



GOVERNMENT OF SIKKIM
FINANCE, REVENUE AND EXPENDITURE DEPARTMENT
COMMERCIAL TAXES DIVISION
GANGTOK

No. 85/04/2019- GST/Sikkim

Date: 1st January, 2019

CIRCULAR

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-State 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- State 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-State 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-State 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-State Tax (Rate) prescribing GST rates on service have to be read together with entries in exemption Notification No. 12/2017-State Tax (Rate) dated 28.06.2017. A supply which is specifically covered by any entry of Notification No. 12/2017-State 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-State 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-State 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-State 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-State 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-State 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-State Tax (Rate) dated 28.06.2017 has been amended vide Notification No. 27/2018-State 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-State Tax (Rate) dated 28.06.2017, vide Notification No. 28/2018-State Tax (Rate) dated 31.12.2018.

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