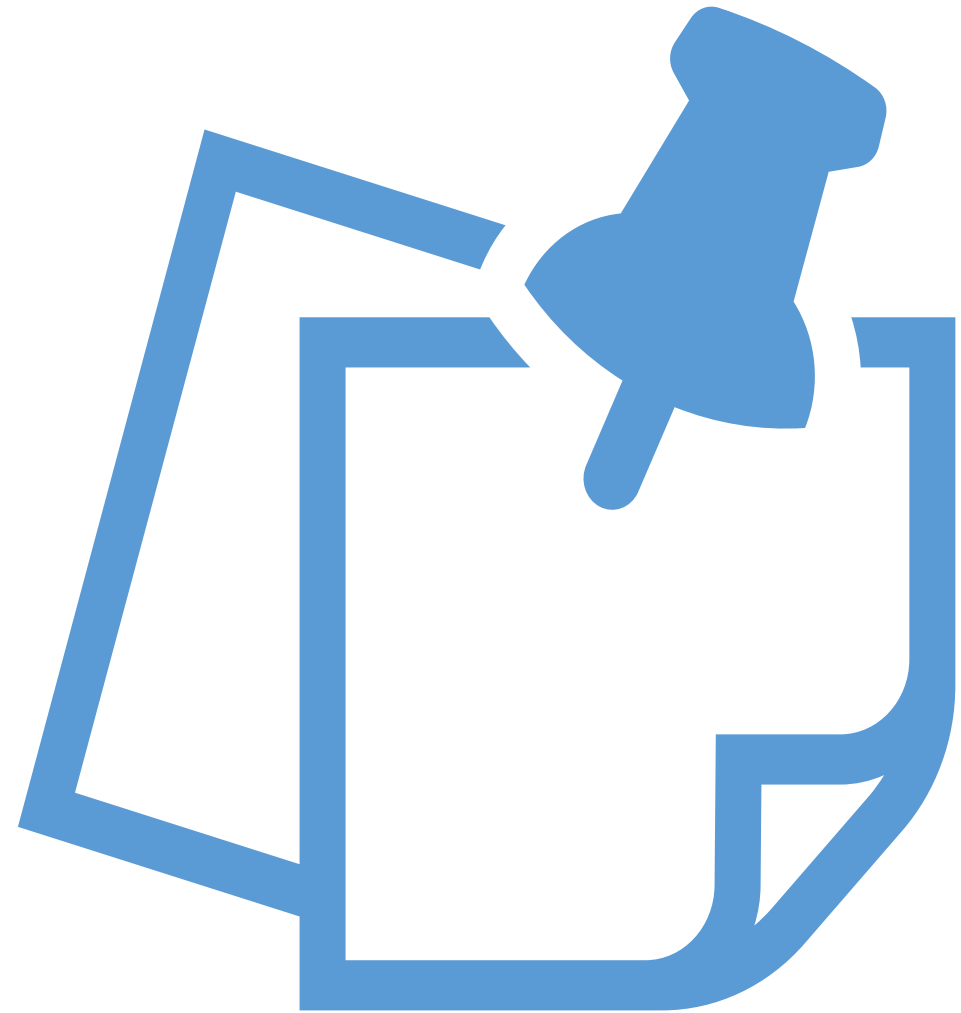
Para 9/10

* Service Tax

- However, the demand of the respondents with regard to **renting** of immovable property will stand on a different footing. The Learned Counsel appearing for the petitioner draws my attention to Section 4(18) of the Act to sustain the contention that the petitioner was only discharging statutory function.
- I am unable to accept the said proposition. It is true that authorisation is given to the University to maintain the property. But then, there is **clear commercial element** in these transactions. The University is renting the property to other institutions and collecting rent from them. Therefore, the second respondent was **justified in raising demand** for the said service. However, there is **no justification in levying penalty**. The assessee is not a private entity.

