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RNPOs IN INDIA ARE SUBJECT TO THE GOODS AND SERVICES TAX (GST)

1. The outset for

Non-profit organisations (NPOs) or Non-government organisations (RNPOs) (will be called registered non-profit organisations (RNPO under Income-tax Act, 2025) are of critical significance for the development of India's social, charitable, religious, educational, and environmental sectors. Trusts, Societies, and Section 8 Companies are the most common forms of business registration for these kinds of organisations. There are a lot of people who believe that registered non-profit organisations (RNPO) under Income-tax Act, 2025 are not required to automatically pay the Goods and Services Tax (GST). A registered non-profit organisations, on the other hand, does not automatically qualify for a tax exemption under the Goods and Services Tax law. The Goods and Services Tax (GST) is imposed on a number of activities, supplies, payments, and exemptions that are specified in the GST law.

Using legal texts, notifications, and examples from real life, this chapter provides a comprehensive and helpful explanation of how the Goods and Services Tax (GST) will be exempt and taxable in particular situation under Registered non-profit organisations (RNPO).

2. Constituents of the Law Taxability of the Goods and Services Tax on registered non-profit organisations (RNPO) (Analysis by Section)

RNPO are required to pay GST, according to the CGST Act of 2017, which was passed in 2017, w.e.f. 1st day of July, 2017. The Goods and Services Tax law does not expressly exclude Registered non-profit organisations. Activities are the only factor that determine whether or not they are taxable.

3. The scope of supply is highlighted in Section 7(1) of the CGST Act, 2017, read “with RNPO Applicability Highlighted.”

The first paragraph of Section 7 of the CGST Act, 2017 read as under:

“For the purposes of this Act, the expression “supply” includes:

- (a) all forms of supply of goods or services or both, such as sale, transfer, barter, exchange, license, rental, lease, or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
- (aa) the activities or transactions, by a person, other than an individual, to its members or constituents or *vice versa*, for cash, deferred payment or other valuable consideration.
Explanation : For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions *inter se* shall be deemed to take place from one such person to another;
- (b) import of services for a consideration, whether or not in the course or furtherance of business; and
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration.

The Use of RNPO

By design, the definition of “supply” in Section 7(1) of the CGST Act is intentionally broad and centered on activities. **The test for registered non-profit organisations (RNPO) is not whether the organization is charitable; rather, it is whether there is a clear supply.**

A registered non-profit organisations (RNPO) is considered to be a supply if it provides goods or services, such as training programs, consulting, health care, housing, renting halls, selling publications, or sponsoring events, and receives any kind of payment in exchange for those offerings. Even if there is no direct consideration or benefits that are linked to the transaction, taxability may still occur.

When registered non-profit organisations (RNPO) engage in inter-branch transfers or related-party transactions, it is essential for them to comply with the regulations because activities that are listed in

Schedule-I can be considered supply even if there is no consideration involved.

4. The CGST Act, Section 2(17), asks, “What does the term ‘business’ mean? (With a focus on registered non-profit organisations)”

Text of section 2(17):

“Business” includes—

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager, or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity, or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- (f) admission, for a consideration, of persons to any premises;
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.

An Interpretation of the Descriptive Meaning of the RNPO Applicability

In accordance with Section 2(17), the definition of “business” is significantly expanded to encompass activities that are not carried out for the purpose of making a profit or gaining monetary gain. This rule is of utmost significance for Section 8 companies, trusts, societies, and registered non-profit organisations (RNPO).

For the purposes of the Goods and Services Tax (GST), any organized activity that a registered non-profit organisations (RNPO) engages in, such as the running schools, hospitals, skill development centers, membership-based programs, or welfare schemes that seek to collect fees or subscriptions, can be considered a business. Since there is no requirement for continuity or volume, even transactions that take place on an occasional basis are safe from risk.

Due to the fact that clubs, associations, and societies offer facilities to their members, it is clear that registered non-profit organisations (RNPO) that are based on members are not exempt from the Goods and Services Tax (GST) simply because they are not for profit.

