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Treading the GST Path – XXXVII GST on Hotels

Author: G. Natarajan

The rate of GST payable by different types of Hotels / Restaurants, have undergone lot of changes vide Notification 46/2017 Central Taxes (Rate) Dt. 14.11.2017, with effect from 15.11.2017 and an attempt is made in this article to explain the changes.

As per S.No. 7 of Notification 11/2017 Central Taxes (Rate) Dt. 28.06.2017, with effect from 01.07.2017, the various Hotel related transactions are subjected to different rates of GST under (ix) categories, which are tabulated below in simple language. The total rate of GST including the corresponding SGST rates is mentioned in the table.

S.No.	Nature of Service	Rate of GST (CGST + SGST or IGST)	Remarks
	Food related services.		
(i)	Supply of food in a restaurant, which is not having the facility of air-conditioning / central heating / licence to service alcoholic liquor	12 %	S.No. 7 (i) of Notification 11/2017
(ii)	Supply of food in a restaurant, which is having licence to service alcoholic liquor	18 %	S.No. 7 (iii) of Notification 11/2017
(iii)	Supply of food in a restaurant, which is having the facility of air-conditioning / central heating	18 %	S.No. 7 (iv) of Notification 11/2017
(iv)	Outdoor catering	18 %	S.No. 7 (v) of Notification 11/2017
(v)	Supply of food, along with renting of place (Convention, meetings, etc)	18 %	S.NO. 7 (vi) of Notification 11/2017
	Accommodation Related Services		
(i)	Accommodation in Hotels, etc. where the declared room tariff above Rs.1000 per day and below Rs.2500 per day	12 %	S.No. 7 (ii) of Notification 11/2017
(ii)	Accommodation in Hotels, etc. where the declared room tariff above Rs.2500 per day and below Rs.7500 per day	18 %	S.No. 7 (vi) of Notification 11/2017
(iii)	Accommodation in Hotels, etc. where the declared room tariff above Rs.7,500 per day	28 %	S.No. 7 (viii) of Notification 11/2017
(iv)	Accommodation, Food and beverage Services, other than those covered above	18 %	S.No. 7 (ix) of Notification 11/2017

It may be observed from the above that the GST rate for food related services was based on whether the restaurant is having the facility of air-conditioning / central heating / licence to service alcoholic liquor, or not. If any of these facilities are not available, the

rate would be 12 % and if any one of these facilities are available, the rate of GST would be 18 %.

The above entry S.No. 7 has been amended vide Notification 46/2017 Central Taxes (Rate) Dated 14.11.2017 with effect from 15.11.2017. It may be observed that the relevance of availability of the facilities of air conditioning / central heating / licence to service alcoholic liquor, to determine the GST rate has been completely dispensed with. But, the rate of GST would depend upon whether it is a stand alone restaurant, or is it part of a lodging premises and based on the per day declared tariff of such accommodation. To tabulate the changes

S.No.	Nature of Service	Rate of GST (CGST + SGST or IGST)	Remarks
	Food related services.		
(i)	Supply of food in a restaurant, other than those which are located in a lodging premises, where the declared tariff per room is above Rs.7,500 per day (This would cover both stand alone restaurants as clarified in the Explanation under S.No. 7 (ix) and also those restaurants, which are located in lodging premises, where the declared tariff per room is below Rs.7,50 per day.	5 %	Without availing any ITC. S.No. 7 (i) of Notification 11/2017, as amended by Notification 46/2017
(ii)	Supply of food in a restaurant, which is located in a lodging premises, where the declared tariff per room is above Rs.7,500	18 %	S.No. 7 (iii) of Notification 11/2017 as amended by Notification 46/2017
(iii)	Accommodation, Food and beverages services not covered under specified entries under S.No. 7	18 %	S.No. 7 (ix) of Notification 11/2017 as amended by Notification 46/2017.

Coming back to the issue of stand alone restaurants, which are not part of any lodging establishment, the rate of 5 % GST would apply under S.No. 7 (i), which is further clarified in the below Explanation.

Explanation.- For the removal of doubt, it is hereby clarified that, 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 drink, where such supply or service is for cash, deferred payment or other valuable consideration, 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, 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 seven thousand five hundred rupees and above per unit per day or equivalent

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.

So stand alone restaurants would attract 5 % GST, if they do not avail any ITC. They have to pay 18 % if they avail ITC, as per S.No. 7 (ix).

