

Charitable Activities – Interplay between Income Tax and GST

- Contributed by CA Ramprasad, CA Sri Harsha & CA Manindar

The taxation of charitable activities is quite an interesting area. This further assumes significance when the said taxation is studied from both income tax and goods and services tax laws. In this article, the authors dwell upon the basics of taxation of charitable institutions under income tax and goods and services tax laws, then proceed with taking up certain issues of significance to understand the interplay.

Taxation of Charitable Institutions under Income Tax Act, 1961:

An entity can claim exemption under the Income Tax Act, 1961 (Income Tax Act) under Section 11 or Section 10(23C) or Section 10(223BBA) depending upon the purpose of the trust or institution or by whatever name called.

Section 11:

Section 11 deals with taxation of institutions which are constituted for charitable or religious purposes. The income derived from the property held under the trust is not included in the total income to the extent such income is applied for such purposes in India and where any income is accumulated, such income not exceeding 15% of the total income shall not be included in the total income. The trust or institution can accumulate 85% of the income for a specific purpose for a maximum period of 5 years subject to certain conditions.

In computing 15% of the income which can be accumulated, any voluntary contributions referred in Section 12 of Income Tax act shall be deemed to be part of the income. Section 12 deals with voluntary contributions other than received with a specific direction that they shall form part of the corpus of trust or institution.

The income in the form of the voluntary contribution made with a specific direction that they shall form part of the corpus of the trust or institution is also not included in the total income of the trust or institution.

To claim exemption under Section 11 and Section 12, registration under Section 12AA is mandatory.

Section 13 states that provisions of Section 11 and Section 12 of Income Tax Act shall not be applicable to certain trusts or institutions which are created for a private religious purpose which does not ensure for the benefit of the public, concentrating on any particular religious community or caste and others.

Section 10 (23C):

Section 10 (23C) deals with incomes from the following not to be included in the total income:

- Any university/education institutions which are wholly or substantially financed by Government – 10(23C)(iiiab)
- Any Hospital/institution treatment of illness/mental effectiveness/medical attention/rehabilitation existing solely for philanthropic purposes and not for profit, which is wholly or substantially financed by Government - 10(23C)(iiiac)
- Any university/educational institutions existing solely for educational purposes and not for profit if the aggregate annual receipts of such university or educational institution do not exceed the amount of annual receipts as may be prescribed [Rs 1 crore – Rule 2BC(1) of Income Tax Rules, 1962] - 10(23C)(iiiad)
- Any hospital/other institution treatment of illness/mental effectiveness/medical attention/rehabilitation existing solely for philanthropic purposes and not for profit, if the aggregate annual receipts of such hospital or institution does not exceed the amount of annual receipts as may be prescribed [Rs 1 crore – Rule 2BC(2) of Income Tax Rules, 1962] - 10(23C)(iii ae)
- Any other fund/institution established for charitable purposes having regard to the objects of the fund/institution and its importance throughout India or throughout any state or states subject to approval by prescribed authority being Principal Commissioner or Commissioner [Rule 2C of Income Tax Rules, 1962] - 10(23C)(iv)
- Any trust (including any other legal obligation) or institution wholly for public religious purposes or wholly for public religious and charitable purposes having regard to manner of affairs of trust/institution are administered and supervised for ensuring that the income accruing thereto is properly applied for objects thereof subject to approval by prescribed authority being Principal Commissioner or Commissioner [Rule 2C of Income Tax Rules, 1962] - 10(23C)(v)
- Any university/educational institution existing solely for educational purposes and not for purposes of profit, other than those mentioned above subject to approval by prescribed authority being Principal Commissioner or Commissioner [Rule 2CA of Income Tax Rules, 1962] - 10(23C)(vi)
- Any hospital/other institution treatment of illness/mental effectiveness/medical attention/rehabilitation existing solely for philanthropic purposes and not for profit, other than those mentioned above subject to approval by prescribed authority being

Principal Commissioner or Commissioner [Rule 2CA of Income Tax Rules, 1962] -
10(23C)(via)

The exclusion from 10(23)(C)(iv)/(v)/(vi)/(via) is subject to the satisfaction of certain conditions like the application of income for the objects of the trust/institution and others.

