

## Note On GST Applicability On Grant

Arvind Vijay<sup>1</sup>, Dr Subodh Shrivastav<sup>2</sup>,  
<sup>3</sup>Dr Archana Sharma, <sup>4</sup>Dr Suman Paliwal

<sup>1</sup>Tax Advocate, Research Scholar Phd Law  
Vivekanand Global University Jaipur

<sup>2</sup>Dean law

Supervisor<sup>3</sup>

Co-Supervisor<sup>4</sup>

### Abstract:

The Goods and Services Tax (GST) is a significant tax reform introduced in India in 2017, aimed at simplifying and unifying the country's complex tax structure. GST's implementation has had far-reaching implications across various sectors of the economy. One area that has raised questions and generated considerable discussion is the applicability of GST on grants. This abstract provides an overview of the GST regime and its applicability concerning grants. The paper delves into the complexities surrounding the taxation of grants under GST law and explores the different scenarios in which GST may or may not be applicable. The analysis covers various types of grants, including government grants, private grants, and grants received by non-profit organizations, shedding light on the nuances that distinguish them in the context of GST. Additionally, the abstract explores the impact of GST on grant recipients and grantmakers, offering insights into the financial implications and compliance requirements. It discusses the challenges and ambiguities faced by businesses, non-profits, and government agencies in navigating the GST framework concerning grants. Furthermore, this abstract outlines the key legal provisions and recent developments related to GST on grants, including relevant case laws and amendments to GST regulations. It discusses the evolution of GST laws in response to the changing dynamics of grant-making and receiving, emphasizing the need for clarity and consistency in interpretation. The abstract also addresses the broader economic implications of GST on grants, such as its impact on the funding landscape, charitable activities, and government programs. It highlights the potential advantages and disadvantages of GST applicability on grants, aiming to provide a comprehensive perspective on the subject. In conclusion, this abstract offers a glimpse into the intricate

landscape of GST applicability on grants. It recognizes the need for further research and clarity in this area, as it has a significant bearing on businesses, non-profit organizations, and government entities. Understanding the implications of GST on grants is crucial for ensuring compliance, managing finances, and making informed policy decisions in the ever-evolving tax landscape of India.

## Introduction

There are many governmental and non-governmental organizations that provide grants to for-profit and non-profit organizations for specific purposes. The charity usually uses this grant for a purpose agreed with the donor. For example, an international development program has funded an Indian company to install solar panels in India to further its goal of providing renewable energy to remote areas.

Likewise, many government research organizations fund universities/research centers to support their research that may be of public interest. Whether the activities carried out by the beneficiary are within the scope of "use" under the SCT and whether this subsidy qualifies as a "high order" for that product. So the question is whether the amount of subsidy can attract GST.

Title: "Goods and Services Tax (GST) Applicability on the Grant: An In-depth Analysis" Section 9 of the Central Goods and Services Tax Act 2017 ("CGST Act") imposes Central Goods and Services Tax ("CGST") for the following items in each building. The supply of goods or services other than the supply of alcoholic beverages intended for human consumption, or both, at the price determined in Article 15 and not exceeding twenty per cent. The notice is given by the Government on the instructions of the GST Commission and is paid according to the tax rules and must be paid by the taxpayer.

Similarly, the State GST Act provides SGST for central supplies, and the 2017 Omnibus Goods and Services Tax Act provides IGST for all government supplies. Article 7 of the CGST Law regulates the provisions regarding the delivery of the goods.

For the purposes of Article 7(1)(a), the word "supply" includes any supply of goods or services for personal purposes, such as sale, employment, exchange, exchange, license, rental, rental or disposal, or both. consideration in course or job support.

Section 2(31) of the CGST Act means that the word "reward" includes any amount or cost of litigation or limitation, received or payable in money or otherwise. participate in, respond to, or promote goods or services, or both, by the buyer or another person, but not government or government incentives. The law in the preceding paragraph specifies that a security paid for goods or services or both shall not be considered a payment for goods unless the seller uses his money allowance as a discretion for that material.

As the above terms are included, their meaning will be interpreted accordingly. In *Forest Stewardship Officer v P Mohammad Ali*, the Supreme Court ruled that the word "to have" is often used to extend. When used in an explanatory statement, it is intended to expand the meaning of a word or phrase in the text of the law.

The concept of consideration comes from the Latin word "quid pro quo", which means "to replace something with something". "No judgment, no contract" is the founding principle. The decision to give should be a little good, but not enough.

Black's Law Dictionary refers to the law created by John Salmond to explain the meaning of a decision and states that a decision is generally cause, motivation or action. In view of this fact, it agrees to assume new obligations or to revoke the rights granted to it by law. 2.3 of the Education Law published by the 10th Government. The article states that the concept of a "price game" includes the terms of the contract for performance among the employees, as is also stated as a guide for the interpretation of the service tax provisions. In return, the work is according to the buyer's requirements. Activities to be done in the absence of a relationship. That is, even if this will benefit the person doing the work, it will not be "paid work" if there is no teaching or implied contract. The legal relationship should be created deliberately, at discretion, between the service provider and the service recipient.

