



**THE INSTITUTE OF CHARTERED
ACCOUNTANTS OF INDIA**
GST & INDIRECT TAXES COMMITTEE

**Webinar
on
GST in Hospitality Sector**

Date: 3rd July 2024 By CA Umang Talati

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AGENDA

 **Hotel Accommodation** Current Scenario & Provisions
Issues

 **COVID-19 Pandemic**

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Definition

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“Hotel accommodation” means supply, by way of accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes including the supply of time share usage rights by way of accommodation.

[Explanation 4(xxxiv) to Rate Notification 11/2017 dt 28.6.2017]

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GST Rates - Notification 11/2017- Central Tax (Rate) dated 28.06.2017

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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 Rs. _____ per unit per day or equivalent.

Explanation.- “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.

Declared Tariff	GST Rate
1,000 < DT < 2,499	12%
2,500 < DT < 7,499	18%
DT > 7,500	28%

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Hotel Accommodation - Rate of Tax w.e.f. 1/10/2019

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Sr.No.	Type of supply - Hotel Accommodation	Effective rate from 01.10.2019	Conditions
<u>1.</u>	Supply of "hotel accommodation" having value of supply of a unit of accommodation above Rs. 1,000 but less than or equal Rs. 7,500 per unit per day or equivalent. (> 1,000 - ≤ 7,500) Exemption of value of supply of a unit of accommodation upto Rs. 1,000 withdrawn w.e.f. 18.07.2022	12 %	ITC allowed
<u>2.</u>	Supply of "hotel accommodation" having value of supply of a unit of accommodation above Rs. 7,500 per unit per day or equivalent	18%	ITC allowed

"Hotel accommodation" means supply, by way of accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes including the supply of time share usage rights by way of accommodation. [Explanation 4(xxxiv) to Rate Notification 11/2017 dt 28.6.2017]

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Place of supply of services where location of supplier of service and location of the recipient of service is in India (Sec- 12)

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Scenarios	Place of Supply
Services directly in relation to an immovable property <ul style="list-style-type: none"> Including services by architects, interior decorators, engineers and other experts, including estate broker, right to use immovable property, co-ordination of construction work Lodging accommodation by hotel, inn, guest house, home stay, club or campsite, house boat For marriage or reception or official, social, religious, or business function r services provided in relation to such function at such property Any ancillary services to above 	Location of immovable property or intended to be located <ul style="list-style-type: none"> Where property/ boat/ vessel located in more than one state- supply made in each of respective state -: proportionate allocation amongst states as per the contract or as may be prescribed Where location of the immovable property/boat/vessel is located or intended to be located outside India -: Place of supply will be the location of the recipient

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Accommodation Provided to SEZ Unit

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- Section 8 with respect to intra-state supply also provides that intra-State supply of services shall *not include* **supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.**
- Circular No. 48/22/2018-GST dated 14th June, 2018
 - *clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply.*
- Whether benefit of zero rating available?
 - *supplies to SEZ unit shall be zero rated and the supplier shall be eligible for refund only if such supplies have been received by the SEZ unit **for authorized operations.** An endorsement to this effect shall have to be issued by the specified officer of the Zone.*
- Contradicting AAR - Karnataka Advanced Ruling Authority in the case of *M/S Gogte Infrastructure Development Corporation Ltd. (KARADRG-2/2018)* dated 21st March, 2018.

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Issues – Output Tax

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- Hotels - Output tax
 - Valuation
 - Tips
 - Voluntary vs. mandatory (Collected in invoices as Service Charge)
 - Added by customer – while swiping the card
 - Tip box collection
 - If some amount retained before distribution – is it supply? If yes, what rate?

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Hotels – Output Tax

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- Tariff rate vs. catalog price
 - Discounts offered
 - Corporate discounts (pre-agreed)
 - Room nights committed per month
 - If it includes
 - Free breakfast (bed & B/F)
 - All meals – still naturally bundled?
 - Service charges – included in per day tariff rate?
 - E.g. 15000/- includes free airport pickup & drop
 - Renting of Shops/Vending Machine Rent (Rent of space)
 - Advertisement Income
 - Conducting License Given to Caterer
 - Aggregator – buying room nights vs earning commission

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Hotels - Valuation

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How to decide GST Rate?