Section 10 (23BBA):

Section 10(23BBA) deals with exclusion of income from total income of any body or authority established, constituted or appointed by or under any central, state or provincial act which provides for the administration of any one or more of the following, that is to say, public religious or charitable trusts or endowments or societies for religious or charitable purposes registered under Societies Registration Act, 1860 or any other law for the time being in force.

Taxation of supplies made by Charitable Institutions under Goods & Services Tax Laws:

A. Charitable Activities vis-à-vis Scope of Supply:

Section 7 of Central Goods & Services Tax Act, 2017 (for brevity 'CGST Act') deals with the scope of 'supply.' As per Section 7(1)(a) the phrase 'supply' includes ***'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'***.

The important questions that the charitable institutions face is 'Whether the amounts received by them can be called as **consideration**?' and 'Whether the supplies made by them can be called as they are in the course or furtherance of **business**?'

The answer lies in the definition of phrases 'consideration' and 'business' as per the CGST Act. Section 2(31) CGST Act defines the phrase 'consideration' as under:

"consideration" in relation to the supply of goods or services or both includes—

(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 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:

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;

The above definition is evident that any payment made or to be made in respect of or in response to or for the inducement of supply of goods or services or both whether by the recipient or by any other person fits in the definition of 'consideration.' Hence, the amounts received by charitable institutions from the recipient or by any other person will undoubtedly fit in the above definition. It is important to note that the above definition has not dealt with the intention with which the consideration is received or paid. We will touch upon the aspect of intention more when we deal with the definition of the phrase 'business.'

Section 2(17) of CGST Act deals with the definition of the phrase 'business,' which is as under:

"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 bookmaker or activities of a licensed bookmaker in such club; and

(i) any activity or transaction is undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

On a combined reading of clause (a), (b) and (c), it is evident that any activity whether or not for a pecuniary benefit irrespective of volume, frequency, continuity or regularity is termed as 'business.'

Hence, the supplies made by charitable institutions irrespective of their intention not to earn pecuniary benefit is not relevant, and accordingly, it can be concluded that it is done in course or furtherance of business to fall under the scope of 'supply.'

Accordingly, on a combined reading of the scope of 'supply,' definitions of 'consideration' and 'business,' it is evident that the supplies made by charitable institutions would fit in the ambit of CGST Act and supplies made by such institutions will be taxable unless exempted under Section 11 of CGST Act.

B. Taxability of Charitable Activities:

Notification 12/2017 – CT (Rate) dated 28th June 17 deals with supplies which are exempted from tax under Section 11 of CGST Act. The relevant entries which deal with charitable institutions are reproduced as under:

S No	Description of Services	Rate	Condition
1	Services by an entity registered under Section 12AA of the Income Tax Act, 1961 by way of charitable activities	Nil	Nil
13	<p>Services by a person by way of –</p> <p>(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 of Income Tax Act, 1961 or a trust or an institution registered under Section 10(23C)(V) of Income Tax Act, 1961 or a body or authority covered under Section 10(23BBA) of Income Tax Act, 1961</p> <p>Provided nothing contained in the entry (b) of this exemption shall apply to –</p> <ol style="list-style-type: none"> i. Renting of rooms where charges are one thousand rupees or more per day ii. Renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ten thousand rupees or more per day iii. Renting shops or other spaces for business or commerce where charges are ten thousand rupees or more per month 	Nil	Nil
77A	<p>Services provided by an unincorporated body or non-profit entity registered under any law for the time being in force, engaged in –</p> <p>(ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare charitable activities and protection of the environment to its own members against consideration in the form of</p>	Nil	Nil

	membership fee up to an amount of one thousand rupees per member per year		
80	Services by way of training or coaching in recreational activities relating to – (b) sports by charitable entities registered under Section 12AA of Income Tax Act, 1961	Nil	Nil