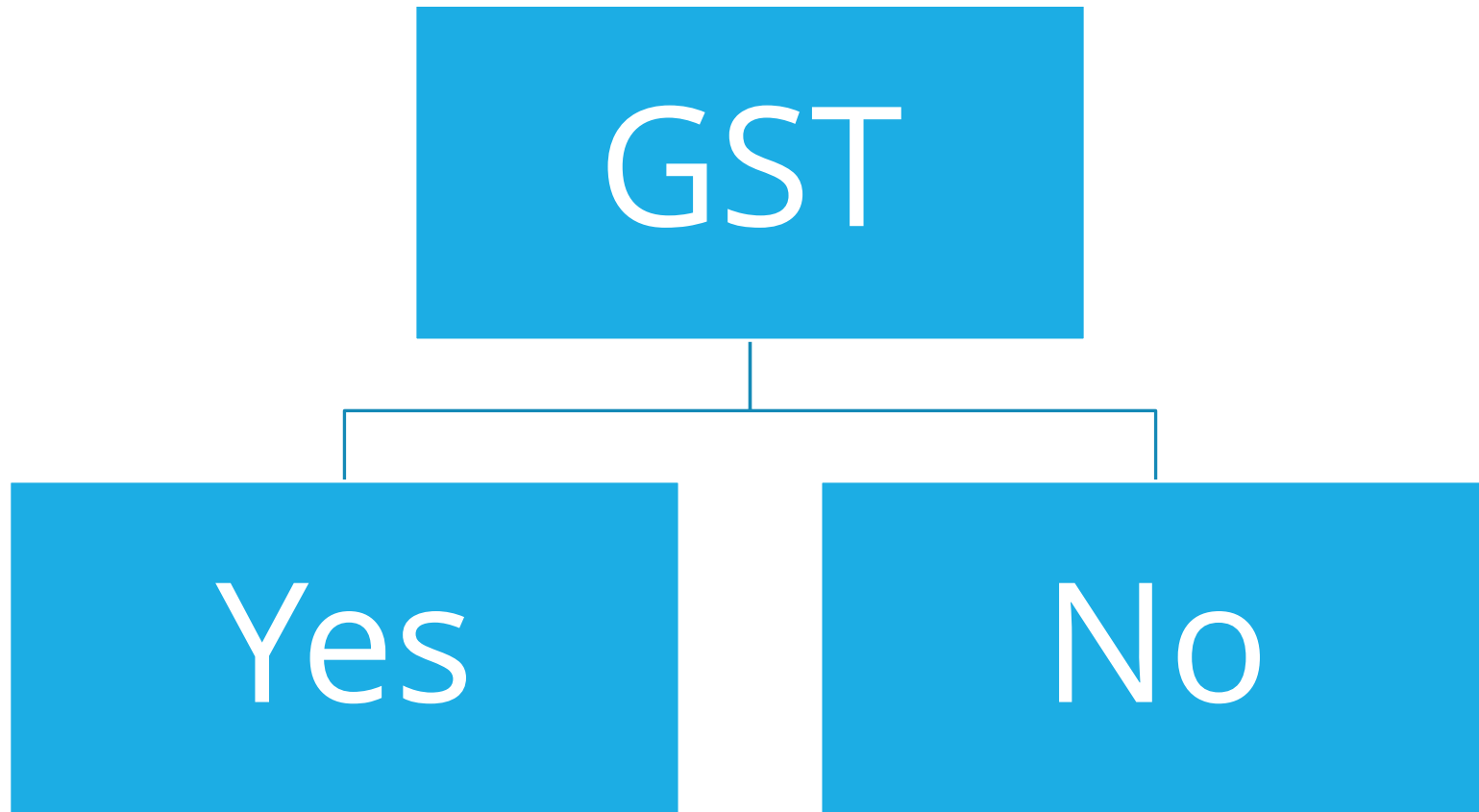
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SUPPLIER COMPLIANCES!



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BIRDS EYE VIEW!



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SR. NO. 66 OF NOT. NO. 12/2017

Services provided – ...

*(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 housekeeping** services performed in such educational institution;*

