

From	Karvy Data Management Services Ltd.
Date	February 23, 2018
Subject	Clarifications regarding applicability of GST in respect of certain services
Category	Circular
Reference	Circular No. 32/06/2018-GST dated 12 <sup>th</sup> February, 2018
Series	Karvy/GST/48

Since implementation of GST, CBEC has been issuing clarification with respect to the applicability of GST on certain transactions which are complex in nature and involves interpretational views at the taxpayers end.

On the same line, CBEC issued clarification in respect of few services vide Circular No. 32/06/2018-GST dated 12<sup>th</sup> Feb 2018. The series of clarification issued by CBEC has been summarised below:

Sl. No.	Service Category	Issues on the applicability of GST	Clarification
1	<b>Hostel accommodation services provided by Trusts to student</b>	<b>Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt under GST?</b>	<ul style="list-style-type: none"> <li>Hostel accommodation services do not fall within the ambit of charitable activities.</li> <li>However, 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 are exempt under GST.</li> <li>Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt under GST.</li> </ul>
2	<b>Fee/amount charged while registering complaints to Consumer Disputes Redressal Commission office</b>	<p><b>Is GST leviable on the fee/amount charged when a customer pays fees while registering complaints to Consumer Disputes Redressal Commission office and its subordinate offices?</b></p> <p>Such fees are credited into State Customer Welfare Fund's bank account.</p>	<ul style="list-style-type: none"> <li>Services provided by any court or tribunal established under any law for time being in force is neither a supply of goods nor services.</li> <li>Consumer Disputes Redressal Commissions may not be tribunals literally as they may not have been set up directly under Article 323B of the Constitution, however they are clothed with the characteristics of a tribunal.</li> <li>Fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST.</li> </ul>
3	<b>Penalty imposed by or paid to Consumer Disputes Redressal Commissions</b>	<b>Is GST leviable when the Consumer Disputes Redressal Commission office and its subordinate offices charge penalty in cash when it is required?</b>	<ul style="list-style-type: none"> <li>Any penalty imposed by or amount paid to Disputes Redressal Commissions will not attract GST.</li> </ul>
4	<b>The services of elephant or camel ride, rickshaw ride and boat ride</b>	<b>Whether the services of elephant or camel ride, rickshaw ride and boat ride should be classified as passenger transport service attracting GST @ 18% or recreational, cultural and sporting services attracting GST @ 28%?</b>	<ul style="list-style-type: none"> <li>Elephant/ camel joy rides cannot be classified as transportation services.</li> <li>These services will attract GST @ 18% with threshold exemption being available to small service providers in notification no. 11/2017-CT (Rate) dt. 28.06.17 as amended by notification no. 01/2018-CT (Rate) dt. 25.01.18</li> </ul>

Sl. No.	Service Category	Issues on the applicability of GST	Clarification to the issue
5	<p><b>Rental services of self-propelled access equipment (Boom Scissors / Telehandlers)</b></p>	<p><b>What is the GST rate applicable on rental services of self-propelled access equipment (Boom Scissors/ Tele handlers)?</b></p> <p>The equipment is imported at GST rate of 28% and leased further in India where operator is supplied by the leasing company, diesel for working of machine is supplied by customer and transportation cost including loading and unloading is also paid by the customer</p>	<ul style="list-style-type: none"> <li>Leasing or rental services are taxed at the same rate of GST as applicable on supply of like goods involving transfer of title in goods.</li> <li>Thus, the GST rate for the rental services in the given case shall be 28%, provided the said goods attract GST of 28%.</li> <li>IGST paid at the time of import of these goods would be available for discharging IGST on rental services. Thus, only the value added gets taxed.</li> </ul>
6	<p><b>Services provided by senior doctors/ consultants/ technicians hired by Hospitals</b></p>	<p><b>Is GST leviable if Hospitals hire senior doctors/ consultants/ technicians independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer-employee relationship?</b></p> <p><b>Will such consultancy charges be exempt from GST?</b></p> <p><b>Will revenue take a stand that they are providing services to hospitals and not to patients and hence must pay GST?</b></p>	<ul style="list-style-type: none"> <li>Health care services provided by a clinical establishment, an authorized medical practitioner or para-medics are exempt (notification no. 12/2017-CT (Rate) dt. 28.06.17)</li> <li>Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt under GST.</li> </ul>
7	<p><b>Money retained by Hospitals while paying to the consultants / senior doctors / technicians</b></p>	<p>Hospitals charge the patients, say, Rs.10000/- and pay to the consultants/ technicians only Rs.7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc.</p> <p><b>Will GST be applicable on such money retained by the hospitals?</b></p>	<ul style="list-style-type: none"> <li>Healthcare services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India. (notification no. 12/2017-CT (Rate) dt. 28.06.17)</li> <li>Therefore, hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt under GST.</li> <li>Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.</li> </ul>

