

Office of the
Commissioner of State Tax.
Maharashtra State, 8th Floor,
GST Bhavan, Mazgaon,
Mumbai-400 010.

TRADE CIRCULAR

No. JC (HQ)-1/GST/2019/CBIC Circular(s)/ADM-8 Mumbai dated 1st Jan. 2019

Trade Circular (GST) No. 04T of 2019.

To,

.....
.....

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

Ref. CBIC Circular No. 85/04/2019-GST dated 1st January 2019.

Sir/Gentlemen/Madam,

1. Representations have been received in the Board seeking clarification as to the rate of GST applicable on supply of food and beverages services by educational institution to its students. The Board has examined the aforesaid matter and to clarify these issues CBIC has issued the Circular cited at Ref. above. Accordingly, on the lines of aforesaid Circular, this Trade Circular is being issued
2. It has been stated in the aforesaid representations that the words "school, college" appearing in Explanation 1 to Entry 7 (i) of Notification No. 11/2017-State Tax (Rate) dated 29th June 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. 11/2017-State Tax (Rate) dated 29th June 2017 entry at Sr. No 66, which exempts services provided by an educational institution to its students, faculty and staff..
3. Notification No. 11/2017-State Tax (Rate) dated 29th June 2017, entry at Sr. 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) dated 29th June 2017 entry at Sr. 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 29th June 2017. A supply which is specifically covered by any entry of Notification No. 12/2017-State Tax (Rate) dated 29th June 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 29th June 2017.

3.1. 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 29th June 2017, vide entry at Sr. 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 29th June 2017 Chapter, Section, Heading, Group or Service Codes mentioned in column (2) of the table in Notification No. 12/2017-State Tax (Rate) dated 29th June 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.

3.2. 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 29th June 2017, vide entry at Sr. No. 66 w.e.f. 1st July 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%.

4. In order to remove any doubts on the issue, Explanation 1 to Entry 7(i) of Notification No. 11/2017-State Tax (Rate) dated 29th June 2017 has been amended vide Notification No. 27/2018-State Tax (Rate) dated 31st December 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 29th June 2017, vide Notification No. 28/2018-State (Rate) dated 31st December 2018.
5. Difficulty, if any, in implementation of this Circular may be brought to the notice of the office of the Commissioner of State Tax, Maharashtra State.

Yours Faithfully,



(Rajiv Jalota)
Commissioner of State Tax,
(GST) Maharashtra State, Mumbai.

No. JC (HQ)-1/GST/2019/CBIC Circular(s)/ADM-8 Mumbai dated *1st Jan. 2019*

Trade Circular (GST) No. 04 T of 2019.

Copy forwarded to the Joint Commissioner of State Tax (Mahavikas) with a request to upload this Trade Circular on the Departments Web-site.

Copy submitted with compliments to,-

- (a) The Deputy Secretary, Finance Department, Mantralaya, Mumbai-21 for information.
- (b) Accounts Officer, Sales Tax Revenue Audit, Mumbai and Nagpur.



(R. D. Bhagat)
Joint Commissioner of State Tax
(GST), (HQ)-1, Maharashtra State.