Now, the next question is if a restaurant situated in a lodging facility where rooms of different categories are available, where the declared tariff of some of the rooms are below Rs.7,500 per day and some of them are above Rs.7,500 what rate of GST would apply?

A careful reading of the entries reveal that if the declared tariff of "any unit" is above Rs.7,500, then the rate would be 18 %.

It may also be noted that the above rates would apply for take away food also, as consumption of both "in*" or "away" from the Hotel is covered.

* Instead of the word "in", the word "on" is used.

Certain nagging questions.

Next question is what would the GST rate, if is food ordered through room services, by a person who is staying in a Hotel. Whether the supply of food in that case has to be treated as a composite supply, along with accommodation and since the principal supply being accommodation, the rate applicable for accommodation (depending upon the declared tariff) would apply or the GST rates separately prescribed for food supply would apply?

What if he, instead of ordering through room service, goes to the restaurant and takes his food, what would be the rate?

It may be noted that under S.No. 7 (v) outdoor catering would attract 18% and this has not undergone any change. The term "outdoor catering" has not at all been defined in GST law. If so, in what circumstances 18 % rate under S.No. 7 (v) would apply? What is the status of factory canteens run by contractors? What about Home delivery of food?

Extract from the Notifications.

As per Notification 11/2017 DT. 28.06.2017 (w.e.f. 01.07.2017)

7	<p>Heading 9963 (Accommodation, food and beverage services)</p>	<p>(i) 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 drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, neither having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year nor having licence or permit or by whatever name called to serve alcoholic liquor for human consumption.</p>	6	-
		<p>(ii) Accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of a unit of accommodation of one thousand rupees and above but less than two thousand five hundred rupees per unit per day or equivalent.</p> <p><i>Explanation.</i> - "declared tariff" includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.</p>	6	-
		<p>(iii) 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</p>	9	-

consumption or any drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, having licence or permit or by whatever name called to serve alcoholic liquor for human consumption.		
(iv) 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, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year.	9	-
(v) Supply, by way of or as part of any service or in any other manner whatsoever in outdoor catering wherein goods, being food or any other article for human consumption or any drink (whether or not alcoholic liquor for human consumption), as a part of such outdoor catering and such supply or service is for cash, deferred payment or other valuable consideration.	9	-
(vi) Accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of a unit of accommodation of two thousand five hundred rupees and above but less than seven thousand five hundred rupees per unit per day or equivalent.	9	-

		<p><i>Explanation.</i>- “declared tariff” includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.</p>		
		<p>(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, specially arranged for organising a function) together with renting of such premises.</p>	9	-
		<p>(viii) Accommodation in hotels including five star hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of a unit of accommodation of seven thousand and five hundred rupees and above per unit per day or equivalent.</p>	14	-
		<p><i>Explanation.</i> - “declared tariff” includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.</p>		

	(ix) Accommodation, food and beverage services other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) above.	9	-
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As per Notification 46/2017 Dt. 14.11.2017 (w.e.f. 15.11.2017)

(i) against serial number 7,-

(a) for item (i) in column (3) and the entries relating thereto in columns (3), (4) and (5), the following shall be substituted, namely:-

(3)	(4)	(5)
<p>“(i) 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 drink, where such supply or service is for cash, deferred payment or other valuable consideration, 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, 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 seven thousand five hundred rupees and above per unit per day or equivalent. <i>Explanation.</i> - “declared tariff” includes charges for all</p>	2.5	<p>Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)].”;</p>
<p>amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.</p>		

(b) for item (iii) in column (3) and the entries relating thereto in columns (3), (4) and (5), the following shall be substituted, namely:-

(3)	(4)	(5)

<p>“(iii) 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, where such supply or service is for cash, deferred payment or other valuable consideration, 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 having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent.</p> <p><i>Explanation.</i>- “declared tariff” includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.</p>	9	-”;
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(c) the item (iv) in column (3) and the entries relating thereto in columns (3), (4) and (5), shall be omitted;

(d) in item (ix), in column (3), for the entry, the following entry shall be substituted, namely:-

“(ix) Accommodation, food and beverage services other than (ii), (iii), (v), (vi), (vii) and (viii) above.

Explanation. - For the removal of doubt, it is hereby clarified that, 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 drink, where such supply or service is for cash, deferred payment or other valuable consideration, 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, 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 seven thousand five hundred rupees and above per unit per day or equivalent 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.”;

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