5. Section 2(31) : Consideration

The text of Section 2(31) of the CGST Act, 2017

In the context of the supply of goods or services or both, the term “consideration” refers to the following:

- (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;
- (b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods for services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.

A deposit that is made for the delivery of goods or services will not be considered payment unless it is used as consideration for the product or service.

The applicability on RNPO

Specifically, the connection between payment and supply is the focus of Section 2(31). When considering contributions, grants,

sponsorships, and donations to registered non-profit organisations (RNPO), this distinction is of utmost significance.

This means that donations that are made without any expectation of receiving goods, services, branding, or any other benefit in return do not count as consideration and do not create a supply that is subject to taxation. However, if a payment is made in exchange for a particular service, such as sponsorship visibility, naming rights, event access, advertising, training, or improved facilities, then the payment is no longer considered a donation; rather, it is considered consideration. [For more information Circular No. 116/35/2019-GST Page No. 408]

Even non-monetary benefits or acts of forbearance that are provided by a registered non-profit organisations (RNPO) in exchange for a payment can be considered consideration under the Goods and Services Tax (GST).

6. Schedule I : Activities treated as supplies even if made without consideration

Schedule I provides a list of activities that are considered to be supply even if they do not involve any form of payment (for example, transactions between parties closely related to one another).

Application to Registered non-profit organisations

In most cases, Schedule I does not include free services for charitable organisations. Therefore, registered non-profit organisations (RNPO) are exempt from paying the Goods and Services Tax (GST) on the free services they provide to beneficiaries, unless they are indirectly connected to a business.

7. Section 9 of CGST Act—Levy and collection of GST (Charging Section)

Text of the first paragraph of section 9(1) of the CGST Act, 2017

(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 and un-denatured extra neutral alcohol or rectified spirit used for manufacture 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.

The usefulness on RNPO

An RNPO is considered to be the same as any other legal person in accordance with the GST law. Charitable or registered non-profit organisations are not eligible for any exemptions or exemptions from the CGST Act. When a registered non-profit organisations (RNPO) engages in an activity that involves the provision of goods or services for a fee, that activity is evaluated in the same manner as it would be for a business.

As a result, the activity is considered to be in compliance with the fundamental requirements for supply whenever an RNPO charges a fee, rent, subscription, sponsorship amount, or any other form of consideration, whether it be directly or indirectly. Under the Goods and Services Tax (GST), the taxability of income does not decrease if it is used for charitable purposes or for social welfare.

According to the Goods and Services Tax (GST) law, any activity that a registered non-profit organisations (RNPO) performs for the purpose of obtaining financial compensation and as a component of or to assist in the organization's work is considered a supply and is subject to taxation, unless it is specifically exempted from taxation.

8. Section 11 of the CGST Act— Power to grant exemption from tax (charitable relief)

Text of section 11(1) of CGST Act, 2017

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.

Application to registered non-profit organisations (a Focus on Exemptions)

Through certain notifications, the Government is able to grant exemptions from the Goods and Services Tax (GST) to individuals for the benefit of the general public. This provision of the law is the primary means by which registered non-profit organisations (RNPO) can obtain

assistance, given that the Act does not expressly prohibit charitable organisations from receiving assistance.

Simply because it is doing good things for people, a registered non-profit organisations (RNPO) cannot presume that it is exempt from the law. Exemption is only possible if a specific notification under Section 11 covers the specific supply. For example, charitable activities related to health care, education, or public welfare as defined in Notification No. 12/2017-CT (Rate) are examples of activities that qualify for exemption.

It is therefore necessary to examine the tax situation of a registered non-profit organisations (RNPO) based on its activities and notifications, rather than merely considering its organizational status.

9. Sections 22 and 24 of the Goods and Services Tax Registration Provisions (How the Affects not-for-profit organisations)

Excerpt from Section 22: Individuals who are required to register

Every supplier who makes a taxable supply of goods or services or both in a State or Union territory, with the exception of special category States, is required to register under this Act if his total sales in a financial year are more than twenty lakh rupees. Only special category States are exempt from this requirement.

“Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act: (i) persons making any inter-State taxable supply; (iii) persons who are required to pay tax under reverse charge.” This is the extract from Section 24 of the Act, which is titled “Compulsory Registration.”

The use on RNPO

Sections 22 and 24 specify the circumstances under which a Registered non-profit organisations (RNPO) is required to obtain GST registration. Under Section 22, a registered non-profit organisations (RNPO) is only required to register if it engages in taxable sales and its total sales exceed a predetermined threshold.

On the other hand, Section 24 overrides the threshold exemption and stipulates that registration is obligatory in specific circumstances. No matter how much money it makes, a registered non-profit organisations (RNPO) is required to register if it:

- must make a tax payment in accordance with the Reverse Charge Mechanism (RCM), or

The individual belongs to any of the other groups that are listed in Section 24.

It is essential to keep in mind that taxable sponsorships, rentals, training fees, or consultancy receipts are considered to be revenues, whereas exempt supplies and pure donations do not count towards turnover.

10. Sections 16 and 17: Input Tax Credit (with Restrictions for registered non-profit organisations)

Who is eligible to receive an ITC – Section 16(1)

According to section 49, “Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him that are used or intended to be used in the course or furtherance of his business.” This authorization is subject to the conditions and restrictions that may be prescribed.

Division of Credit, as outlined in Section 17(2)

“The amount of credit shall be restricted to the amount of input tax that is related to the taxable supplies in the event that the registered person uses the goods or services, or both, for both taxable and exempt supplies,” the statement reads.

The use on RNPO

The rules that govern when registered non-profit organisations (RNPO) are permitted to use the Input Tax Credit and when they are not permitted to use it are outlined in Sections 16 and 17. Once an RNPO has been registered under the Goods and Services Tax (GST), it is considered a “registered person” and is only able to claim input tax credit (ITC) if the inputs are used for taxable supplies.

A registered non-profit organisations (RNPO) is required to reverse the income tax credit (ITC) in a manner that is both fair and in accordance with the rules if it engages in both taxable activities (such as renting out property, consulting, or sponsoring events) and exempt activities (such as providing free healthcare or education).

Therefore, there is no input tax credit (ITC) for inputs that are used solely for exempt supplies or for activities that are not related to business, even if those activities are in accordance with the charitable objectives of the organization.

11. RNPO are required to register for the Goods and Services Tax

Registered non-profit organisations are required to register for the Goods and Services Tax (GST) if they meet the following criteria:

- ₹20 lakhs is the total amount of sales, with ₹10 lakhs being the amount for States that fall under the special category.
- Such organisations providing taxable services.

The aggregate turnover takes into account both taxable and exempt supplies, but it does not take into account donations that are no longer connected to any supply.

12. Input Tax Credit (ITC for RNPO)

RNPO that are registered under the Goods and Services Tax (GST) are eligible to receive an input tax credit (ITC) on the inputs and input services that they use in order to produce taxable supplies.

However, there is a prohibition on the use of ITC for supplies that are exempt.

- It is necessary to reverse the ITC in a manner that is equitable in the event that both taxable and tax-free supplies are made.
- It is necessary to properly separate expenses in order to be compliant.

13. Obtaining GST Returns and Observing the Regulations

The following are requirements for registered non-profit organisations:

- Providing the GSTR-1 Form
- Completing the GSTR-3B Form
- Annual Return Filing for the GSTR-9 (if applicable)
- Maintaining accurate records and paperwork at all times

In the event that you do not adhere to the regulations, you may be subject to interest charges, fines, and the cancellation of your registration.

