

Interpretation of Exemptions under GST!

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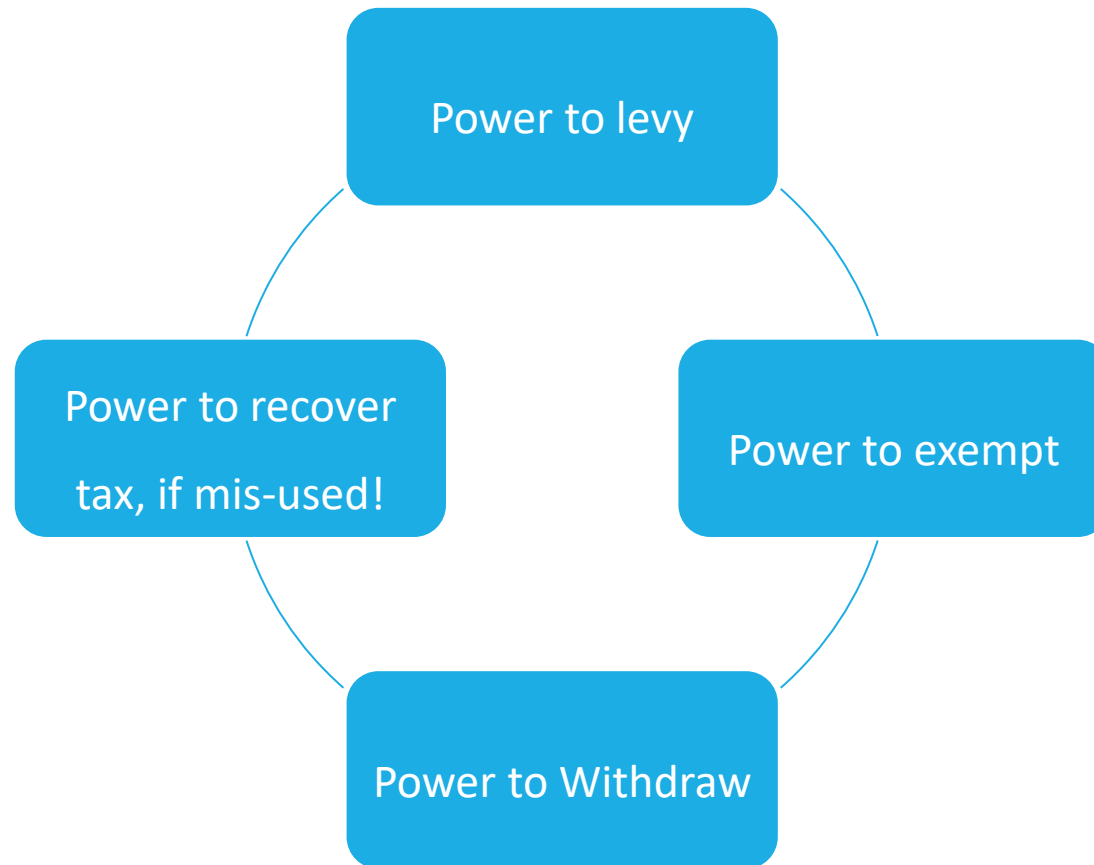
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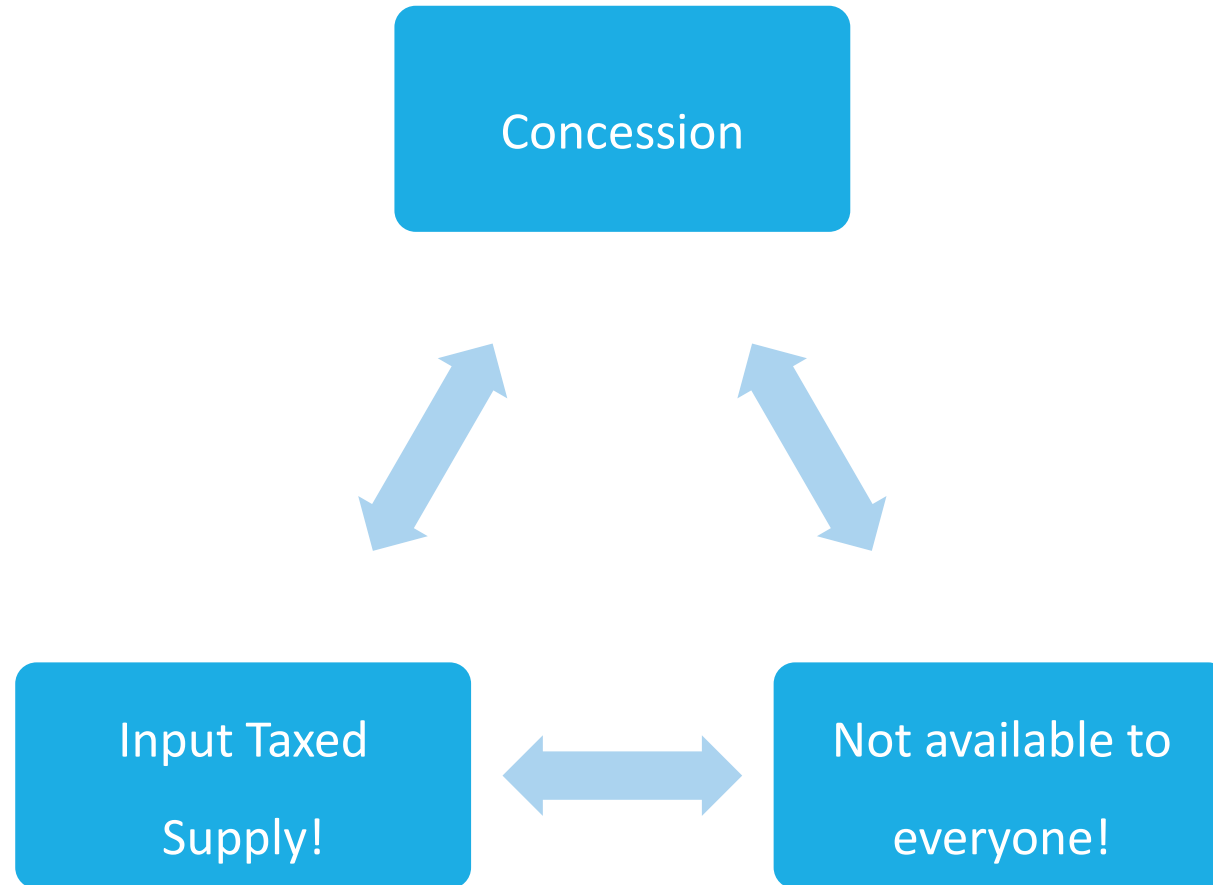
9. LEVY AND COLLECTION