It is important to note that the said notification has defined the phrase ‘charitable activities’ vide 2(r) as under:

charitable activities” means activities relating to -

(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; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) advancement of religion , spirituality or yoga;

(iii) advancement of educational programmes or skill development relating to,-

(A) abandoned, orphaned or homeless children;

(B) physically or mentally abused and traumatized persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

(iv) preservation of environment including watershed, forests, and wildlife

C. Conclusion on Taxability:

From the above it is evident that a charitable institution to claim exemption under the GST laws has to satisfy the following aspects:

- I. Whether services provided by the charitable institution are specified under Notification 12/2017- CT (Rate)?
- II. Whether the services provided by charitable institution fits into the definition of ‘charitable activities’ as specified in the Notification 12/2017 – CT (Rate)?

If the answer to both the above questions is 'yes,' then the charitable institution can claim exemption from GST laws¹ to the income pertaining to such activities. If the answer is 'no,' then the income earned from such activities will be subjected to tax.

¹ GST laws include Central Goods & Services Tax Act, 2017, State Goods & Services Tax Act, 2017 and Integrated Goods & Services Tax Act, 2017

The interplay of charitable activities between Income Tax Laws and GST Laws:

By this time, it is clearly evident that the aspect of taxation under income tax laws and GST laws is completely different. A charitable institution might satisfy all the conditions specified in the income tax law and claim exemption from payment of income tax. However, if such charitable institution is not covered under any of the relevant entries in Notification No 12/17 – CT (Rate) or if covered do not satisfy the definition of ‘charitable activities’ specified in the said notification, such institutions will be subjected to tax under GST laws.

Hence, it is important to note that the income tax laws look at the intention of the charitable institution, whereas the GST laws look at the transactions rather than the intention. This important distinction plays a vital role because the majority of the charitable institutions presume that once they are exempted under income tax laws, they need not look at other laws for compliance.

The definition of charitable purposes/activities under the income tax laws and GST laws are quite different as evident from the below:

Aspect	Income Tax Act	CGST Act
Definition	<p><u>2(15) Charitable Purpose:</u></p> <p>Includes relief of poor, education, yoga, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, and the advancement of any other object of general public utility.</p> <p>Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on any activity in the nature of trade, commerce or business or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of nature of use or application, or retention, of the income from such activity unless –</p> <p>i. Such activity is undertaken in the course of actual carrying out of such advancement of any other object of general</p>	<p><u>2(r) charitable activities</u></p> <p>means activities relating to -</p> <p>i. public health by way of , -</p> <p style="padding-left: 40px;">A. care or counseling of</p> <p style="padding-left: 80px;">(I) terminally ill persons or persons with severe physical or mental disability;</p> <p style="padding-left: 80px;">(II) persons afflicted with HIV or AIDS;</p> <p style="padding-left: 80px;">(III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or</p> <p style="padding-left: 40px;">B. public awareness of preventive health, family planning or prevention of HIV infection;</p> <p>ii. advancement of religion, spirituality or yoga;</p> <p>iii. advancement of educational programmes or skill development relating to,-</p> <p style="padding-left: 40px;">A. abandoned, orphaned or</p>

	utility and ii. The aggregate receipts from such activity or activities during the previous year, do not exceed twenty percent of the total receipts, the trust or institution undertaking such activity or activities, of that previous year	homeless children; B. physically or mentally abused and traumatized persons; C. prisoners; or D. persons over the age of 65 years residing in a rural area; iv. preservation of environment including watershed, forests, and wildlife
--	--	--

Certain Issues:

1. ***A charitable institution is engaged in an activity which is a 'charitable activities' under the GST laws and income tax laws. During the year, it has received voluntary donations without any specific direction for its utilization. What would be the treatment under the Income Tax laws and GST laws?***

Taxation under Income Tax Laws:

- a. As per Section 12 of the Act any voluntary contributions received, other than those made with specific direction, be considered as income from property held under trust or other legal obligation for Charitable Purpose. Hence, such contributions along with other income is to be applied to the extent of 85% of such income for its objects in India to claim exemption from tax subject to exceptions mentioned in Section 11 as to the application.