14. Problems that occur in real life and the errors that people make a great deal

There are a few *common errors that registered non-profit organisations (RNPO) make*:

- Considering each and every receipt to be a gift
- Failing to register despite engaging in activities that are subject to taxation

15. Conclusion

It is not the charitable intention of registered non-profit organisations (RNPO) that determine whether or not they are subject to the Goods and Services Tax (GST). Real charitable activities are exempt from the Goods and Services Tax (GST), but activities that are commercial or based on fees are. To ensure that Registered non-profit organisations (RNPO) are able to operate efficiently in accordance with the Goods and Services Tax (GST) law, it is essential to have a proper understanding of income, correctly classify it, and adhere to the rules.

2.

AN OVERVIEW OF THE GOODS AND SERVICES TAX ON DONATIONS

The manner in which the Goods and Services Tax (GST) regulates donations in India has been the subject of a great deal of debate and clarification. It is not always clear where a charitable donation ends and a payment for a service begins when it comes to the GST framework, which is primarily designed for business transactions. A comprehensive analysis of the effects of the Goods and Services Tax (GST) on donations is provided in this chapter. It takes a look at relevant statutory provisions, important circulars issued by the Central Board of Indirect Taxes and Customs (CBIC), and significant decisions made by a variety of Advance Ruling Authorities (AARs) and appellate bodies. The fundamental principle that has been established by jurisprudence and circulars is that a donation will not be subject to taxation if it is genuine, voluntary, and non-commercial, and if there is no trade-off involved. A donation, on the other hand, is considered a taxable supply if it is made with the intention of obtaining a business benefit or of advertising themselves for the donor.

1. Preliminary remarks

Since the Goods and Services Tax (GST) was implemented, a great number of charitable trusts and registered non-profit organisations (RNPO) have been uncertain about whether or not the donations they receive are subject to taxation. The most important question is whether or not a donation is considered a “supply” under Section 7 of the CGST Act, 2017, which specifies the types of transactions that are subject to taxation. In order for a supply to be subject to taxation, it is typically required that it be made for a “consideration” and in the “course or furtherance of business.”

2. Legal Structure and Procedures

In accordance with Section 7 (Scope of Supply), a business transaction must involve the exchange of monetary value for the provision of goods or services. Here, the words “**business**” and “**consideration**” are the most important ones to pay attention to.

Consideration is a broad term that encompasses any payment made for goods or services, regardless of whether it is made by the person receiving them or by another person. This provision can be found in Section 2(31).

In accordance with Section 2(17) (Business), the term “business” is a broad one that encompasses any trade, commerce, or manufacture, regardless of whether or not it generates monetary proceeds. Because of this expansive definition, charitable activities are sometimes considered to be business, even when there is no intention to make a profit from them.

3. *Quid pro quo*. This is the most important thing

When it comes to determining whether or not a donation is taxable, a significant factor is whether or not there is a reciprocal arrangement or a *quid pro quo*.

Donation that is not subject to taxation: A genuine donation or gift that is made with the intention of assisting other people and for which the donor does not receive anything in return is not considered a supply. In these situations, there is no exchange of one thing for another.

Whenever a donor is aware that they will receive something in exchange for their contribution, such as advertising or promotion of their company, the donation is considered to be a payment for a service and is therefore subject to taxation. This is something that occurs quite frequently in programs that are involved in corporate social responsibility (CSR).

4. CBIC’s Important Circulars and Circulars

- Circular No. 116/35/2019-GST: This circular is very important for determining how the Goods and Services Tax (GST) applies to donations for individuals. By doing so, it is made abundantly clear that expressing gratitude to someone, such as by placing a small nameplate on the donor, does not constitute a form of business advertising and does not result in the donation being subject to taxation. A donation must satisfy all three of the following conditions in order to be exempt from paying taxes on it:

1. A charitable organization will receive the funds.
2. You can think of the payment as a gift or a donation.

3. The objective is to provide assistance to other people without generating any profit or advertising for the donor.

5. Significant case laws

(a) This is In the matter of Jankalyan Vasahaticha Adhivasicha Va Sanstha 2021, Maharashtra High Court of Evidence) Detailed information regarding the situation:

With regard to the applicant, Jayshankar Gramin Va Adivasi Vikas Sanstha (also known as “the Trust”), the Maharashtra Public Charitable Trust Act of 1950 states that it is a charitable trust. By providing them with a safe place to live, education, direction, clothing, food, and medical care for women and children, the Trust assists approximately fifty children who are orphaned or homeless.