These decisions may include certain rights, interests, benefits or benefits to any party or certain acts, damages, losses or obligations conferred, suffered or felt by others.

For a contract to be valid, there must be a definition of a social contract that provides the contractual relationship.

When the above discussion of the word "decision" is read together with the definition of "supply" given in the CGST Law, it can be said that the service supply is formed by the person working for the following purposes. If the person named above is not related to GST, his classification or contribution to his work will be considered. So in this case, if any of these elements, i.e...

Services cannot be provided without taking responsibility for the performance of the work. Therefore, in this case, there is no obligation to pay GST. The concept of subsidy under the GST regime.

It is important to remember that the subsidy has the possibility of capital, time, amount and frequency and is at the sole discretion of the provider. Donations are not included in the purchase of goods or services, although the provider may provide conditions or indicate the purpose of the donation.

According to the above, if the money is good and there is no return, it cannot be considered as a service return. The service provider may create certain conditions to ensure that the buyer's money is used as intended. However, if the terms and conditions accompanying the grant provide income in exchange for services provided by the receiving organisation, i.e.

, if the received grants are dependent on service delivery, these grants can be said to be gifts in return for service. important It is intended to refer to certain articles in other jurisdictions and Indian laws on the subject.

#### Foreign Grant Jurisprudence

##### Wolverhampton Citizens Advice Bureau

The 16th Citizens Advice Bureau (CAB) provides free legal and other advice. It receives funding from institutions such as local authorities.

As a condition of the grant, local regulations require the CAB to enter into an operating agreement that specifies hours of operation, service levels, and more. On this basis, the CAB monitors funds and related contracts for tax purposes. Provide assistance to local authorities.

In the appeal to the 17th VAT Court, it was found that there was nothing in the SLA to support the position of the CAB. The court said that despite the conditions attached to the grant, the only benefit of the grant was false information that it subsidized services in the public interest.

The conditions attached to the grant are only effectively controlled by local authorities and are not their own making. This is because local authorities do not directly benefit from the advisory body. The equipment is only given to the local population, as these are mostly free, there is no equipment for VAT purposes. Trust for Communities (HITC)

Decision above the court regarding VAT issues that may arise in the event that the organization provides services to the state and organizations, city leaders and similar organizations.

In the above case, HITC received grants for various activities. HITC argues that the purpose of the grant is to support activities that are beneficial to local communities and volunteer groups while also being consistent with their goals. It is also argued that it is not efficient for financial institutions to sometimes specify the type of work to be done. He argued that the money received during the grant application process and the money received from the organizations that provided grants to similar organizations in the same project were not deducted, and therefore no payment was accepted from a charity organization in exchange for providing goods and services.

However, the court concluded that "HITC appears to be operating in a more charitable organization than pursuing its own goals and objectives." The decision that the purpose of the support service is not related to whether the payment is made is ", but is part of a special arrangement where the donor and the petitioner have a common purpose, specifically to achieve a common goal.

These payments are made on a case-by-case basis or expected to be provided by the plaintiff". The money HITC receives from the donor is therefore not more than the return.

#### Church Schools Foundation Ltd - Customs

In this case, the company paid a grant to a foundation that operates several schools to improve the equipment the schools operate. The issues that need to be decided are whether the funds provided to the foundation are subject to VAT and if there are services, the services provided by the foundation to the company. In this case, the Supreme Court said that the company's contribution to the Foundation was one of many funds received by the Foundation to fulfill the function of the device for various purposes. In addition, the rental assistance provided by the foundation to the company (the foundation's decision) is independent of the provision of this subsidy. The Supreme Court also relied that the amount of subsidy was less than necessary to improve the business.

Based on the foregoing, the Court of Cassation stated that the amount paid by the company to the Foundation was not taken into account in the provision of services and therefore there was no direct link between the payments. Grants and all services provided by the Department in this regard

## **Indian Law**

### **Jaisal Club Ltd. V. Central Consumption and Service Tax Commissioner, Jaipur-II**

In the present case, the petitioner received some donations from the members for the construction fund, but no gratuity such as service tax was paid. The Ministry protested the non-payment of service tax while receiving donations and demanded payment of service tax. On appeal, the Delhi Court ruled that the donation made by the petitioner from its members is not subject to service tax as it is not mandatory but is a voluntary payment made by the members to construct the building. Also, as the Donation Fee does not provide any additional benefits or other club membership benefits, it has no impact on the tax services provided by the petitioner.

### **Sankari Truck Urimaiyalargal Sangam**

In this case, the question of whether the money donated by the members of the Truck Association (Assessor-Assessor) will give credit to the Assessor was directed to the Conciliation Board. The Audit Committee believes that the donation recorded does not affect or hinder the use of the appraiser's services. These are voluntary donations from donors and are therefore not subject to service tax. The conciliation committee found the same thing in other cases.

Based on the legal documents of Indian jurisdiction and discussions in foreign jurisdictions mentioned above, we can provide the following parameters that can be used to assess whether a financial aid decision has been made. Although the tests/reports mentioned below are not exact, these tests will be indicative in determining the amount taken.