Taxation under GST Laws:

- b. Before proceeding to understand the tax impact, the initial question that triggers is, whether donation without any direction as to what purpose the same should be utilized amounts to 'consideration' as per Section 2(31) of CGST Act. If donation cannot be called as 'consideration,' then the supply fails and accordingly there will not be any tax on such amounts.
- c. The definition of 'consideration' states that any payment made or to be made or monetary value of any act or forbearance ***in response to, or for the inducement, in respect of, the supply of goods or services or both.*** Hence, 'consideration' should be in response to or in respect of or for inducement. The donation is given without any inducement or without any response for goods or services.
- d. Hence, donations without any expectation of returns would not be falling under the definition of 'consideration' and accordingly out of Section 7 of the CGST Act. If there is no consideration, Section 7 fails, and automatically Section 9 fails.

- e. This view is also supported by Central Board of Indirect Taxes and Customs (CBIC) 'Taxation of Services – An Education Guide' vide Para 2.2.2 which states as ***'Activity carried out without any consideration like donations, gifts or free charities are therefore outside the ambit of service. For example, grants given for research where the researcher is under no obligation to carry out particular research would not be a consideration for such research.'***

2. ***A charitable institution is engaged in an activity which is not a 'charitable activities' under the GST laws, but for 'charitable purpose' under income tax laws. During the year, it has received voluntary donations with specific direction for its utilization. What would be the treatment under the Income Tax laws and GST laws?***

Taxation under Income Tax Laws:

- a. Voluntary Contributions received with a specific direction for its utilization is not income of the Charitable Institution and hence no mandatory application of 85% is required. However, such amount would be considered for determining the requirement to get its books of account audited.

Taxation under GST Laws:

- b. When the donation is given with a specific direction as to its utilization, the answer to the above question will suffice. However, if the donation is given with an expectation of return from the institution, such donations would acquire the definition of 'consideration' and becomes taxable.
 - c. This view is also supported by the Central Board of Indirect Taxes and Customs (CBIC) 'Taxation of Services – An Education Guide' vide Para 2.2.2 which states as ***'Donations to a charitable organization are not consideration unless charity is obligated to provide something in return e.g. display or advertise the name of the donor in a specified manner or such that it gives a desired advantage to the donor'***
3. ***A charitable institution which is engaged in the provision of 'charitable activities' as per GST and Income Tax laws. However, during the provision of said charitable activities, also engaged in the selling of certain goods which are incidental or ancillary to the charitable activities. What is the impact on Income Tax and GST laws?***

Taxation under Income Tax Laws:

- a. Business Undertaking can be considered as a Property held under trust or other legal obligation for Charitable purpose. Such business should be incidental to the

attainment of objectives of Charitable Institution and separate books of accounts are maintained in respect of such business. In such case business profits are not chargeable to tax subject to fulfilment of other conditions mentioned in Section 11.

Taxation under GST Laws:

- b. It is important to note that the services provided by a charitable institution which is registered under Section 12AA of Income Tax Act by way of 'charitable activities' are exempted under Entry 1 of Notification 12/2017 – CT (Rate) dated 28th June 17.
 - c. However, there is no exemption for the sale of goods by such charitable institution because the definition of 'charitable activities' does not provide for the sale of goods and the exemption notification issued for goods does not deal with such situation.
 - d. The recent judgment by Authority for Advance Ruling (AAR), Maharashtra in the case of Shrimad Rajchandra Adhyatmik Satsang Sadhana Kendra 2018 (9) TMI 235 has stated that sale of spiritual products which is incidental or ancillary to main charitable object can be said to be 'business' and accordingly tax is required to be paid on such supply.
 - e. However, we would like to respectfully differ with the opinion of AAR, since the AAR has failed to consider important judgments laid down by the applicant namely Commissioner Of Sales Tax Versus Sai Publication Fund - 2002 (3) TMI 45 - SUPREME Court and others. For a detailed view of our difference of opinion, please read our article in this journal titled 'Fate of Business' under the GST section.
4. ***An educational institution is registered under Section 12AA of Income Tax Act, 1961 with an intention to provide education. For the provision of education, the institution has also thought it would be appropriate to have a residential facility for the students. In such a scenario, whether the provision of the residential facility by such institution would fall under the ambit of 'charitable purposes' for the income tax laws? Whether the provision of the residential facility by such institution would fall under the ambit of 'charitable activities' for the purposes of GST laws?***

