



# Impact and Issues in GST in Hospitality Industry

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# Hospitality Services

- ▶ **Hotel and Accommodation Services**
  - ▶ Accommodation Service
  - ▶ Restaurant
  - ▶ Spa and Health Club Services
  - ▶ Travel Desk
- ▶ **Food and Beverages ( Restaurant and Outdoor Caterers)**
  - ▶ Restaurants & eating joints
  - ▶ Pubs, bars and Discotheque
  - ▶ Outdoor catering and banqueting
- ▶ **Travel Agents & Tour Operators.**
  - ▶ Hotel Agents
  - ▶ Ticket Agents
  - ▶ Tour Operator.

# Rate Chart - Accommodation

Heading	Description	Rate
<b>9963</b>	<b>Accommodation Services</b>	
	Accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes	
Exempt	having value of supply of a unit of accommodation <b>below Rs.1000 per day or equivalent.</b>	NIL
(ii)	having <b>value of supply</b> of a unit of accommodation of <b>Rs.1,000 and above but less than Rs.2,500</b> per unit per day or equivalent.	12%
(vi)	having <b>value of supply</b> of a unit of accommodation of <b>Rs.2,500 and above but less than Rs.7,500</b> per unit per day or equivalent.	18%
(viii)	having value of supply of a unit of accommodation of <b>Rs.7,500 and above</b> per unit per day or equivalent.	28%

# Rate Chart – Food & Beverages

Heading	Description	Rate
<b>9963</b>	<b>Food and Beverages Services</b>	
(i)	Supply of Food and Beverages services provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied not located in the premises of any commercial place meant for residential and lodging purposes.	5% No ITC
(i)	other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of Rs.7,500 and above per unit per day or equivalent	5% No ITC
(ia)	Supply, of goods, being food or any other article for human consumption or any drink, <b>by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees</b> , whether in trains or at platforms	5% No ITC

# Rate Chart – Food & Beverages

Heading	Description	Rate
9963	<b>Accommodation, Food and Beverages Services</b>	
(ix)	Accommodation, food and beverage services other than (ii), (iii), (v), (vi), (vii) and (viii) above. Explanation.- <b>For the removal of doubt, it is hereby clarified that</b> , supply of Food and beverages covered under entry (i) shall attract central tax @ 2.5% without any input tax credit under item (i) above and shall not be levied at the rate as specified under this entry	18%

# Rate Chart – Entry (i)

- ▶ Applicable to services provided by a restaurant, eating joint including mess, canteen which are **located at any place which is not meant for residential and lodging purpose.**

[Explanation : 1 This item includes such supply at a canteen, mess, cafeteria or dining space of an institution such as a school, college, hospital, industrial unit, office, by such institution or by any other person based on a contractual arrangement with such institution for such supply, **provided that such supply is not event based or occasional.**

Explanation:2 It does not include supply of food services at Exhibition Halls, Events, Conferences, Marriage Halls and other outdoor or indoor functions that are event based and occasional in nature]

- ▶ Applicable for both Dine-in services and Take-Away Services
- ▶ No option to charge tax @ 18% and avail ITC due to Explanation contained in Residual Entry (ix)

# Rate Chart – Food & Beverages

Heading	Description	Rate
<b>9963</b>	<b>Food and Beverages Services</b>	
(iii)	Supply of food and beverages services provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes <b>having declared tariff of any unit of accommodation of Rs.7,500 and above per unit per day or equivalent.</b>	18%
(v)	Supply of food and beverages services at Exhibition Halls, Events, Conferences, Marriage Halls and other outdoor or indoor functions that <b>are event based and occasional in nature.</b>	18%
(vii)	Supply, by way of or as part of any service or in any other manner whatsoever, of goods, including but not limited to food or any other article for human consumption or any drink (whether or not alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration, in a premises (including hotel, convention center, club, pandal, shamiana or any other place, <b>specially arranged for organising a function) together with renting of such premises</b>	18%

# Rate Chart – Tour Operator

Heading	Description	Rate
<b>9985</b>	<b>Support Services</b>	
(i)	Supply of tour operators services. Explanation.- "tour operator" means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours.	5% with Limited ITC*
	<b>*the input tax credit of input service in the same line of business (i.e. tour operator service procured from another tour operator) would be allowed.</b>	
	*The bill issued for supply of this service indicates that it is inclusive of charges of accommodation and transportation required for such a tour and the amount charged in the bill is the gross amount charged for such a tour including the charges of accommodation and transportation required for such a tour	
(iii)	Support services other than (i) and (ii) above	18% with ITC



# Tour Operator

- ▶ Accommodation & food and beverages
- ▶ Transportation of Passengers
  - ▶ Air
  - ▶ Vehicle Hire
  - ▶ Railway
  - ▶ Water
- ▶ Entry Fees and Sight seeing Charges.