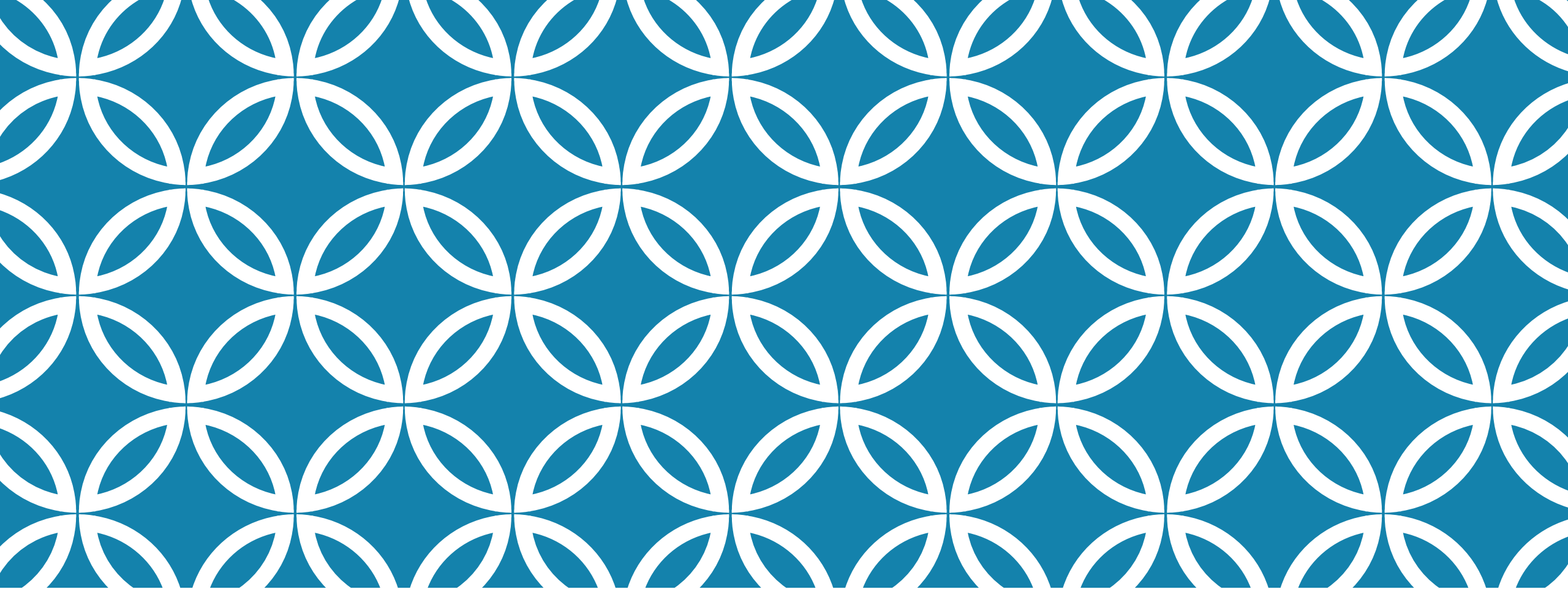
- (1) Subject to the provisions of sub-section (2), there shall be **levied** a tax called the central goods and services tax **on all intra-State supplies** of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

PRINCIPLE!



PRINCIPLE!





CONCEPTUAL DIFFERENCE!

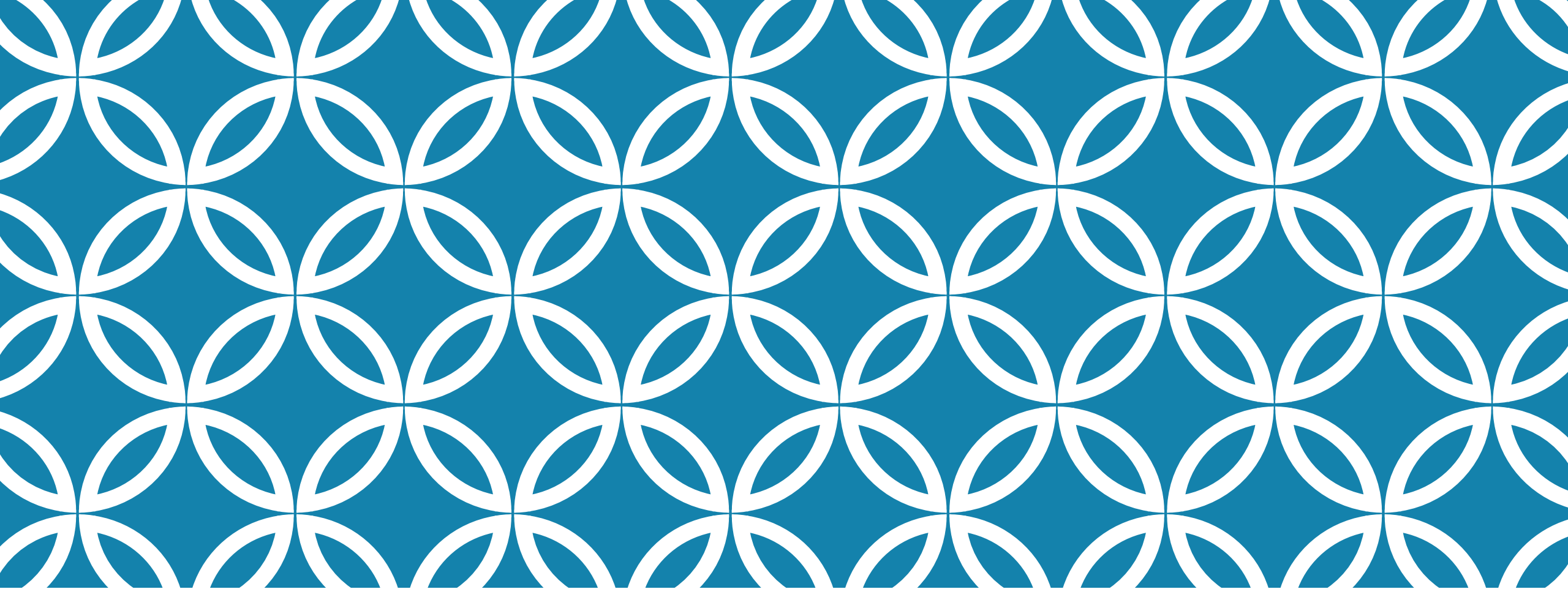


TAXABLE AND EXEMPT!



TAXABLE AND EXEMPT!

Particulars	Reference	Mr. Radhe – Taxable	Mr. Rahul– Exempt
Purchase basic price	A	100	100
GST	B	18	18
Total	C = A + B	118	118
Sale basic price	D	200	200
GST	E	36	Nil
Total	F = D + E	236	200
GST payable (net)	G = E – B	18	Nil
Payable / Refund	H = E – G	18 (Payable)	Nil
Profit	I		



POWER |

TO EXEMPT, THERE SHOULD BE LEVY FIRST!

- 44. ... *Since the levy itself of service tax has been found to be non-existent, no question of any exemption would arise.*
- M/s. Larsen & Toubro Ltd. - (2016) 1 SCC 170 = 2015 (39) S.T.R. 913 (S.C.).

POWER TO GRANT EXEMPTION!