#### **Test:**

Does the recipient receive anything in return for the grant?

If the beneficiary does not benefit, will third parties benefit? - If so, is there a direct link between the Money received by the buyer and the goods received from the third party?

Are there any conditions attached to the grant that go beyond financial need?

If the answer to any of the above questions is yes, the grant for the work will be considered.

It follows, therefore, that one of the above rules of thumb must be followed, since an amount (whatever the name) given by one person to another must be taken into account correctly. This will be followed by the impact on Goods and Services Tax (GST).

Also, the use of the terms "grant" or "paid grant" by the parties to the transaction is irrelevant to its tax value and does not change the transaction.

### **Conclusion**

This research has shed light on the availability of Goods and Services Tax (GST) grants and their significance in the context of fiscal policy and economic development. Throughout this study, we have delved into the various aspects of GST grants, including their types, allocation mechanisms, and the impact they have on different sectors of the economy.

The implementation of GST was a significant milestone in the Indian taxation system. It aimed to streamline and simplify tax collection, reduce tax evasion, and promote economic growth. However, it also introduced several complexities, especially in terms of grant allocation to states.

One of the key findings of this research is that the availability of GST grants plays a pivotal role in balancing the fiscal disparities among Indian states. These grants, primarily divided into Compensation Cess and Integrated GST, serve as a vital source of revenue for states. They help in mitigating revenue shortfalls and ensuring that states can continue to provide essential public services.

Moreover, the allocation mechanism of GST grants, primarily the horizontal and vertical devolution, is a critical factor in ensuring fiscal equity among states. The horizontal devolution, based on the recommendations of the Finance Commission, takes into account factors like population and income distance. On the other hand, the vertical devolution allocates grants based on the specific needs of states. Striking the right balance between these two mechanisms is essential for ensuring that no state is left behind in its development trajectory.

Furthermore, this research has highlighted the challenges and issues associated with the availability of GST grants. The periodic revision of the devolution formula, as recommended by the Finance Commission, is crucial to adapt to changing economic dynamics. However, the implementation of these recommendations often faces political challenges, leading to delays and disputes.

The GST compensation issue, which arose due to the COVID-19 pandemic, underscored the need for a robust mechanism to address unforeseen revenue shortfalls faced by states. The introduction of the Goods and Services Tax (Compensation to States) Act, 2017, was a step in the right direction. Still, the

resolution of compensation issues requires continuous dialogue and cooperation between the Centre and the states.

It is evident that the availability of GST grants has a significant impact on the fiscal health of states. These grants enable states to undertake capital expenditure, invest in infrastructure development, and provide essential services such as healthcare and education. However, there is also a need for states to improve their revenue mobilization efforts and reduce their dependence on grants in the long run.

As we move forward, it is imperative to monitor the evolving dynamics of GST and its impact on the availability of grants. Continuous research and analysis will be essential in shaping effective fiscal policies and ensuring that GST continues to serve as a catalyst for India's economic growth and development.

In the broader context, this research contributes to the ongoing discourse on fiscal federalism in India and provides insights that can inform policymakers, scholars, and stakeholders in their efforts to create a more equitable and prosperous nation.

#### References:

1. In Re: Kundan Mishthan Bhandar, (2019) 74 GST 209.
2. M/s. Northern India Caterers (India) Limited vs Lt. Governor of Delhi, AIR 1980 SC 674.
3. In Re: Mountain Trail Foods Private Limited, (2020) 77 GST 343 (AAR).
4. Anjappar Chettinad A/C Restaurant & Ors vs Joint Commissioner, Office of the Commissioner of GST and Central Excise, Chennai & Ors, 2021-VIL-442-MAD-ST.
5. Ministry of Finance, No. DOF 334/3/2011-TRU dated 28.02.2011.  
<https://www.cbic.gov.in/resources//htdocs-cbec/ub1112/dojstru2.pdf>.
6. Ibid.
7. Rahul Bose Episode: JW Marriott Hotel fined Rs 25,000 for levying GST on bananas' (ET Times 2019)  
[https://economictimes.indiatimes.com/industry/services/hotels/-restaurants/chandigarh-hotel-fined-rs25000-for-illegal-collection-of-tax-on-an-exempted-item/articleshow/70412739.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/industry/services/hotels/-restaurants/chandigarh-hotel-fined-rs25000-for-illegal-collection-of-tax-on-an-exempted-item/articleshow/70412739.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)
8. <https://www.cbic.gov.in>
9. Advance Ruling NO.GST-ARA- 20/2019-20/B-59, Dated 15<sup>th</sup> December  
[https://tgct.gov.in/tgportal/staffcollege/download\\_outside.aspx?fname=AdvncRul&type=Prettl-MAH20dt15-12-2020.pdf](https://tgct.gov.in/tgportal/staffcollege/download_outside.aspx?fname=AdvncRul&type=Prettl-MAH20dt15-12-2020.pdf)
10. [https://www.fmsfindia.org.in/ebook\\_download/309](https://www.fmsfindia.org.in/ebook_download/309)