# Passenger Transportation

Heading	Description	Rate
<b>9964</b>	<b>Passenger Transportation</b>	
(ii)	Transport of passengers, with or without accompanied belongings by- (a) air conditioned contract carriage other than motor-cab;	5% no ITC
	Transport of passengers, with or without accompanied belongings, by non-air conditioned contract carriage other than radio taxi, for transportation of passengers, <b>excluding tourism, conducted tour, charter or hire</b>	NIL
(vi)	Transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	5% with Limited ITC or 12% with ITC
<b>9966</b>	<b>Rental services of transport vehicles</b>	
(i)	Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient	5% with Limited ITC or 12% with ITC
(iii)	Rental services of transport vehicles with or without operators, other than (i) and (ii) above	18%

# Passenger Transportation

Heading	Description	Rate
<b>9964</b>	<b>Passenger Transportation</b>	
(i)	Transport of passengers, with or without accompanied belongings, <b>by rail</b> in first class or air conditioned coach.	5% No ITC of Goods utilised for payment of services
(iii)	Transport of passengers, with or without accompanied belongings, <b>by air</b> in economy class.	5% No ITC of Goods
(v)	Transport of passengers by air, with or without accompanied belongings, in other than economy class.	12%
(vii)	(vii) Passenger transport services other than (i), (ii) (iii), (iv), (v) and (vi) above [ This may include Transportation by Vessels]	18%
	Service of transportation of passengers, with or without accompanied belongings, by (c) inland waterways; (d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India	NIL

# Travel Agents

Heading	Description	Rate
<b>9967</b>	<b>Supporting Services in Transport</b>	
(ii)	Supporting services in transport other than GTA	18%
Rule 32(3) – Optional Valuation Rule	The <b>value of the supply</b> of services in relation to booking of tickets for travel by air provided by an air travel agent 5% of the basic fare in the case of domestic bookings 10% of the basic fare in the case of international bookings For the purposes of this sub-rule, the expression “basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airlines	
	Applicability of Pure Agent Principle??	

# Aggregator of Services- Section 9(5)

- ▶ The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:
- ▶ “electronic commerce” means the supply of goods or services or both, including digital products over digital or electronic network
- ▶ “electronic commerce operator” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

# Notified E-Commerce Operators

- ▶ services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle - 17/2017- CTR dtd.28-06-2017
- ▶ services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, **except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22** of the said Central Goods and Services Tax Act - 17/2017- CTR dtd.28-06-2017
- ▶ “(iii) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said Central Goods and Services Tax Act – 23/2017-CTR dtd.22-08-2017

# Place of Supply

- ▶ Section 12 – Place of supply of services where location of supplier of services **and** the location of the recipient of services is in India.
- ▶ Section 13 - Place of supply of services where location of supplier of services **or** the location of the recipient of services is in India.

# Place of Supply

	Nature of Supply	Rule -12	Rule 13
i	Accommodation Service	12(3)	13 (4)
ii	Supply of Food and Beverages at Restaurant or any such establishment or take away	12(4)	13 (3)(b)
iii	The place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle	12(10)	13(11)
iv	Passenger Transportation	12(9)	13(10)
V	Support Services		
	Support Services – Passenger Transportation	12(2)	13(8)(b)
	Support Services – Accommodation Agent	12(2)/ 12(3)?	13(8)(b)
	Support Services – Tour Operator	12(2)	13(2)
	Support Services – Renting of means of transport	12(2)	13(8)



# Place of Supply – Section 12(3) vs. Section 12(7)

Section 12(3)	Section 12(7)
The place of supply of services	The place of supply of services provided by way of
(a) directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work	(a) <b>organisation of</b> a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or
(b) <b>by way of lodging accommodation</b> by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel	(b) <b>services ancillary to organisation</b> of any of the events or services referred to in clause (a) or
(c) <b>by way of accommodation</b> in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property	Assigning of sponsorship to such events