SECTION 11. Power to grant exemption from tax. —

(1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, **by notification, exempt generally**, either **absolutely or subject to such conditions** as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

POWER TO GRANT EXEMPTION!

Explanation. — For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been **granted absolutely**, the registered person supplying such goods or services or both **shall not collect the tax**, in excess of the effective rate, on such supply of goods or services or both.

EXEMPT SUPPLY

(47) “exempt supply” means supply of any goods or services or both which attracts **nil rate** of tax or which may be **wholly exempt** from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and **includes nontaxable supply**;

POWER TO GRANT EXEMPTION!

(2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable

POWER TO GRANT EXEMPTION!

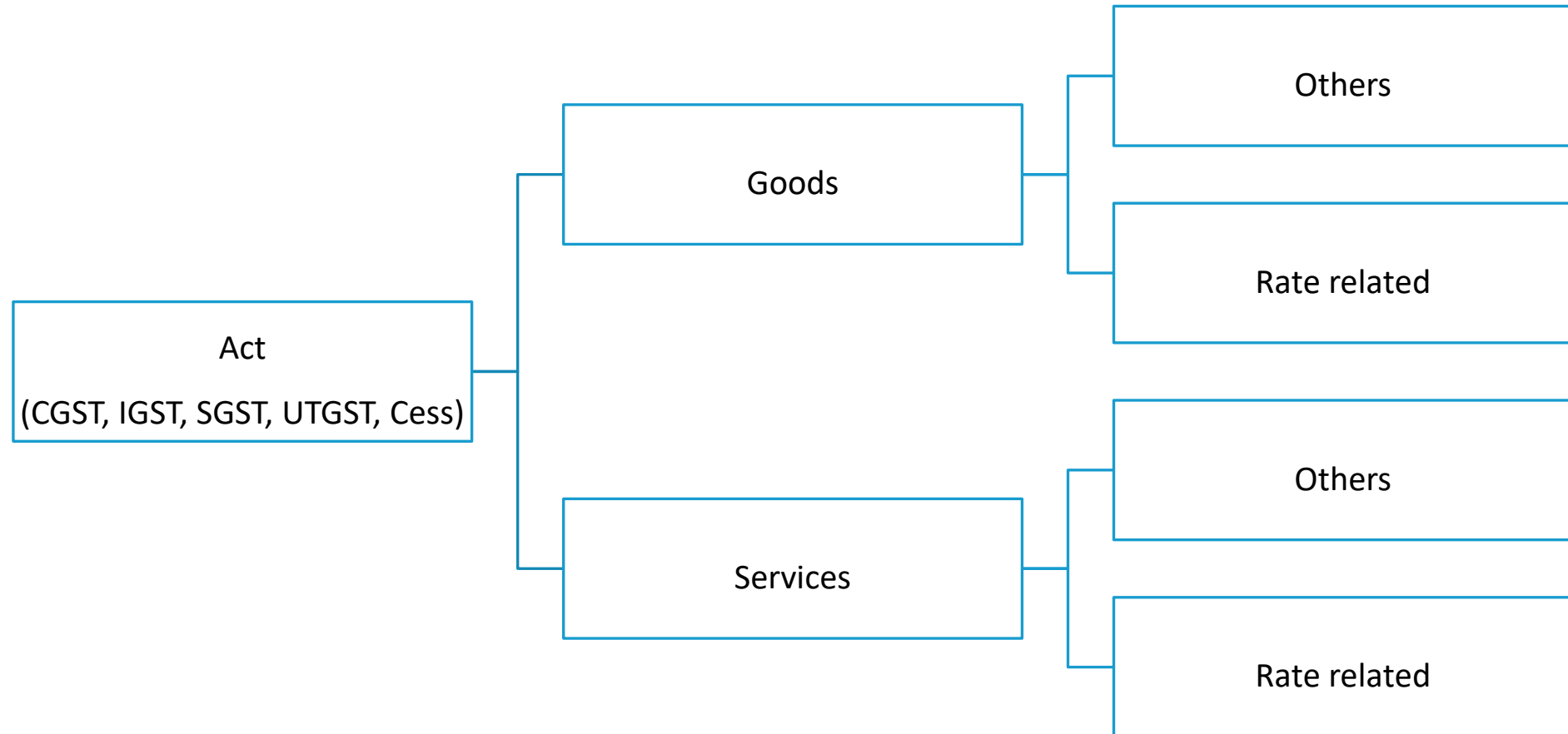
(3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under subsection (2), **insert an explanation** in such notification or order, as the case may be, by notification at any time **within one year** of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.



