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Treading the GST Path – XIV

A train odyssey.



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1.0 The GST implication on train journeys may be seen in this article.

2.0 A person (who is not registered under GST) from Chennai books for a journey from Chennai to New Delhi and return in Rajdhani Express. In this connection, it is relevant to refer to section 6 (10) of the model IGST Act, dealing with determination of place of supply of services, which is reproduced below.

(10) The place of supply of passenger transportation service to

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the place wherethe passenger embarks on the conveyance for a continuous journey:

Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in the manner specified in sub-sections (2) or (3), as the case may be.

Explanation.- For the purposes of this sub-section, the return journey shall be treated as a separate journey even if the right to passage for onward and return journey is issued at the same time.

2.1 It may be observed from the above that for the journey from Chennai to New Delhi, the Place of supply of service would be Chennai, i.e where the person embarks on a journey and for the return journey, which is to be treated as a separate journey, the place of supply of service would be New Delhi. Assuming that the Railway is having a GST registration at Chennai, the Chennai- New Delhi Journey would be an intra-state supply of service as defined in Section 3A of the model IGST Act, and hence CGST and SGST is payable at Chennai. Since the return journey is provided from New Delhi, Railway would require a Registration at New Delhi also and the place of supply of service pertaining to the return journey would be New Delhi, i.e. the place from which the passenger embarks on the journey. This also be an inter-state supply of service as per Section 3 of the model IGST Act and hence CGST and SGST is payable for the return fare also, atNew Delhi.

2.2 Let us assume that the above journey is undertaken by a person registered in Chennai (a company executive travelling for official purpose), then while the onward journey would be an intra-state supply attracting CGST and SGST, the return journey would be an inter-state supply attracting IGST. (location of the supplier is at New Delhi and the place of supply of service is Chennai, as per Section 6 (10)(a) of the model IGST Act.

3.0 In Rajdhani express, the rail fare includes the cost of food being served and it would be a "composite supply" as defined under Section 2 (27) of the model IGST Act. Unlike the present concept of "bundled service" under service

tax law, provisions relating to treatment of composite supplies, for the purpose of determination of their place of supply are not available under the model Acts and hopefully, such provisions would be introduced either in the Act or in the rules.

4.0 Let us take another example, where the food is separately priced and sold in the train. In this connection, it is relevant to refer to S.No. 5 (h) of the Schedule II to the model CGST Act, according to which the following transaction is declared as a supply of service.

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.

4.1 Hence, the provision of food and beverages on board a train would be a supply of service and the place of supply of such service shall be determined as per Section 6 (11) of the model IGST Act.

(11) The place of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.

4.2 Accordingly, the place of supply of service of providing food in a train for a price, would be the place where the train started its journey. For example, for a train which started its journey from Chennai to Bangalore, the place of supply of service in respect of the food sold in train would be Chennai and if the supplier of such food is also registered at Chennai, the transaction would be an intra-state transaction and attract CGST and SGST. The same contractor, who is registered at Chennai, also makes sale of food items in the return journey of the train from Bangalore, the place of supply of such services would be Bangalore and since the supplier is registered at Chennai, the sale of food items on board in the return journey would be an inter-state supply and hence attract IGST.

5.0 Let us assume that a leading food chain, is supplying food and beverages to IRCTC for being served in the train between Chennai and Mumbai. In this case, there is a supply of goods by the food chain to IRCTC. This is merely a transaction of supply of goods. In this connection, it is relevant to refer to Section 5 (5) of the model IGST Act.

(5) Where the goods are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.

5.1 In this case, if the food chain is registered at Chennai, the place of supply of goods for the onward journey would be Chennai and it would be an intra- state supply attracting CGST and SGST in Tamil Nadu. For the return journey, in respect of the food items which are taken on board at Mumbai, the place of supply of goods would be Mumbai. The food chain, effecting supply of goods at Mumbai would require a registration there and hence such supply would also be an intra- state supply, attracting CGST and SGST at Maharashtra.

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