



THE CHAMBER OF TAX CONSULTANTS

3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai - 400 020

●Tel.: 2200 1787 / 2209 0423 / 2200 2455 ●E-mail: office@ctconline.org

●Website: www.ctconline.org

Indirect Tax Study Circle Meeting on 05.10.2018

Issues in relation to Charitable trusts, Educational institution, Hospitals and Co-operative Housing Societies

Chairman – Adv. Shailesh Sheth

Group leader – Adv. Rahul Thakar

Case studies:

1. **'Seva'** is a **religious** and charitable trust registered u/s 12AA of Income Tax Act. It has huge temple premises along with bhojanshala and dharamshala.

Examine GST applicability in following:

- Trust receives following types of donations:
 - i. Voluntary donations in cash including collection in donation box.
 - ii. Corpus Donation with a specific condition that donation to be used for construction of another temple
 - iii. Voluntary donations in kind (in form of jewellery) which is immediately liquidated by trust
 - iv. Donations which entitles donor to perform religious rituals
 - v. Donations where name of the donor is displayed in temple premises.
- Trust also conducts religious courses for which it charges Rs. 500 per month per student.
- It allows pilgrims to stay at dharamshala. It has following room tariff:
 - i. Non-air conditioned room having tariff of Rs. 750 per night
 - ii. Air-conditioned room having tariff of 1200 per night

- Bhojanshala collections for serving tea, coffee, meals, etc. to the pilgrims.
- It sells following items:
 - i. Religious texts
 - ii. Idols of God / Goddess
 - iii. Pooja Samagri
 - iv. Milk and Ghee made at Gaushala
 - v. Prasadam

2. **‘Shikshan Seva’** is registered as a public charitable trust with the sole objective of furtherance of education in Maharashtra. It runs **school and college** in Mumbai.

The school is affiliated to Indian Boards (State boards as well as Central Boards). The school also has hostel providing lodging and boarding facilities.

The school is appointed by the Council for the Indian School Certificate Examinations (“CISCE”) for supervising and conducting the Indian Certificate of Secondary Examination (“ICSE Exam”).

The college is affiliated to Mumbai University running degree courses.

It also conducts courses on behalf of foreign universities which ultimately results into granting of degree by foreign university to the students.

The college also conducts certain diploma courses such as MBA for which diploma certificates are issued.

The college is centre for examinations conducted by Institute of Chartered Accountants of India (ICAI).

The school as well as college have canteen run by local catering contractor.

The revenue stream of trust is as under:

- From school:

Admission Fees	Term Fees	Library Fees	Gymkhana Fees
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Computer fees	Hostel fees (including mess)	Hobby classes	
Picnic charges	Penalties to students	Ground hiring charges	
Book sales	Notebook sales	Uniform sales	Scrap sales

- From college:

Admission Fees	Term Fees	Library Fees	Gymkhana Fees
Computer fees	Auditorium hiring charges		Examination fees
Diploma courses fees	Foreign university course fees		Scrap Sales
ICAI Supervision charges		Sponsorship fees for annual programme	

- Trust also receives monthly compensation from canteen contractors for school as well as college.
- The school receives education grant and subsidy from state government.
- Trust receives the donations.

Trust seeks your advice as to the GST Implications of above including Input tax credit eligibility.

3. 'Simplified Health' is registered as a medical charitable trust. Their mission is to prevent and cure various diseases. The trust operates a full-fledge hospital 'Care and Cure' in the state of Maharashtra. The hospital has a normal capacity of 250 beds and 50 beds under their Intensive Care Unit ('ICU'). It has OPD section. It also has pharmacy shop in its premises. It also provides ambulance services.

Hospital functions as under:

- Some doctors are on the payroll of the hospital.

Consulting specialists are retainers. The hospital collects charges from the patients. The agreed share of revenue is then paid to such doctors. The surgeons are visiting faculties. They collect surgery charges directly from patients. The pay agreed share of revenue to the hospital.

- The pharmacy shop provides medicines to hospital patients. Such charges are included in the final bill raised by the hospital on the patients.

It also sells medicine to the outsiders as well as OPD patients against cash memos.

- Hospital collects monthly rent from State Bank of India for ATM installed on the ground floor.
- Cafeteria on the ground floor is outsourced to 'M/s. Delicious caterers'. Hospital collects monthly a fixed sum of Rs. 30,000/- alongwith 10% of the total sales effected by the caterers.
- Hospital has appointed a canteen contractor who provides meals to the staff as well as to the patients. The canteen contractor charges the hospital for the food supplied by him.
Hospital neither charges to the patients nor to the staff for the food.
- Hospital also receives monthly compensation of Rs. 20 lakhs for advertising hoarding.

Trust seeks your advice as to the GST Implications of above including Input tax credit eligibility.

4. A leasehold plot (99 years lease) is allotted to a society consisting of 20 members for construction of houses for the sports persons.

The society will construct 20 flats on this lease plot under self- development housing scheme.

Each member will contribute about Rs. 40 lakhs in instalment to society to meet the construction cost.

The society will appoint architect, RCC consultants and civil engineer to supervise the construction. The society will procure construction material and will appoint contractors to carry out the construction.

Society is seeking your expert advice on GST implications, if any.

5. A **co-operative housing society** is having 350 members consisting of 200 flats of 1 BHK (small) and 150 flats of 2 BHK (big). The collection per month is as under:

Flats	Municipal taxes	Electricity and water	Sinking fund	Repairs & Maintenance	Parking charges	Total
Small	1000	1500	2000	3000	500	8000
Big	1500	1500	3000	4000	500	10500

Total collection of society is as under:

Flats	Total collection per annum
Small	16,00,000
Big	15,75,000
Total	31,75,000

There has been difference of opinion amongst committee members as to obligation of society to register under GST. Some members strongly feel that on principle of mutuality, society is not liable to GST on contributions received from members.

Being a prominent member of society and a chartered accountant, the committee approached you with the following questions:

- Whether society is liable to GST?
- If yes, at what stage it is required to get itself registered?
- If yes, how to work out exact liability payable by the society?
- Can flat owner take Input tax credit of GST charged by the society?