NOTIFICATIONS



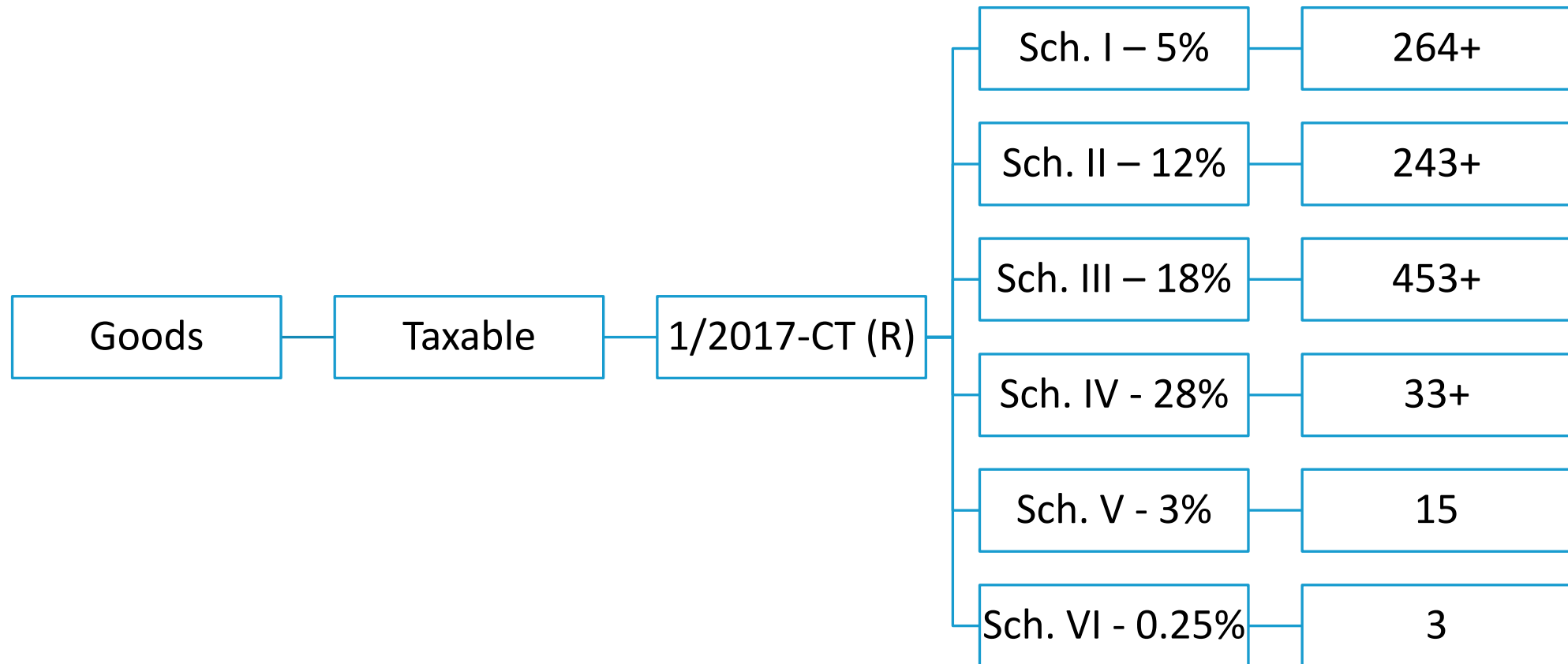
KEY NOTIFICATIONS - GOODS



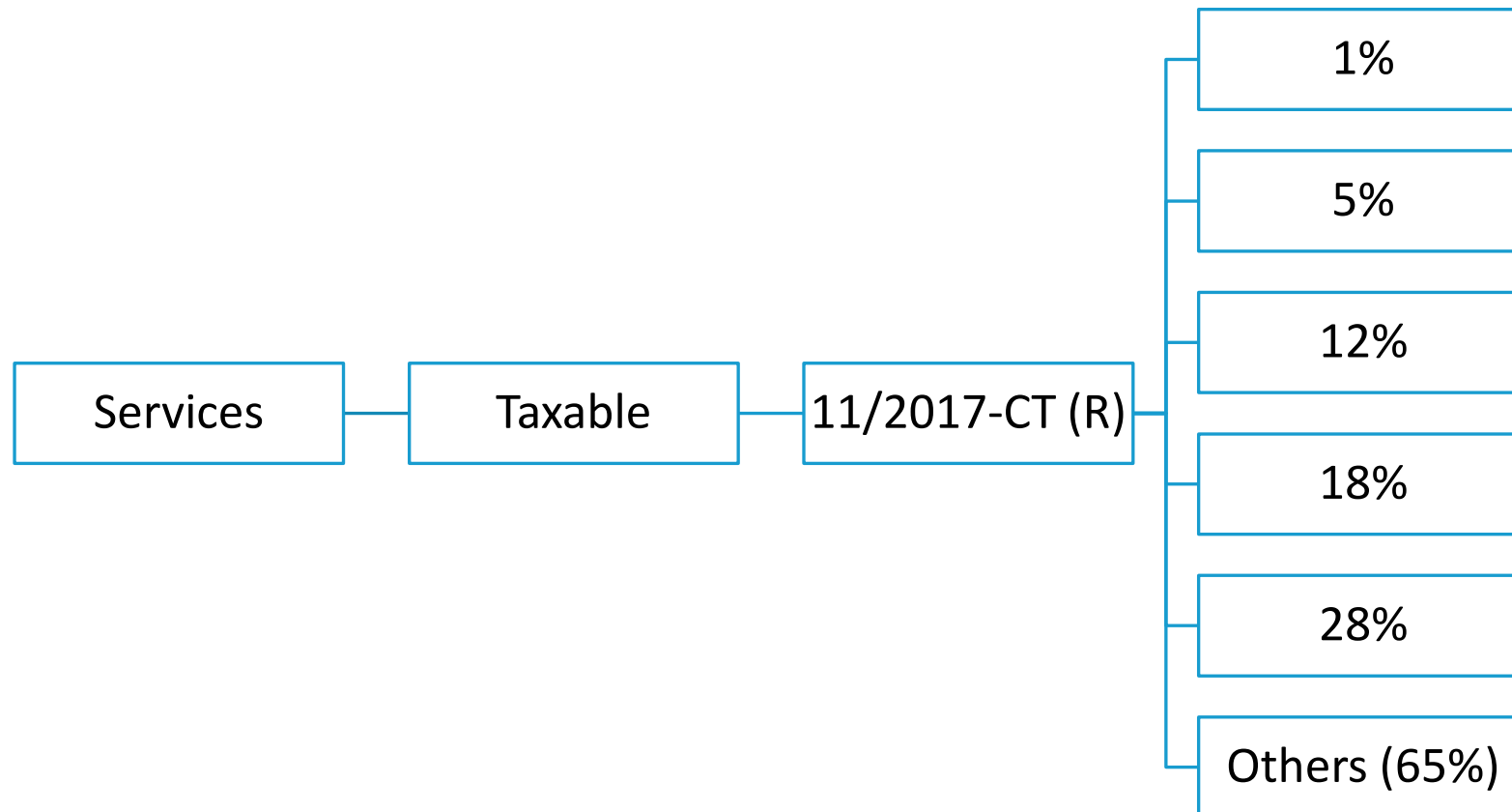
KEY NOTIFICATIONS!

Particulars	CT (R)			IT (R)		
	Taxable	Exempt	RCM	Taxable	Exempt	RCM
Goods	1/2017	2/2017 (153)	4/2017	1/2017	2/2017 (153)	4/2017
Services	11/2017	12/2017 (115)	13/2017	8/2017	9/2017 (123)	10/2017

KEY NOTIFICATIONS - GOODS



KEY NOTIFICATIONS - SERVICES



NOTIFICATIONS

2/2017-CT

- Approx. 153 entries

3/2017-CT etc

BREAD?



NOTIFICATION!

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
97	1905	Bread (branded or otherwise), except when served for consumption and pizza bread

MAIDA VADAM!



NOTIFICATIONS!

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
96.	1905	Pappad , by whatever name it is known, except when served for consumption
46.	2106 Sch. III - 12%	Namkeens, bhujia, mixture, chabena and similar edible preparations in ready for consumption form [other than roasted gram] put up in unit container and ...
23.	2106 Sch. III - 18%	Food preparations not elsewhere specified or included [other than roasted gram, sweetmeats, batters including idli/dosa batter, namkeens, bhujia, mixture, chabena and similar edible preparations in ready for consumption form, khakhra, chutney powder, diabetic foods

SUBRAMANI SUMATHI 2019-TIOL-89-AAR-GST

Issue

- Maida Vadam

AAR

- Classifiable under 1905 0540
- Is exempted in terms of sl. No. 96 of 02/2017-CTR

PAPAD!

Net wt. 1kg



BARAKATBHAI NOORDINBHAI VELANI 2021-TIOL-79-AAR-GST

Issue

- 'Fried Fryums with masala'

AAR

- **Cannot** be said to be known as ' Papad ' so as to be held as exempt as per entry at Sr. No. 96
- 'Fried Fryums ' manufactured and supplied by applicant is classifiable under Tariff Item 2106 90 99; attracts GST @18% as per Sl. No. 23 of Schedule III

PRASADAM!



PRASADAM!

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
98.	2106	Prasadam supplied by religious places like temples, mosques, churches, gurudwaras, dargahs, etc

WATER!