The Women and Child Welfare Department of the Government of Maharashtra provides assistance to the Trust in the form of grants and donations, such as Rs 2,000 per month for each child. The Trust made a request for assistance to the Maha AAR in accordance with section 97 of the CGST/SGST Acts:

- In the event that you are required to obtain GST registration.
- Whether or not the money that is received as grants or donations from various organisations (such as the Central or State Government or donors) is subject to the Goods and Services Tax (GST).
- If that is the case, what rate of GST would be applicable?

Reasoning and Making a Decision

The AAR held that applicant did not provide sufficient evidence that only “advancement of educational programs or skill development relating to orphans/homeless children” were covered, the AAR came to the conclusion that the activities of the Trust did not provide a complete fit with the definition of “charitable activities” that was stated in the notification of exemption.

- Consequently, with regard to the sums got:
 - ✓ It stated that grants from the Government are payments for services that are provided to the Government, and as a result, they are considered to be a part of the “supply” and are therefore subject to taxation.

- ✓ A distinction was made by the AAR: if a donation is considered to be purely charitable, which means that it is given without any expectation of anything in return, without any advertisement, without any commercial benefit, and without any service being provided to the donor, then the Goods and Services Tax (GST) might not be applicable. But if the donation is not for charity (that is, if it is in exchange for a benefit, service, or promotion), then the Goods and Services Tax (GST) is due at 18%.

The decision that was made was as follows: “Grants and non-philanthropic donations made to charitable trusts are subject to 18% GST.”

The most important thing is.

Even if a charitable organization has no intention of making a profit, it may still be subject to the Goods and Services Tax (GST) if the activities it engages in are planned, ongoing, and contribute to the organization’s achievement of its objectives. This particular case demonstrates how vital it is to investigate the connection between receipts because of its significance.

(b) The Indian Institute of Corporate Affairs (IICA) (2019, Delhi AAR)

Facts Regarding the Case:

The Indian Institute of Corporate Affairs (IICA), which is a society that is a part of the Ministry of Corporate Affairs in India, received funding from numerous businesses in order to carry out specific CSR (Corporate Social Responsibility) projects. These projects included the construction of toilets and other projects that were designed to assist rural areas. Because the recipients of these kinds of funds were not businesses but rather members of the general public, the International Institute for Cooperation and Development (IICA) referred to them as grants-in-aid rather than payments for services.

The decision, along with the reasons for it:

There was a disagreement between the Delhi AAR and the applicant’s statements. The report made note of the fact that the payments were directly linked to particular deliverables, which in this instance were the completion of corporate social responsibility projects

for the businesses that provided the finances. Through the work of IICA, the companies were able to fulfill their corporate social responsibility (CSR) obligations as stipulated by the Companies Act of 2013.

“Consideration” is defined as any payment made by a third party for goods or services, according to Section 2(31)(a) of the CGST Act, which was cited by the AAR. This means that the CSR funding companies were paying for particular services that IICA provided, despite the fact that the beneficiaries were not the ones who made the payments.

According to the AAR, the money was not a gift but rather payment for goods, and as a result, the transaction was subject to the Goods and Services Tax (GST).

The Most Important Point:

Regardless of whether the recipients are third parties or not, grants or project-based funds that are associated with corporate social responsibility and are linked to a deliverable are considered to be taxable donations. The mere fact that a payment is labeled as a “grant” or “CSR fund” does not render it exempt from taxation.

(c) “Students’ Welfare Association, In re” (2019, Maharashtra AAR)

The elements of the case

- The Students’ Welfare Association was a trust that provided students from rural areas who were underprivileged and deserving with a place to stay and eat in a hostel while they were there.

A small, one-time fee of approximately ₹ 22,250 was charged from each student annually, which was significantly less than ₹ 1,000 per day.