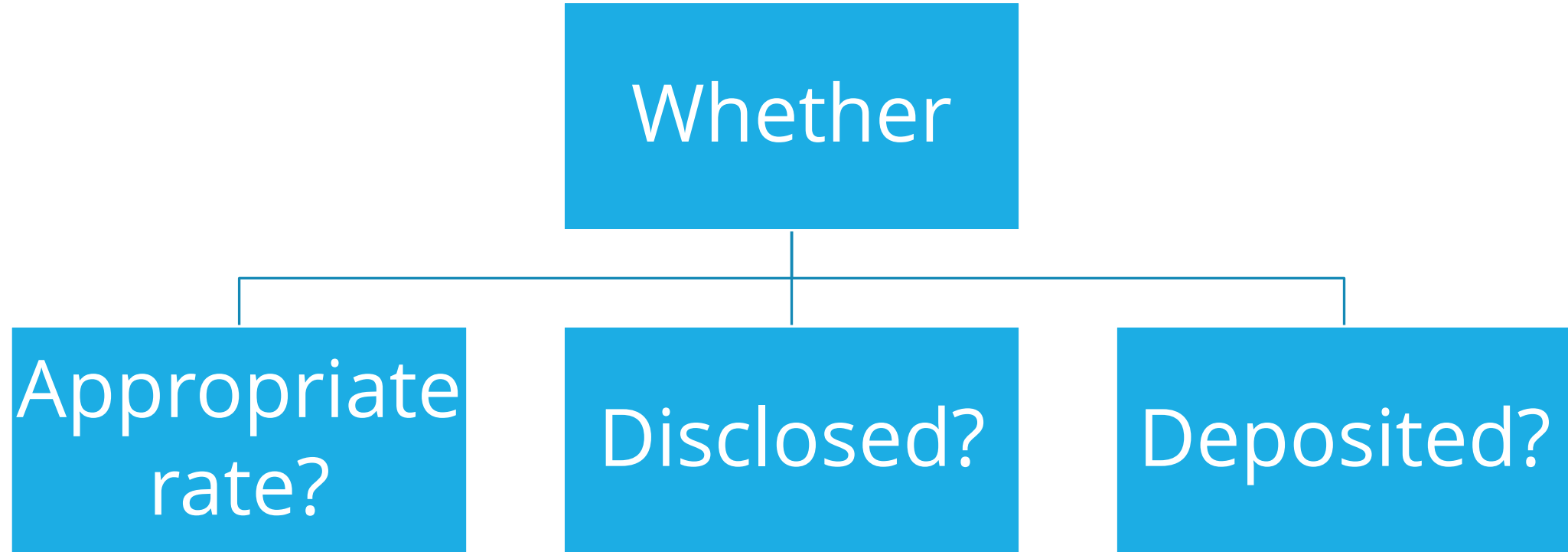
*(iv) services relating to **admission to, or conduct of examination** by, such institution;*

*(v) supply of **online educational journals** or periodicals*

***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 :*

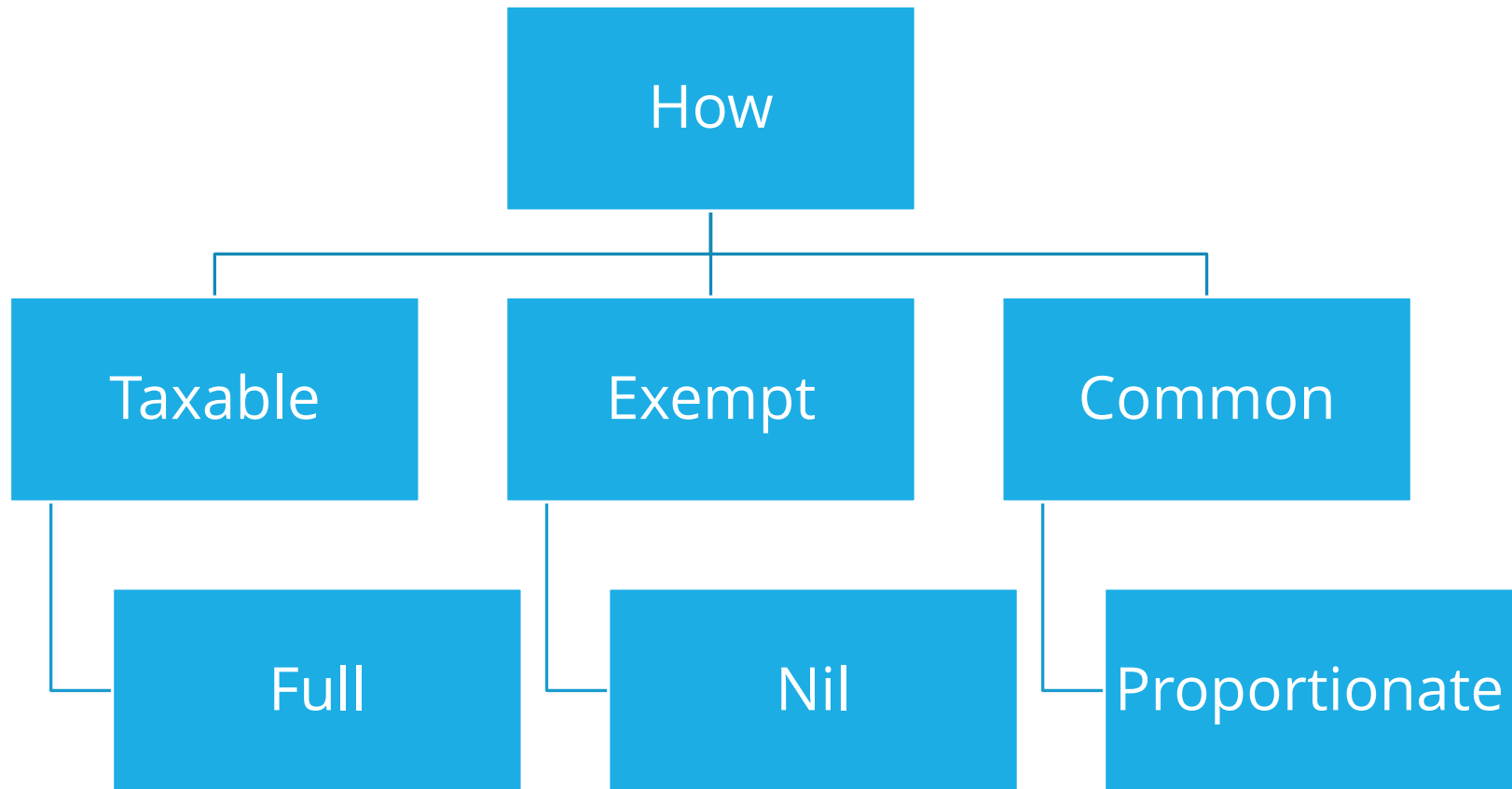
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GST CHARGED!