WATER!

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
99.	2201	Water [other than aerated, mineral, purified , distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container]

AQUAA CARE SURAT RO TECHNOLOGIES 2020-TIOL-68-AAR-GST

Issue

- Purified water

AAR

- Classification and HSN code of water is 2201
- **Purified water is excluded** from Sr. No. 99
- It will not be eligible for NIL rate
- Selling water in containers is composite supply as the principal activity is selling of purified water only

LATEST DEVELOPERS ADVISORY LTD 2020-TIOL-66-AAR-GST

Issue

- Two agreements, one for maintenance and another for water supply

AAR

- Both contracts, Contract-I and Contract-II, appear to be directly linked to each other as there is no case of direct supply of water by applicant to individual residents of the society and, therefore, applicant is required to pay GST as applicable
- Applicant appears to be trying to split the contract into Contract-I and Contract-II to avoid the GST and to facilitate the society (RWA) in order to keep the maintenance charges paid by residents below Rs. 7,500/-

ELECTRIC ENERGY!



ELECTRIC ENERGY!

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
104.	2716 00 00	Electrical energy

NON-TARIFF CHARGES

Taxable	Exempt
<p data-bbox="453 572 1021 615">T P Ajmer 2018-TIOL-77-AAR</p> <p data-bbox="384 743 1187 872">Not eligible for exemption under Not. No. 12/2017 – Circular 34/8/2018</p>	<p data-bbox="1475 572 2104 615">Torrent Power 2019-TIOL-15-HC</p> <p data-bbox="1398 743 2277 1039">If principle supply exempt then incidental too Paragraph 4 (1) of the impugned Circular No. 34/8/2018-GST dated 1.3.2018 is hereby struck down</p> <p data-bbox="1284 1172 2295 1296">[Pending before SC - UOI Vs Torrent Power Ltd 2019-TIOL-349-SC-GST]</p>

RUPEE NOTES!



RUPEE NOTES!

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
117.	48 / 4907	Rupee notes when sold to the Reserve Bank of India

BOOKS!



BOOKS!

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
119.	4901	Printed books, including Braille books

GIFTS!



GIFTS!

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
153.	Any Chapter	Supply of gift items received by the President, Prime Minister, Governor or Chief Minister of any State or Union territory, or any public servant , by way of public auction by the Government, where auction proceeds are to be used for public or charitable cause

AGRICULTURE IMPLEMENT!



AGRICULTURE IMPLEMENT!

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
137	8201	Agricultural implements manually operated or animal driven i.e. Hand tools, such as spades, shovels, mattocks, picks, hoes, forks and rakes; axes, bill hooks and similar hewing tools; secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools of a kind used in agriculture, horticulture or forestry.

**ZODIAC PLASTICS 2020-TIOL-232-AAR-GST AND PALA MARKETING
2020-TIOL-231-AAR-GST MATHA TIMBER INDUSTRIES 2020-TIOL-
229-AAR-GST THADICKAL TRADING COMPANY 2020-TIOL-227-AAR-
GST SUN POLYMERS 2020-TIOL-226-AAR-GST**

Issue

- Plastic latex collection cup

AAR

- It's a agricultural implement exclusively used for rubber tapping
- Comes under the classification HSN 8201 90 00 "*other hand tools of the kind used in agriculture, horticulture or forest*"
- Thus, exempt

PANEER



PANEER

Sr. No.	Chapter / Heading / Sub-h. / Tariff item	Description of Goods
27.	0406 [Nil – Not. No. 2/2017] [Otherwise 5%]	Chena or paneer, other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily, subject to the conditions as in the ANNEXURE I

JAIN DAIRY PRODUCTS PVT LTD 2021-TIOL-31-AAR-GST

Issue

- Sale of paneer in loose form without sealing of packet/in loose carry bags and bearing details like name of manufacturer and branches or others as required by **FSSAI** or other relevant Acts - Whether entitled for exemption?

AAAR

- Exemption can be extended to the applicant's product subject to the fulfilment of two conditions viz.
 - (i) 'Paneer' is **not put up in unit container**, means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a **pre-determined quantity** or number, which is **indicated** on such packages and
 - (ii) Unit container is **not bearing a registered brand name** or a brand name on which an actionable claim or enforceable right in a court of law is available

BRAND!



BRAND!

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
65.	1001 Nil	Wheat and meslin [other than those put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily , subject to the conditions as in the ANNEXURE I]
46.	1001 5%	Wheat and meslin put up in unit container and,- (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or any enforceable right in respect of such brand name has been voluntarily foregone, subject to the conditions as in the ANNEXURE]

IDRISH YUSUFBHAI MALVASI 2020-TIOL-2165-HC-AHM-GST

Issue

- What is 'not bearing a brand name'

HC

- Allegation against the applicant is of **wrongfully availing tax exemption by misapplying and misinterpreting the exemption notifications** by actually using the brand name of the company
- Applicant had **registered his trademark**, which came out during the inspection at the Trademark Registry
- Applicant had pointed out to the Department that the name of the company has been wrongly shown as a brand name and had informed the Department vide communication dated 17.06.2020 that it has decided to forego its rights over the brand name
- Inasmuch as by wilfully suppressing facts, the applicant had evaded huge amount of GST by wrongfully invoking the benefit of notification 2/2017-CTR
- Whether or not the registered trademark has been foregone and whether or not the applicant has misled the authority would be a matter adjudication.
- Released on regular bail

ADITYA BIRLA RETAIL LTD 2018-TIOL-09-AAAR-GST

Issue

- What is 'not bearing a brand name'

AAAR

- Package carrying a declaration mentioning the name and registered address of the applicant as the manufacturer and/or Marketed by - Aditya Birla Retail Ltd. cannot be considered as 'not bearing a brand name'
- Merely by removing their registered brand name logos viz. 'MORE' and 'Aditya Birla Retail' from the packaging of some of their products and keeping the surrounding environment intact to take advantage
- Use of words 'VALUE', 'CHOICE' or 'SUPERIOR' on the proposed packing without altering the surrounding environment to take advantage of brand 'MORE' would be construed as 'brand name'

ANIMAL FEED!



ANIMAL FEED!

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
102.	2301,2302,2308, 2309 [Nil]	Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake [other than ricebran]
104.	2303 [5%]	Residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets

MADHURYA CHEMICALS 2020-TIOL-203-AAR-GST

Issue

- Shatamrut Chyavan

AAR

- Shatamrut Chyavan is an animal feed supplement [for cattle and ruminants to improve milk & milk fat and increasing resistance to diseases
- Product is also advertised, marketed, and sold, as cattle feed, which when fed in certain doses with other fodder to the cattle, like cows, buffaloes, goat, etc., is purported to increase the production of milk
- Is an animal feed supplement
- Is correctly classifiable under heading 2309 9010 and
- Thus, attracts Nil rate

MADHURYA CHEMICALS 2021-TIOL-04-AAAR-GST

AAAR

- At (B) mentioned in the HSN Explanatory Note, it clearly says that molasses prepared as animal food fall in heading 2309.
- **Therefore, it is clear that the product of the Appellant does not fall under Heading 2303 but falls under Heading 2309.**
- Neither in the written submissions nor during the hearing, given any concrete reasons or grounds to support his contention that the product does not fall under Heading 2309 but under Heading 2303. As regards the Appellant's contention that the impugned product is not fed to the cattle in isolation but the same is fed by mixing with the other fodders in fixed prescribed dosage, and thereby, not deserving to be qualified as cattle feed, it is opined that the said fact about the impugned product would not have any bearing
- CBIC Circular No. 80/54/2018-GST , dated 31.12.2018 also supports the view

SEED!