Taxation under Income Tax laws:

- a. The provision of education by an institution is undoubtedly covered under the definition of 'charitable purpose' which is laid down vide Section 2(15) of the Income Tax Act. Hence, the amounts collected for the provision of education will be exempted in the hands of the institution subject to other conditions laid down under the Income Tax Act.

- b. The moot question that has to be answered is whether the fee received for the residential facility is also covered under the definition of 'charitable purpose' and accordingly exempted from tax assuming all other conditions are satisfied.
- c. The said issue was dealt by Honorable Tribunal of Ahmedabad in the case of Shree Ahmedabad Lohana Vidyarthi Bhavan vs. ITO (Exemption) 2018 (7) TMI 1084 – ITAT Ahmedabad. The AO in the above case was under the opinion that residential facility is not akin to education and accordingly the said activity would not fall under the 'education,' but fits under 'advancement of any other object of general public utility,' and accordingly, the amounts collected for the residential facility were not exempted.
- d. The Honourable Tribunal has held that *'hostel is an essential institution for students to stay and it plays an important role in the education and training of the students. They provide residential opportunities for the students to continue the process of education. It is a human practical laboratory for the development of students. It is the centre of education. It is one of the essential components of educational institution'* and accordingly held that residential facility forms part of attainment of education which is a charitable purpose.
- e. The Honourable Tribunal has also held that *'if the activity of providing hostel facilities to the students fall within the ambit of education as referred to in Sec 2(15) then generation of surplus would be immaterial because the surplus will be utilized for the objects of the trust. In case surplus so used or accumulated to be utilized for the purpose of objects of the trust then income would not taxable.'*
- f. The important observations from the above judgment are as under:
- The incidental activities which contribute to the objects of the trust be regarded as a part of the object and not to be considered in isolation
 - The term Education be read in a sense that facilities which improve and stimulate the development of students are also part of it
 - The mere existence of surplus is not a sole criterion to consider the activity or object being commercial or business as long as the surplus is used or accumulated for the furtherance of objects of the trust it remains charitable.
- g. From the above, it is evident that the residential facility is part of education and accordingly fits in the definition of 'charitable purpose,' thereby eligible for exemption despite the fact that such facility is generating a surplus.

Taxation under GST laws:

- h. It is important to note that the provision of education is not covered under the definition of 'charitable activities' under the GST laws unless such education is to a specified category of people like abandoned, orphaned and others. The education provided to regular students is not a 'charitable activities' under the GST laws, and accordingly, the residential facility would not be eligible for exemption unless it is for a specified category of people.
- i. However, another entry which would cover the situation is Entry 66 of Notification No 12/2017 – CT (Rate) dated 28th June 17 which deals with services provided by an 'educational institution' to its students, faculty, and staff. The phrase 'educational institution' is defined vide 2(y) of said notification as *'means an institution providing services by way of,- (i) pre-school education and education up to higher secondary school or equivalent', (ii) education as part of curriculum for obtaining a qualification recognized by any law for the time being in force (iii) education as part of approved vocational education course.*
- j. The entry 66(a) provides an exemption only for services provided by educational institution pertaining to education. The residential facility is not covered under the said entry. However, the residential facility will be covered by such exemption entry in light of 'composite supply.'
- k. The phrase 'composite supply' has been defined vide Section 2(30) of CGST Act which *'means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply'.*
- l. The provision of education and residential facility are two supplies which are naturally bundled and supplied in conjunction with each other in the ordinary course and education will be the principal supply.
- m. Section 8(a) of CGST Act states that the taxation of composite supply will be as such taxation of principal supply which is education services. Since education services are exempted vide Entry 66(a), the fee for the residential facility would also fit under the said exemption in light of Section 8(a) of CGST Act.
- n. The said view is also supported by Central Board of Indirect Taxes and Customs (CBIC)'s 'Taxation of Services – An Education Guide' vide Para 4.12.4 which is reproduced hereunder *'Boarding schools provide service of education coupled with other services like providing dwelling units for residence and food. This may be a*