# Case Study -1

▶ **Facts:**

- ▶ Hotel Agent Located in Delhi
- ▶ 5 Star Hotel Located in UP
- ▶ Customer located in Maharashtra.
- ▶ 5 Star Hotel raises bill on Hotel Agent @ 28% and Hotel Agent raises bill on Customer

▶ **Question:**

- ▶ What rate Hotel Agent should charge on Customer?
- ▶ Whether Hotel Agent would be entitled to ITC of bill raised by the 5 Star Hotel.
- ▶ Whether customer would be entitled to ITC of bill raised by Hotel Agent.

# Case Study -2

▶ **Facts:**

- ▶ Hotel Agent Located in Delhi
- ▶ 5 Star Hotel Located in UP
- ▶ Customer located in Maharashtra.
- ▶ 5 Star Hotel raises bill on Customer for value at which room is sold by agent
- ▶ Hotel Agent raises bill on Hotel

▶ **Question:**

- ▶ What rate Hotel Agent should charge on Hotel?
- ▶ Whether Hotel would be entitled to ITC of bill raised by the Hotel Agent?
- ▶ Whether customer would be entitled to ITC of bill raised by Hotel?

# Case Study -3

▶ **Facts:**

- ▶ Hotel Agent Located in Delhi
- ▶ 5 Star Hotel Located in UP
- ▶ Customer located in Maharashtra.
- ▶ As per the Agreement, Hotel will get fixed rate of Rs.5000 per room and any increase or decrease shall be on account of Hotel Agent
- ▶ Hotel Agent Sells the Room to Mr. A for Rs.8000
- ▶ Hotel Agent Sells the Room to Mr. B for Rs.2,499
- ▶ 5 Star Hotel raises bill on A for Rs.8000 + 28% GST & on B for Rs.2,499 + 12%

▶ **Question:**

- ▶ Whether Hotel is required to issue invoice for Rs.2,501 + GST? If yes what should be the rate?
- ▶ What is other possible interpretation of the transaction.

# Case Study - 4

▶ **Facts:**

- ▶ Airlines raise the invoice to Air Travel Agent
- ▶ Air Travel Agent raised invoice on Customer
- ▶ Airline charges Rs.6000 + 5% GST . Agent Charges Rs.7500 from Customer and Rs.100 as convenience charge.
- ▶ Agent does not want to opt for Option given under Valuation Rules.

▶ **Question:**

- ▶ What GST should the agent charge on Rs.7,500 and Rs.100. ?
- ▶ Whether agent would be entitled to ITC of GST charged to it by the Airline?
- ▶ Whether Customer is entitled to GST charged to it by Agent?

# Case Study - 5

▶ **Facts:**

- ▶ Airlines raise the invoice to Air Travel Agent
- ▶ Air Travel Agent raised invoice on Customer
- ▶ Airline charges Rs.6000 + 5% GST . Agent Charges Rs.7500 from Customer and Rs.100 as convenience charge.
- ▶ Agent wants to opt for Option given under Valuation Rules.
- ▶ Agent is entitled to 5% commission on Rs.2,500 and such commission is reflected in the statement issued to it by the Airlines.

▶ **Questions:**

- ▶ What amount Agent should charge GST to the Customer?
- ▶ Whether agent would be entitled to ITC of GST charged to it by the Airline?
- ▶ Whether Customer is entitled to GST charged to it by Agent?

# Case Study - 6

▶ **Facts:**

- ▶ Airlines raise the invoice to Main Air Travel Agent for Rs.4000 + GST @5%
- ▶ Main Agent is also entitled to commission of 5% on Rs.2000 and such commission is shown in the invoice issued by Airlines to the main agent and Discount of Rs.3000
- ▶ Main Air Travel Agent raises invoice on sub-agent for Rs.6000+ GST after giving discount of Rs.1500.
- ▶ Sub-agent raises invoice on customer for Rs.7500 + Rs.100 as convenience charge + GST

▶ **Questions:**

- ▶ What rate the Agent should charge GST to sub-agent?
- ▶ Whether sub-agent would be entitled to avail option under Rule 32(3).
- ▶ Whether Agent would be liable to raise a separate invoice on Airlines for commission & discount?