SEED!

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
86.	1209	Seeds, fruit and spores, of a kind used for sowing .
70.	1207 [5% as per 1/2017-CT]	Other oil seeds and oleaginous fruits (i.e. Palm nuts and kernels, cotton seeds, Castor oil seeds, Sesamum seeds, Mustard seeds, Safflower (Carthamustinctorius) seeds, Melon seeds, Poppy seeds, Ajams, Mango kernel, Niger seed, Kokam) whether or not broken, other than of seed quality

SRI VENKATA VIJAYA DURGA TRADERS 2020-TIOL-190-AAR-GST

Issue

- Tamarind seed/kernel

AAR

- Admitted that tamarind seed/kernel as traded by them is sold to Millers and meant for commercial/industrial purpose
- **No certificate** has been produced certifying that tamarind kernel/seed is meant for sowing purpose
- CBIC in its FAQ dated 03.08.2017 has clarified that Tamarind kernel falls under HSN Code 1207
- Therefore, Tamarind seed is classifiable under HSN Code 1207 and attracts tax rate of 5%

BETEL NUT!



NUTS!

Sr. No.	Chapter / Heading / Sub-h. / Tariff item	Description of Goods
49.	0802 [Nil – Not. No. 2/2017)	Other nuts, Other nuts, fresh such as Almonds, Hazelnuts or filberts (Coryius spp.), walnuts, Chestnuts (Castanea spp.), Pistachios, Macadamia nuts, Kola nuts (Cola spp.), Areca nuts, fresh , whether or not shelled or peeled
28.	0802 [5% - Sch. I)	Dried areca nuts , whether or not shelled or peeled
15.	0802 [12% - Sch. II)	Other nuts, dried, whether or not shelled or peeled, such as Almonds, Hazelnuts or filberts (Coryius spp.), Chestnuts (Castanea spp.), Pistachios, Macadamia nuts, Kola nuts (Cola spp.) [other than dried areca nuts]

S A SAFIULLAH AND COMPANY 2021-TIOL-07-AAAR-GST

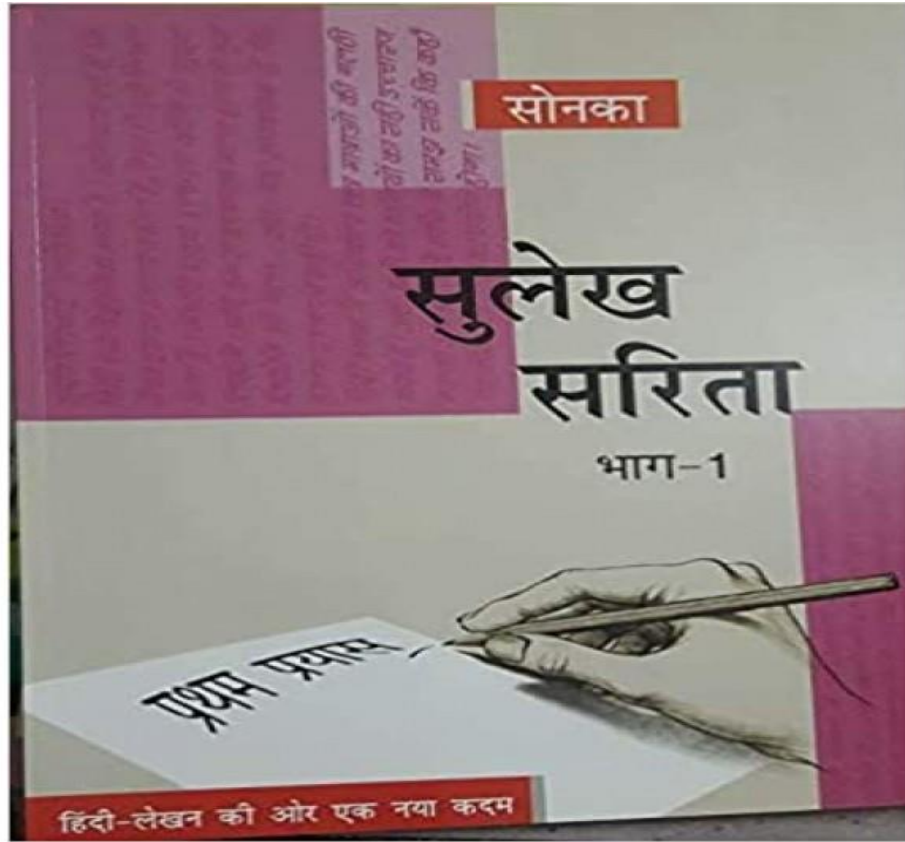
Issue

- Betel nuts

AAR

- Terms 'betel nut' and 'Areca nut' are the same and used interchangeably and, therefore, it is held that the applicable tax rate for the product is @5% only
- 'Dried Areca nuts whether or not shelled or peeled' are to be subjected to GST @5% and simultaneously 'Other Nuts (other than Areca nuts)' are to be taxed @12%
- Held that 'Nizam Pakku' is classifiable under CTH 0802 8090 and is leviable to 5% CGST as per Sl. no. 28