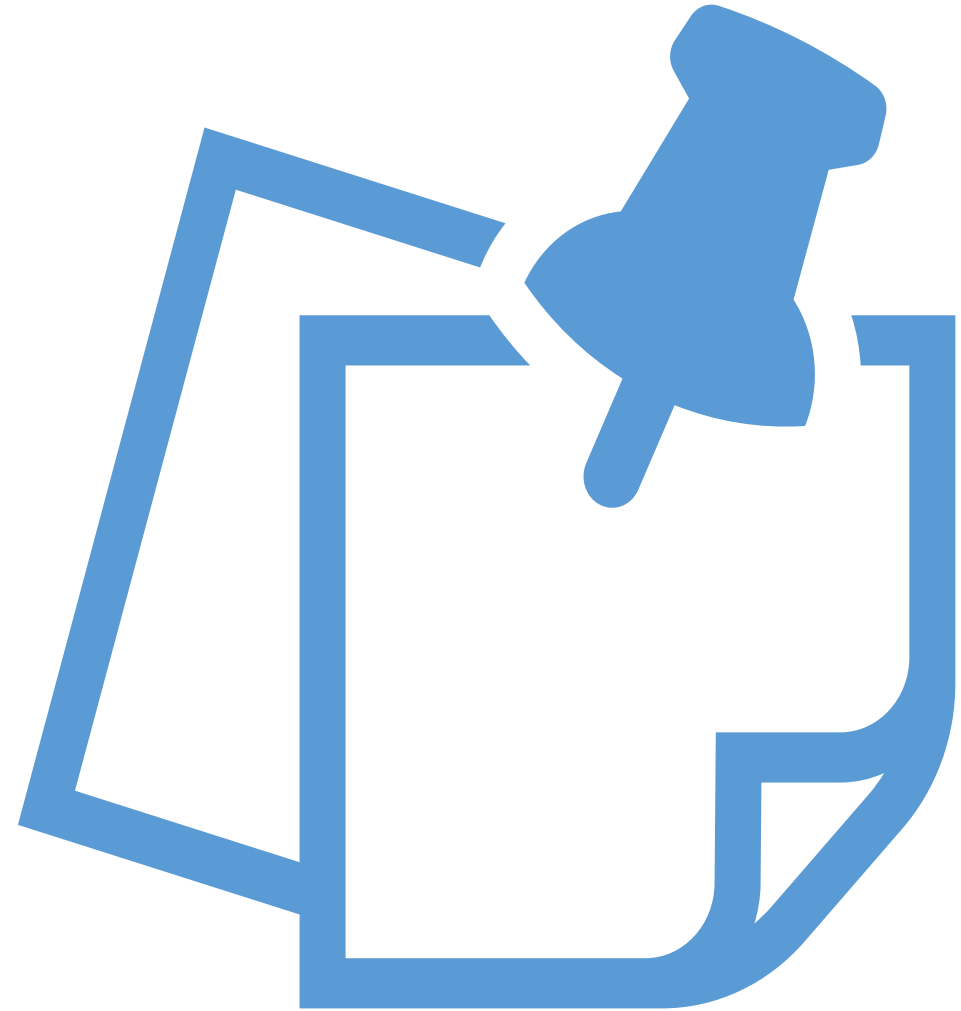
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ITC!



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RCM!