- In addition, the trust has received donations in order to compensate for the disparity between the amount it spent and the amount it charged from students.
- Students were required to vacate their rooms after a period of ten months, at which point the rooms could be made available to another group of students.

Questions on behalf of the AAR

The trust desired to have a decision made in advance regarding a number of questions, the most important of which were as follows on the list:

1. In the event that the service is not controlled by Sr. Exemption is granted to lodging services that have a rate of less than ₹1,000 per day, as stated in notice number 14 of the same notice.
2. If the trust received significant donations, would those donations be subject to taxation as “services”?

AAR’s decision and the reasoning behind it

The Maharashtra AAR came to the conclusion that the hostel accommodations provided by the trust were exempt from the Goods and Services Tax (GST) for the following reasons:

The low-tariff lodging rule does not apply to this facility.

- The American Association of Rooms (AAR) considered the hostel service to be equivalent to the lodging services provided by a “hotel, inn, guest house... whatsoever name it is called.”
- The annual fee of ₹ 22,250 per student was significantly lower than the limit of ₹ 1,000 per day that was established by Sr. when the individual payments were broken down into daily amounts. Notification No. 12/2017-CT (Rate) No. 14 regarding the rate.

According to the AAR, the trust’s activity of providing hostel accommodations was exempt from the Goods and Services Tax (GST) under this rule because of this.

Not a “Residential Dwelling”

According to the decision, a hostel is not a true residential dwelling because students only stay there temporarily and their families are not permitted to stay there. This is the reason why the AAR rejected the claim that the rooms in the hostel should be considered “residential dwellings.”

The presents

- According to the AAR, donations made to the trust did not have to be subject to the Goods and Services Tax (GST) as long as the donor did not receive any instructions to receive something in return for their contribution. In the event that you give money in exchange for something specific, such as an advertisement, you will be required to pay taxes on that money.

6. The GST treatment of donations and grants: An analysis of previous case laws and their implications

As a result of a series of significant Advance Ruling (AAR) determinations, the understanding of the Goods and Services Tax (GST) responsibility for donations and grants received by charitable and registered non-profit organisations has advanced. As a result of all these decisions taken together, it is now abundantly clear what the distinction is between charitable donations that are not conditional and grants or donations that are conditional and are linked to a particular activity or benefit. The following combined analysis provides an overview of the primary reasons that judges have provided in significant cases.

It has been made abundantly clear by the AARs in the cases of Mercara Downs Golf Club (2022), Jankalyan Vasahaticha Adhivasicha Va Sanstha (2021), Students' Welfare Association (2019), and Indian Institute of Corporate Affairs (2019) that the presence of a *quid pro quo*, which can be defined as a mutual benefit or obligation, is what determines whether or not donations or grants are taxable under the Goods and Services Tax (GST).

Facts and the Most Important Issues

Under Section 7 of the CGST Act, 2017, the question that was being asked in each of these cases was whether or not the donations, contributions, or grants that were received by clubs, associations, trusts, and institutions should be considered to be payment for goods and services. The exemption was claimed by each organization on the grounds that the receipts were the result of a voluntary act and were used for charitable or institutional purposes, without the donor receiving any direct benefit from the donation.

Legal and Logical Analysis of the Situation

There was a distinct differentiation made by the authorities between:

1. These are donations that are made without any expectation of receiving anything in return, and they are given out of a sense of duty or out of a sense of kindness.
2. Donations or grants that are conditional are those that are given in exchange for a particular reason or deliverable, such as naming rights, advertisements, or social responsibility work.

7. Should donations be subject to taxation under the Goods and Services Tax (GST), what will happen to licenses issued u/ss 332 and 354 of the Income-tax Act, 2025?