Sl. No.	Service Category	Issues on the applicability of GST	Clarification to the issue
8	<b>Food supplied to the patients by Clinical Establishments / Hospitals</b>	<p>Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers.</p> <p>When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC.</p> <p>If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST</p>	<ul style="list-style-type: none"> <li>• Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable.</li> <li>• Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.</li> </ul>
9	<b>Taxability of Cost Petroleum</b>	<p>Appropriate clarification may be issued regarding taxability of Cost Petroleum.</p> <ul style="list-style-type: none"> <li>• As per the Production Sharing Contract(PSC) between the Government and the oil exploration &amp; production contractors:</li> <li>• In case of a commercial discovery of petroleum, the contractors are entitled to recover from the sale proceeds all expenses incurred in exploration, development, production and payment of royalty.</li> <li>• Portion of the value of petroleum which the contractor is entitled to take in a year for recovery of these contract costs is called "Cost Petroleum".</li> <li>• The relationship of the oil exploration and production contractors with the Government is not that of partners but that of licensor/lessor and licensee/lessee in terms of the Petroleum and Natural Gas Rules, 1959.</li> <li>• Having acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum, contractors carry out the exploration and production of petroleum for themselves and not as a service to the Government.</li> <li>• Para 8.1 of the Model Production Sharing Contract (MPSC) states that subject to the provisions of the PSC, the Contractor shall have exclusive right to carry out Petroleum Operations to recover costs and expenses as provided in this Contract. The oil exploration and production contractors conduct all petroleum operations at their sole risk, cost and expense.</li> </ul> <p>Hence, cost petroleum is not a consideration for service to GOI and thus not taxable per se.</p> <ul style="list-style-type: none"> <li>• However, cost petroleum may be an indication of the value of mining or exploration services provided by operating member to the joint venture, in a situation where the operating member is found to be supplying service to the oil exploration and production joint venture.</li> </ul>	

**About KARVY DATA MANAGEMENT SERVICES LTD.**

Karvy Data Management Services Limited (KDMSL), a GST Suvidha Provider which has developed ASP Solution for easing GST compliance for tax payers. Easy to use interfaces are made available at the disposal of the tax payers to simplify their compliances in terms of dashboards, MIS, returns, payments, refunds and other compliance process. So, 'HELP US HELP YOU' we offer following services for GST - GSP & ASP Services (on cloud or on premises) with ERP Integration and Vendor Management Solution. We also offer managed services for Outsourced GST Compliance which will take care of end to end compliances.

In India, GST Team of KDMSL are located in following cities: Hyderabad, Mumbai, Bangalore, New Delhi and Kolkata. For more information about KDMSL service offerings, visit [www.karvygst.com](http://www.karvygst.com)

**Below are the co-ordinates of our representatives from GST Team across India:**

Hyderabad: Mr. Vamsi Krishna Pothukuchi (8378976769) & Mr. Dipak Tiwary (9823741187)

Mumbai: Mr. Avdhesh Heda (9130561253)

Pune: Mr. Akhil Menon (7588658809)

Bangalore: Ms. Sonu Agarwal (8100009631)

New Delhi: Ms. Priyanka Mathur (9953563996) & Mr. Aakash Singhal (8700698951)

Kolkata: Ms. Ishika Agrawal (8820253344) & Mr. Vijay Kumar Gupta (9339355647)

Chennai: Mr. Gopi Krishnan (9633104070)

---

**Disclaimer: The content of this document is for general information purpose only. Karvy Data Management Services Limited shall not accept any liability for any decision taken based on the advice. You should carefully study the situation and consult tax advisors before taking any decision.**

---

**If you wish not to receive such updates, write back to us with a subject "UNSUBSCRIBE" and we shall not send mailers to you.**