• Room tariff	Rs.900/-
• Add Extra Bed	Rs.150/-
• Add Room service	Rs.400/-

How to decide GST Rate + Classification?

• Room tariff	Rs.12500/-
• Add laundry	Rs.150/-
• Add Room service	Rs.385/-
• Add Minibar Consumption	Rs.500/-
• Add use of business center	
• Rent (1 hr)	Rs.1750/-
• Internet	Rs.350/-
• Stationery	Rs.100/-
	Rs. 2200/-

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Hotels – Membership Offer

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- Membership club program – stay + food + cake
 - Some utilized / some utilized (single price) – How to value?

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Hotel – inward supplies

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Inputs – eligibility of ITC

- Consumable
 - bottled water
 - Cap.exps
 - Linen, carpets, cutlery, serve-ware etc.
 - Fur & fittings
 - Land & building
 - Improvement on lease hold premises
 - Repairs & renovations
 - Decorating & art effects
 - Delivery van/pick up truck for purchase of RM
 - What about delivery scooter? Is it a motor vehicle? ITC disallowance?

Common Expenses for Hotel & Restaurant - ratio?

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COVID-19

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- Due to the COVID-19 pandemic, a lot of the tour packages within and outside India got cancelled. In view of the same, the GST implications needs to be discussed from the view-point of the Tour Operator as well as the input services which he has availed for providing such services
- Output Side
 - Tour operator cancels - Full Refund
 - Customer Cancels: Partial Refund – Rest is retained (as per contract)
 - No Refund – but a document is given which can be used upto a given period of time
- [Generally, advances received and GST on the same is discharged on the receipt of the same as per Time of Supply of Services. Invoices are only issued on the day of the tour.]

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COVID-19

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- Input Side – tour operator
 - Hotels give CN - to be utilized by next FY but not cash refund
 - Tour Operator is opting for discharging GST-18%. On cancellation –all bookings made by Tour Operator such as car booking, hotel etc. are forfeited by the respective service providers. Even Credit Notes are not issued. Insurance Company reimburses tour operator for loss of money due to cancellations. - Is ITC available in the present case?
- Are these redeemable documents – in nature of voucher? Discuss the taxability of same.
- [REFERENCES: M/s Lemon Tree Hotel vs. Comm (2019-VIL-789-CESTAT-DEL-ST) and Circular No. 137/07/2020-GST]

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Circular 137/07/2020 dt 13/4/2020

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- Advance Received for Service – Now Cancelled
- Invoice already Issued & GST paid
 - Issue CN in terms of Sec34
 - If no output liability to adjust – Apply refund “Excess payment of tax, if any” through FORM GST RFD-01
- Invoice not Issued (GST Paid on advance)
 - Issue refund voucher in terms of Sec31(3)(e)
 - Apply refund “Excess payment of tax” through FORM GST RFD-01

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M/s Lemon Tree Hotel vs. Comm (2019-VIL-789-CESTAT-DEL-ST)

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- M/s Lemon Tree Hotels receives advance from customers on booking of hotel room. On cancellation of the booking - amount is forfeited by the Hotel by way of cancellation charges as per contract.
- Whether Service Tax is liable on amount forfeited by way of cancellation charges for cancellation of hotel booking
- HELD - the customers pay an amount to the appellant in order to avail the hotel accommodation services, and not for agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and chargeable on full value and not on abated value. The amount retained by the appellant is under the terms of the contract, they are entitled to retain the whole amount or part of it. Accordingly, the retention amount (on cancellation made) by the appellant does not undergo a change after receipt. Accordingly, no service tax is attracted under the provisions of Section 66 E(e) of the Finance Act.

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Time of supply – in case of vouchers

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Voucher – sec 2(118)

• means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument

Time of supply of goods/services in case of vouchers

• Date of issue of voucher – if supply is identifiable at that point OR
• Date of redemption of voucher, in all other cases

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Efficiency in ITC Management

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- Eg: Audit Assignment in Delhi. Registration only in Mah.
 - Hotel Stay + Conveyance in Delhi
 - Only Hotel Stay in Delhi
- Would appointing Delhi tour operator help?

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Any Questions?

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Thank You

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