SULEKH



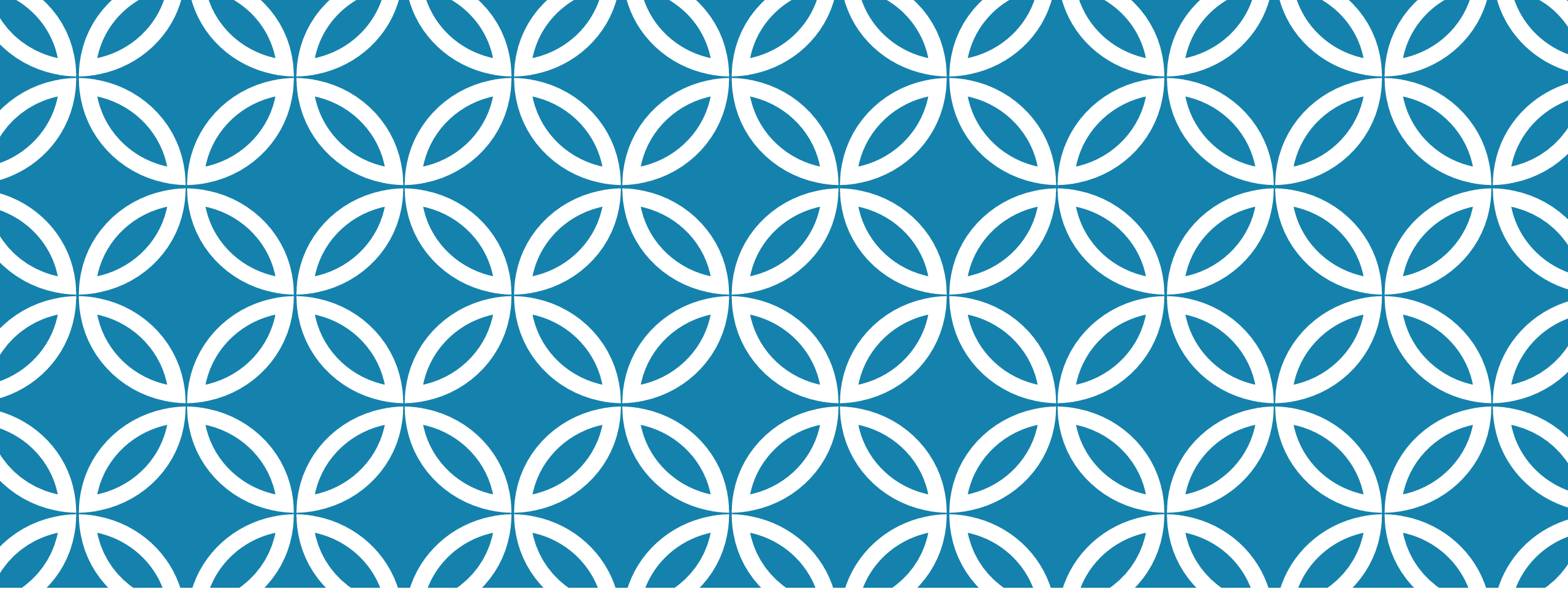
BOOKS!

Sr. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
119.	4901 [Nil]	Printed books, including Braille books
121.	4903 [Nil]	Children's picture, drawing or colouring books
123.	4820 [12%]	Exercise book, graph book, & laboratory note book and notebooks

SONKA PUBLICATION INDIA PVT LTD 2019-TIOL-1022-HC-DEL-GST

AAAR

- Whether the books in question merely help the child in improving the child's handwriting by providing space in a book by copying from a written text or does it pose questions to the child to answer and whether the teacher then can evaluate, on the basis of such answers, the child's ability and understanding?
- In the present case, the '**work books**' or '**practice books**' printed and sold by the Petitioner certainly fall in the latter category i.e. they test the child's knowledge, ask questions which the child has to answer, and facilitate evaluating the child's understanding - These books are not 'exercise books' as understood by the trade
- Petitioner has produced before the Court samples of such 'exercise books/ exercise note books' as understood in trade parlance and which are simply bound volumes of blank pages which may contain lines to facilitate writing and they do nothing more than providing space for writing
- Classifiable under HSN 49.01 and exempted



SERVICES



NOTIFICATIONS

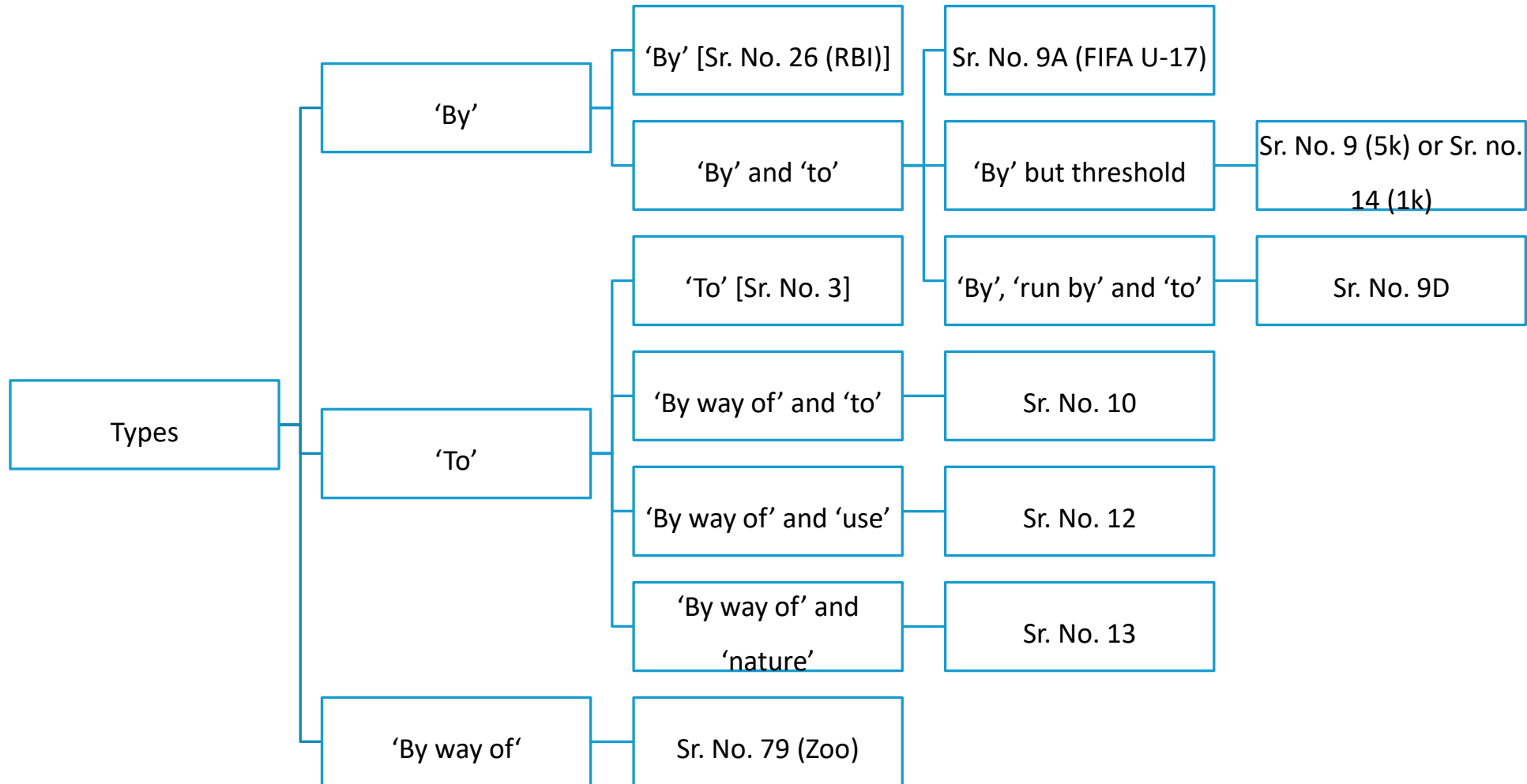
12/2017-CT

- Approx. 115 entries

9/2017-IT

- Approx. 123 entries

TYPES



BUSINESS!