- Sections 332 and 354 of Income-tax Act, 2025 [Sections 332 and 354 of the Income-tax Act, 2025 erstwhile sections of 1961 Act] are not about the Goods and Services Tax (GST); rather, they are about exemptions from the Income Tax. These registrations provide tax breaks to the registered non-profit organisations (332) and allow donors to deduct their donations from their income-tax (354).
- The “donation” character is rendered invalid by the use of the “*quid pro quo*” method: according to section 354, a grant for a material return is not considered a “donation” at all. One is eligible to receive an section 354 deductions if they give money without expecting anything in return.

Affect on the Current Status of Registration:

Entities that are registered under Section 332 of the Income Tax Act are permitted to generate incidental trading income (subject to certain conditions), but the primary objective must still be charitable. Doing business on a regular basis (which is what the “*quid pro quo*” part suggests) could even put the Registered non-profit organisations’s tax-exempt status in jeopardy if the organization does not keep separate books when it comes to business income.

Having a sections 332 and 354 registration does not necessarily mean that you are completely exempt from the Goods and Services Tax (GST) if the transaction involves some kind of exchange on the part of the parties involved. The concept of “donation” is predicated on the idea that it is totally voluntary, free of charge, and does not come with any conditions attached.

8. Conclusion

The question of whether or not donations are taxable under the GST is not an easy one to answer. It is only possible for a donation to be exempt from the Goods and Services Tax (GST) if it is a charitable gift that does not provide the donor with any business benefit. The primary consideration is whether or not there is a reciprocal relationship. It is still difficult to deal with complicated cases that involve CSR grants or

benefits tied to donations, despite the fact that the CBIC Circular No. 116/35/2019 makes things clearer for simple acknowledgments. Taking into account the relevant statutory regulations, clarifications, and judicial rulings, charitable organisations are required to conduct a thorough analysis of the characteristics of each donation in order to determine the specific tax consequences associated with that donation. The ever-evolving case law demonstrates how essential it is for legislators to provide unambiguous instructions in order to shield genuine charitable endeavours from unanticipated tax obligations.

3.

GST IMPLICATIONS ON EDUCATIONAL INSTITUTIONS IN INDIA

1. Introduction

◇ Understanding “Education” Under GST

The term “education” is not explicitly defined in the CGST Act, the Apex Court in *Loka Shikshana Trust v. CIT* defined it as the process of training and developing knowledge, skill, and character of students through formal schooling. The GST law respects this foundational perspective by exempting core educational services from tax, while peripheral or ancillary services remain taxable at the standard rate of 18%.

◇ Classification of Educational Services

Educational services fall under Heading 9992 of Notification No. 11/2017-Central Tax (Rate) and are categorized into six groups:

- Pre-primary education
- Primary education
- Secondary education
- Higher education
- Specialized education
- Other educational support services (general, technical, vocational)

These classifications help to determine the applicable GST rate based on the nature of the service.

2. Before determining exemptions for educational services we should understand the meaning of followings:

A. Meaning of “Educational Institution”

Services provided by such institutions to their students, staff, and faculty are generally exempt under Notification No. 12/2017 if the same is provided by the educational institution, so we must have to understand what is educational institution under GST:—

An educational institution under GST includes those offering:

1. Pre-school to higher secondary education.
2. Curriculum-based education that leads to a qualification recognized by law.
3. Approved vocational education courses, such as those under the Apprentices Act or National Council for Vocational Training.

B. Meaning of Approved Vocational Courses

Approved vocational courses enjoy GST exemption when conducted by **Industrial Training Institutes or Modular Employable Skill Course providers affiliated with Government-recognized bodies like the National Council for Vocational Training.**

3. GST Rates Applicable to Educational Services

- Educational services in general attract 18% GST.
- **Entry 66 of Notification No. 12/2017:-** Services provided by or to educational institutions—such as transportation, catering, house-keeping, and exam-related services—are exempt if the institution offers pre-school to higher secondary education.

Sr. No.	Description of services	
1.	Educational Services	18%
2.	Services Provided – (a) By an educational institution to its students, faculty and staff; (aa) By an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee (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 house-keeping services performed in such educational institution. IV. Services relating to admission to, or conduct of examination by, such institution; up to higher secondary: Provided that nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent	Nil