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Impact of Goods and Services Tax on NGOs

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A) Introduction :-

In a big relief to small taxpayers, Centre has eased the GST compliance burden. After years long buzz, the Goods and Services Tax (GST) was rolled out in a special midnight session on June 30, 2017. Since then, concerns have been raised with regard to the GST implementation. Considering this, the Central Board of Excise and Customs (CBEC) on Saturday extended the time limit for filing intimation for Composition levy to August 16, 2017. In a press release issued by CBEC, it has been stated: "Government is mindful of the concerns of tax payers, especially the small taxpayers, arising from the transition to the GST regime from 1st of July, 2017." Below this, the release stated, "With a view to ease the compliance burden of provisionally migrated small taxpayers opting to pay tax under the Composition scheme, it has been decided to extend the time limit for filing intimation for Composition levy (filing of intimation FORM GST CMP-01) up to 16th August, 2017."

Objective of Research :-

1. Understands the charitable activity under GST.
2. Studying the Exempted Services under GST.
3. Study the Implication of GST on Charitable Activities.

B) Research Methodology:-

Over research work is done on base of secondary data collection for the study include the provision of GST , Its impacts on NGO's and charitable trust in India. Data published by various institutions such as Government of India, NEWS papers , Reserve Bank of India (RBI), etc are used for the purpose of the present paper.

C) What is a charitable activity under GST?

The Goods and Services Act also specifies the criteria to be called a charitable activity. They are:

- (i) public health by way of -
 - (A) care or counseling of
 - (I) terminally ill persons or persons with severe physical or mental disability;
 - (II) persons afflicted with HIV or AIDS;
 - (III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol;

Renting of Precincts of a Religious Place

Services by a person by way –

- (a) conduct of any religious ceremony;
- (b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA. However this exemption will not be applicable if:

- **Educational Institutions**

The services

- (a) by an educational institution to its students, faculty and staff;
- (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; upto higher secondary:

Health Care Services

Similarly the services by way of-

- (a) health care services by a clinical establishment, an authorised medical practitioner or para-medics; (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.

D) Exempted Services

As per Notification No. 12/2017 (CGST Rate) and 9/2017 (IGST Rate) dated 28th June, 2017, 81 services have been classified as exempt services and therefore no GST is charged on the supply of these services. Most of the services which were in the negative list of services (66 D of Finance Act, 1994) have now been included in the exemption list of services. However, the notification for exemption states “exempts the supply of services” leading to the question that if goods are supplied along with the services, would the same be considered exempt.

1) Sr. No. 1:-

Service by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities. This exemption was available in the service tax legislation and the same has been continued without any modification.

2) Sr. No. 10 :- Construction related services

In the service tax legislation, services provided by way of construction, completion, repair, , to an entity registered under 12AA of The Income Tax Act, 1961 and meant predominantly for religious use by general public was exempt from service tax. These services are now taxable under the GST laws resulting in an increase in costs to the extent of GST charged on these services.

3) Sr. No. 12 Services by way of renting of residential dwelling for use as residence.

The exemption is only for renting of residential dwellings for use as residence. If the residential dwellings are rented and used for commercial purposes then the same would be liable to tax.

4) Sr. No. 13

Services by a person by way of conduct of any religious ceremony and renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961. The term “religious place” has been defined in the said notification. It means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality;

The same exemption was available in service tax. However, a condition has been added to the above exemption. In the service tax regime there was a blanket exemption for renting of precincts a religious place meant for general public.

5) Sr. No.14

Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent.

6) Sr. No. 66 Service provided

a) By an educational institution to its students, faculty and staff
b) To an educational institution, by way of transportation of students, faculty and staff; catering: security or cleaning or house-keeping services; services relating to admission to, or conduct of examination up to higher secondary school or equivalent.

Provided that nothing contained in entry

- (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;

7) Sr. No. 74

Services by way of health care services by a clinical establishment, an authorised medical practitioner or Para-medics and transportation of a patient in an ambulance.

“Clinical establishment” has been defined to mean a hospital, nursing home, clinic, and similar institutions by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, etc. in any recognised system of medicines in India, and

An authorized medical practitioner includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force. Eg. Ayurveda, Homeopathy etc.

E) Conclusion:-

From the above research it can conclude that implementation of GST, the uniformity in the tax regime is there as the taxes levied on goods and services are now making the taxation structure simpler. Charitable trust will need to file close to 50 returns in a financial year. This will be a challenging proposition for many NGOs. For an NGO to continue doing the noble and charitable activities awareness of GST and compliance thereof will be a major challenge and will also result in a substantial increase in costs.

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