Sr. No.	Ch./ Sec./Heading / Gr. or Service Code	Description of Services	Condition
1	Chapter 99	Services by way of transfer of a going concern, as a whole or an independent part thereof	Nil

RWA



RWA!

Sr. No.	Ch./ Sec./Heading / Gr. or Service Code	Description of Services	Condition
77	Chapter 9995	Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution – ... (c) up to an amount of seven thousand five hundred rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex	Nil

TVH LUMBINI SQUARE V. UOI - 2020 (32) G.S.T.L. J38 (MAD.)

[APPEAL PENDING IN 2020 (32) GSTL J38 (MADRAS HC)]

Issue

- Applicant cannot pick and choose some services up to aforesaid limit to claim exemption and pay GST on balance services exceeding this limit - AAR

HC

- ... The term "**upto**" employed in the Notification is heavily relied on by the learned counsel for the petitioner to contend that only exceeded amount is liable for the tax and not the whole amount collected.
- 4. The issue raised supra, needs detailed consideration of this Court. Hence, the respondents are directed to file counter. Post the matter after four weeks. Until further orders, the petitioner is permitted to pay GST only towards the exceeded amount over and above the sum of Rs.7,500/-.



TO GOVERNMENT

TO GOVERNMENT!

Sr. No.	Ch./ Sec./Heading / Gr. or Service Code	Description of Services	Condition
1	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	Nil

SUMEET FACILITIES LTD 2021-TIOL-18-AAAR-GST

Issue

- 'To'

AAAR

- Only the services provided to Central government, State government or union territory or local authority or a governmental authority will be exempted which is not the case in hand as the services are provided by the applicant to the concessionaires
- Doctrine of purposive interpretation cannot be adopted in the instant case by treating the services provided by the **sub-contractor** as being provided to the ultimate client and not to the main contractor

MILK



MILK!

Sr. No.	Ch./ Sec./Heading / Gr. or Service Code	Description of Services	Condition
54	Chapter 9986	<p>(i) Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of—</p> <p>(a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;</p> <p>(b) supply of farm labour;</p>	Nil

MILK!

Sr. No.	Ch./ Sec./Heading / Gr. or Service Code	Description of Services	Condition
54	Chapter 99	(c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;	Nil

MILK!

Sr. No.	Ch./ Sec./Heading / Gr. or Service Code	Description of Services	Condition
54	Chapter 99	(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use; (e) loading, unloading, packing, storage or warehousing of agricultural produce; (f) agricultural extension services; (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.	Nil

MILK!

Sr. No.	Ch./ Sec./Heading / Gr. or Service Code	Description of Services	Condition
54	Chapter 99	<p>(h) services by way of fumigation in a warehouse of agricultural produce.</p> <p>(ii) Services by way of pre-conditioning pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.</p> <p>(iii) Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.</p>	Nil

'AGRICULTURAL PRODUCE'

'Agricultural produce' means any **produce out of** cultivation of plants and **rearing of all life forms of animals**, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.

GUJARAT CO-OP. MILK MARKETING FEDERATION LTD.

2020 (36) G.S.T.L. 211 (GUJ.)

Services are in respect of raw milk on which no process is carried out so as to change its essential character

Clearly covered as agricultural produce

There is nothing in sub-clause (e) that these activities have to be performed in agricultural field only

In this case, agricultural produce, i.e., raw unprocessed milk has to be essentially chilled for storage to avoid it being spoilt

Thus, storage of milk would include its chilling and packing even after which it still remains raw milk

Exemption admissible to petitioners

HOSTEL



HOSTEL!

Sr. No.	Ch./ Sec./Heading / Gr. or Service Code	Description of Services	Condition
14	Heading 9963	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to one thousand rupees per day or equivalent.	Nil

**SARJ EDUCATIONAL CENTRE 2019-TIOL-49-AAAR-GST AND M/S KALANI
INFRASTRUCTURE PVT LTD 2021-TIOL-14-AAAR-GST**

Issue

- Accommodation to students

AAAR

- Lodging facility is offered at a tariff below Rs.1,000/- per day, hence exempted under sl.no.14 of 12/2017-CTR;
- Food served is taxable @5% (sl.no. 7(i) of notification 11/2017-CTR);
- Housekeeping services (SAC 9987) taxable @18% (sl.no. 25(ii) of 11/2017-CTR);
- Laundry services (SAC 9997) taxable @18% (sl. no. 35 of 11/2017-CTR),
- Therefore, in terms of s.8(b) of the Act, highest rate applicable is the tax payable in respect of the mixed services:

AAR



PENAL INTEREST

PENAL INTEREST!

Sr. No.	Ch./ Sec./Heading / Gr. or Service Code	Description of Services	Condition
27	Heading 9971	Services by way of— (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) (b) <i>inter se</i> sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.	Nil

BAJAJ FINANCE LTD 2020-TIOL-64-AAAR-GST

Issue

- GST applicable on 'Penal interest?

AAAR

- Held GST is leviable (in March 2019)
- Subsequently, CBIC Circular no. 102/21/2019 (dated 28.06.2019)
- Additional/penal interest does not fall within the ambit of Entry 5(e) of Schedule II
- Circular is merely clarificatory in nature it will have retrospective effect
- Beneficial circular to be applied retrospectively while oppressive circular applicable prospectively - SUCHITRA COMPONENTS LTD. 2007 (208) E.L.T. 321 (S.C.)



PER ROOM!

PER ROOM!

Sr. No.	Ch./ Sec./Heading / Gr. or Service Code	Description of Services	Condition
27	Heading 9971	Services by way of— (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) (b) <i>inter se</i> sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.	Nil

ACHARYA SHREE MAHASHRAMAN CHATURMAS PRAVAS VYAVASTHA SAMITI TRUST 2020-TIOL-29-AAAR-GST

Issue

- GST applicable on 'Penal interest?

AAAR

- We agree with the ruling of the lower Authority and hold that the renting of the 2 BHK unit and the dormitory will be chargeable to GST as a single unit where the value of supply will be the charges for the full 2 BHK unit/dormitory and not the charges for each room/bed and is liable to tax



AUCTIONEER OR COMMISSION AGENT!

INTERNATIONAL FLOWER AUCTION BANGALORE LTD 2020-TIOL-13-AAAR-GST

Issue

- AAR had held that the relationship between the respondent company and the growers is one of an agent and a principal and thus, income earned is exempted

AAAR

- Nature of activities done by an 'Auctioneer' and a 'Commission agent' are fundamentally different even though both perform their functions on behalf of the principal
- Going by the nature of activities performed by the respondent, they do not merely cause the sale of goods on behalf of their clients, the flower growers/sellers, but they undertake the complete process of auction of the flowers and upon the completion of auction, the sale consideration is received not by the sellers but by the respondent who would make payment to the growers for the flowers supplied to them after deduction of the commission
- Activities far beyond the scope of a commission agent
- Not entitled for the exemption in terms of clause (g) of Entry 54

THANK YOU!



CA Pritam Mahure and Associates

Happy to Discuss!



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