case of bundled services if the charges for education and lodging and boarding are inseparable. Their taxability will be determined in terms of the principles laid down in section 66F of the Act. Such services in the case of boarding schools are bundled in the ordinary course of business. Therefore the bundle of services will be treated as consisting entirely of such service which determines the dominant nature of such a bundle. In this case, since dominant nature is determined by the service of education another dominant service of providing residential dwelling is also covered in a separate entry of the negative list, the entire bundle would be treated as a negative list service’.

- o. The CBIC has also made a press release dated 13th July 17 which clarified vide Para 3 as under *‘Thus, services of lodging/boarding in hostels provided by such educational institutions which are providing pre-school education and education up to higher secondary school or equivalent or education leading to a qualification recognized by law, are fully exempt from GST. Annual subscription/fees charged as lodging/boarding charges by such educational institutions from its students for hostel accommodation shall not attract GST.’*
 - p. The above view is also supported by the judgment of Honorable Tribunal in the case of Shree Ahmedabad Lohana Vidyarthi Bhavan vs. ITO (Exemption) 2018 (7) TMI 1084 – ITAT Ahmedabad, wherein it was held that residential facility is akin to the education.
 - q. The view is also supplemented by CBIC’s circular under GST laws vide Circular No 28/02/2018 dated 08th Jan 18 which deals with taxation of mess fee when facility of mess is provided by the educational institution. The said circular has clarified that if mess facility is provided by educational institutions, then such fee would be exempted in light of Entry 66(a) of Notification No 12/2017 – CT (Rate).
 - r. Accordingly, it can be concluded that if the residential facility is provided to a specific category of people who are mentioned in the definition of ‘charitable activities,’ the exemption is available under Entry 1 of Notification No 12/2017. This is irrespective of the quantum of the fee. However, if the residential facility is provided by educational institutions who are into pre-school and education up to higher secondary school or equivalent, then the said fee is covered under Entry 66(a) of Notification No 12/2017 and accordingly exempted.
5. ***An institution is registered under Section 12AA of Income Tax Act, 1961 and also obtained registration under Section 80G ibid. The main activity of the institution is to act as implementing agency for companies who are obliged to spend amount under Corporate Social Responsibility (CSR) which is mandated under Companies Act, 2013. The***

institution receives the funds which have to be spent for the objectives of CSR, and as a facilitating agency, the institution is given a certain fee. Whether such fee would be exempted under Income Tax and GST laws?

Taxation under Income Tax Laws:

- a. Charitable Purpose as defined in Sec 2(15) of the Act provides that the advancement of any other object of general public utility shall not be charitable purpose if it involves carrying on any activity in the nature of trade, commerce or business or any activity of rendering any service in relation to any trade, commerce or business for a fee or any other consideration irrespective of nature of use or application.

Carrying on activities as an implementing agency for CSR activities may be construed as the advancement of any other object of general public utility. However, in case such activity is carried on as a part of objects of the institution and fee do not exceed 20% of total receipts of the institution it is eligible to claim exemption subject to its application.

Taxation under GST Laws:

- b. The activity of facilitation is not covered as 'charitable activities' under GST laws. Hence, the amount received shall be subjected to GST since it is not exempted elsewhere.