# Case Study – 7

## ▶ **Facts:**

- ▶ Travel Agent charges to customer for Rs.7,500 + Rs.100 Convenience Charge + GST
- ▶ Customer pays to Travel Agent
- ▶ Airline issues invoice to Customer for Rs.6000 + 5% GST.
- ▶ Travel Agent remits the aforesaid amount to Airlines and retains the remaining amount.

## ▶ **Questions:**

- ▶ At What amount the agent should charge GST to customer?
- ▶ At what rate agent should charge GST to customer?
- ▶ Whether Pure Agent concept can be made applicable in this case.



# Composite Supply vs Mixed Supply

- ▶ Supply of Food and Beverages – whether Goods or Services?
- ▶ Schedule – II Entry 6 (b)
  - ▶ The following **composite supplies** shall be treated as a supply of services, namely supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.
- ▶ Composite Supply – Definition section 2(30)
- ▶ Mixed Supply – Definition section 2(74)
- ▶ Principal Supply – Definition Section 2(90)

# Composite Supply vs Mixed Supply

- ▶ Section 2 (30) “composite supply” 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**
- ▶ Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply
- ▶ Section 2 (90) - “principal supply” means the supply of goods or services **which constitutes the predominant element of a composite supply** and to which any other supply forming part of that composite supply is ancillary
- ▶ Section 2 (74) “mixed supply” **means two or more individual supplies** of goods or services, or any combination thereof, made in conjunction with each other by a taxable person **for a single price** where such supply does not constitute a composite supply.
- ▶ Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately **and is not dependent on any other**. It shall not be a mixed supply if these items are supplied separately

# Case study - 8

- ▶ **Facts:** Hotel Provides following services to its guests and charges separately for the same.
  - ▶ Hotel Accommodation (Breakfast complementary)
  - ▶ Supply of Food from Hotel Restaurant to Room.
  - ▶ Provision of other facilities like Spa or sports / gymnasium facility
  - ▶ Provision of travel desk facility.
- ▶ **Question:**
- ▶ Discuss whether its composite supply, mixed supply or independent supply

# Case study - 9

▶ **Facts:**

- ▶ A Discotheque is charging a cover charge of Rs.5000 person. And offering following services
  - ▶ Dance Floor
  - ▶ Supply of Food and Beverages (Unlimited)
  - ▶ Supply of Limited Alcoholic beverages
  - ▶ Indoor games
  - ▶ Gambling

▶ **Question:**

- ▶ Discuss whether its composite supply, mixed supply or independent supply

Heading	Description of Service	Rate
<b>9996</b>	<b>Recreational, cultural and sporting services</b>	
(i)	Services by way of admission or access to circus, Indian classical dance including folk dance, theatrical performance, drama [or planetarium	18%
(ii)	Services by way of admission to exhibition of cinematograph films where price of admission ticket is one hundred rupees or less.	18%
(iii)	Services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go rounds, go carting and ballet	18%
(iiia)	Services by way of <b>admission to entertainment events or access to amusement facilities</b> including exhibition of cinematograph films, casinos, race club, any sporting event such as Indian Premier League and the like.	28%
(v)	Gambling	28%
(vi)	(vi) Recreational, cultural and sporting services other than (i), (ii), (iii), [(iiia), (iv) and (v) above	18%

# Case Study - 10

## ▶ **Facts:**

- ▶ Hotel is located outside SEZ
- ▶ The Services are provided to Employees of SEZ unit.
- ▶ Hotel and SEZ unit both are located in the Same State

## ▶ **Questions:**

- ▶ Whether it will be regarded as Zero Rated Supply under Section 16 of the IGST Act?
- ▶ Whether Hotel should treat it as inter-state or intra-state transaction. [ Refer Circular No.48/22/2018- GST dtd.14.06.2018]

# Case Study-11

▶ **Facts:**

- ▶ The service receiver ( event owner) is located outside India
- ▶ The service provider is located in India. The provision of service is by way of act as a co-Ordinator for Indian Participants and arrange for their travel, visa etc from India to abroad and back.
- ▶ The charges for the same are included in participation charges and are paid by Indian participant to event owner.
- ▶ Service Provider gets commission of \$1000 per participant from the event owner.
- ▶ The person participating in event is located in India.

▶ **Question:**

- ▶ Discuss the applicability of GST on commission charged by Indian service provider in the light of section 13(5) and section 13 (8)(b) of the IGST Act.