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RCM ON INWARD SUPPLIES

Sr. No.	Nature of Services	Supplier of Services	Recipient of Services
1.	Transportation of goods by GTA	Goods Transport Agency	<ul style="list-style-type: none">a. Any co-operative societyb. Any person registered under CGSTc. Any body corporated. Any partnership firm (other than persons having registration only for deducting tax u/s 51)
2.	Advocate/ Lawyer services	Individual advocate or Firm	Any business entity located in the taxable territory

RCM ON INWARD SUPPLIES

Sr. No.	Nature of Services	Supplier of Services	Recipient of Services
3.	Sponsorship services	Any Person	Any body corporate or partnership firm located in the taxable territory
4.	Security services	Any person other than a body Corporate	A Registered person located in the taxable territory (other than persons having registration only for deducting tax u/s 51)

RCM ON INWARD SUPPLIES

Sr. No.	Nature of Services	Supplier of Services	Recipient of Services
5.	Services supplied by the CG, SG, UT or Local Authority, other than postal services, services at precincts of a port, transport of goods or passengers	CG, SG, UT or Local Authority	Any business entity located in the taxable territory (any registered person in case of renting of immovable property)
6.	Services by way of renting of any motor vehicle	Any person, other than a body corporate	Any body corporate located in the taxable territory

RCM ON INWARD SUPPLIES

Sr. No.	Nature of Services	Supplier of Services	Recipient of Services
7.	Services by way of Renting of Residential Dwelling	Any person	A registered person
8.	Import of service (payment made in forex)	Any service supplied by any person located in a non- taxable territory	Any person (Importer), located in the taxable territory

CLASSIFICATION N – SERVICE CODE!



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Sr. no. 30 of Not. No. 11/2017

Sr.	SAC	Description	Rate	Condition
30	9992	Education services	18%	-

Education Services – SAC!

SAC	Description
9992	Education services
999210	Pre-primary education services
999220	Primary education services
999231	Secondary education services, general
999232	Secondary education services, technical and vocational.
999241	Higher education services, general
999242	Higher education services, technical
999243	Higher education services, vocational
999249	Other higher education services
999259	Specialised education services
999291	Cultural education services
999292	Sports and recreation education services
999293	Commercial training and coaching services
999294	Other education and training services n.e.c.
999295	services involving conduct of examination for admission to educational institutions
999299	Other Educational support services

Accommodation, food and beverages – SAC!

SAC	Description
9963	Accommodation, food and beverage services
996311	Room or unit accommodation services provided by Hotels, INN, Guest House, Club etc
996312	Camp site services
996313	Recreational and vacation camp services
996321	Room or unit accommodation services for students in student residences
996322	Room or unit accommodation services provided by Hostels, Camps, Paying Guest etc
996329	Other room or unit accommodation services n.e.c.
996331	Services provided by Restaurants, Cafes and similar eating facilities including takeaway services, Room services and door delivery of food.
996332	Services provided by Hotels, INN, Guest House, Club etc including Room services, takeaway services and door delivery of food.
996333	Services provided in Canteen and other similar establishments
996334	Catering Services in Exhibition halls, Events, Marriage Halls and other outdoor/indoor functions.
996335	Catering services in trains, flights etc.
996336	Preparation and/or supply services of food, edible preparations, alcoholic & non-alcoholic beverages to airlines and other transportation operators
996337	Other contract food services
996339	Other food, edible preparations, alcoholic & non-alcoholic beverages serving services n.e.c.

Accommodation, food and beverages – SAC!

SAC	Description
9964	Passenger transport services
996411	Local land transport services of passengers by railways, metro, monorail, bus, tramway, autos, three wheelers, scooters and other motor vehicles
996412	Taxi services including radio taxi & other similar services;
996413	Non-scheduled local bus and coach charter services
996414	Other land transportation services of passengers.
996415	Local water transport services of passengers by ferries, cruises etc
996416	Sightseeing transportation services by rail, land, water & air
996419	Other local transportation services of passengers n.e.c.
996421	Long-distance transport services of passengers through Rail network by Railways, Metro etc
996422	Long-distance transport services of passengers through Road by Bus, Car, non-scheduled long distance bus and coach services, stage carriage etc
996423	Taxi services including radio taxi & other similar services
996424	Coastal and transoceanic (overseas) water transport services of passengers by Ferries, Cruise Ships etc
996425	Domestic/International Scheduled Air transport services of passengers
996426	Domestic/international non-scheduled air transport services of Passengers
996427	Space transport services of passengers
996429	Other long-distance transportation services of passengers n.e.c.

Thank you!

CA Pritam Mahure and Associates

Happy to Discuss

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E-books on GST

E-books on How to be Future Proof

Smile please 😊