

GST on Hospitality Industry

ICAI – Hyderabad Branch (SIRC)

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Agenda

01 Sectors – Hospitality Industry

02 Legislative Provisions

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04 Analysis

Hospitality Industry



Accommodation & Lodging

Hotels, Inns, Resorts, Guest Houses,
etc



Food & Beverages

Restaurants, QSR/Fast Food,
Catering, Bakery, Café, Bars, etc



Travel & Tourism

Airlines, car rentals, Trains, etc



Entertainment & Recreation

Theatres, Malls, Parks, Events, etc

ACCOMMODATION & LODGING

Legislative Provisions

Accommodation Services:

Defined in Notification No. 11/2017-central Tax (Rate) dated 28.06.2017, as amended, under Explanation [Clause 4 (xxxiv)]

"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.

Tax Rates

Heading	Description of Service	CGST Rate (per cent)	Condition
9963	(i) Supply of 'hotel accommodation' having value of supply of a unit of accommodation less than or equal to seven thousand five hundred rupees per unit per day or equivalent.	2.5	[Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation No. (iv)]]
9963	(vi) Accommodation, food and beverage services other than (i) to (v) above (c) <i>This entry covers supply of 'hotel accommodation' having value of supply of a unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.</i>	9	Nil

Exemptions

Heading	Description of Service
9963	Supply of accommodation services having value of supply less than or equal to twenty thousand rupees per person per month provided that the accommodation service is supplied for a minimum continuous period of ninety days .
9963	<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 14b[or 12AB] of the Income-tax Act, 1961 or a trust or an institution registered under sub-clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act:</p> <p>Except:</p> <ul 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 of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month.

Place of Supply

Section 12(3) of IGST Act:

The place of supply of services,—

(a)

(b) by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or

(c) by way of accommodation 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; or

(d) any services ancillary to the services referred to in clauses (a), (b) and (c),

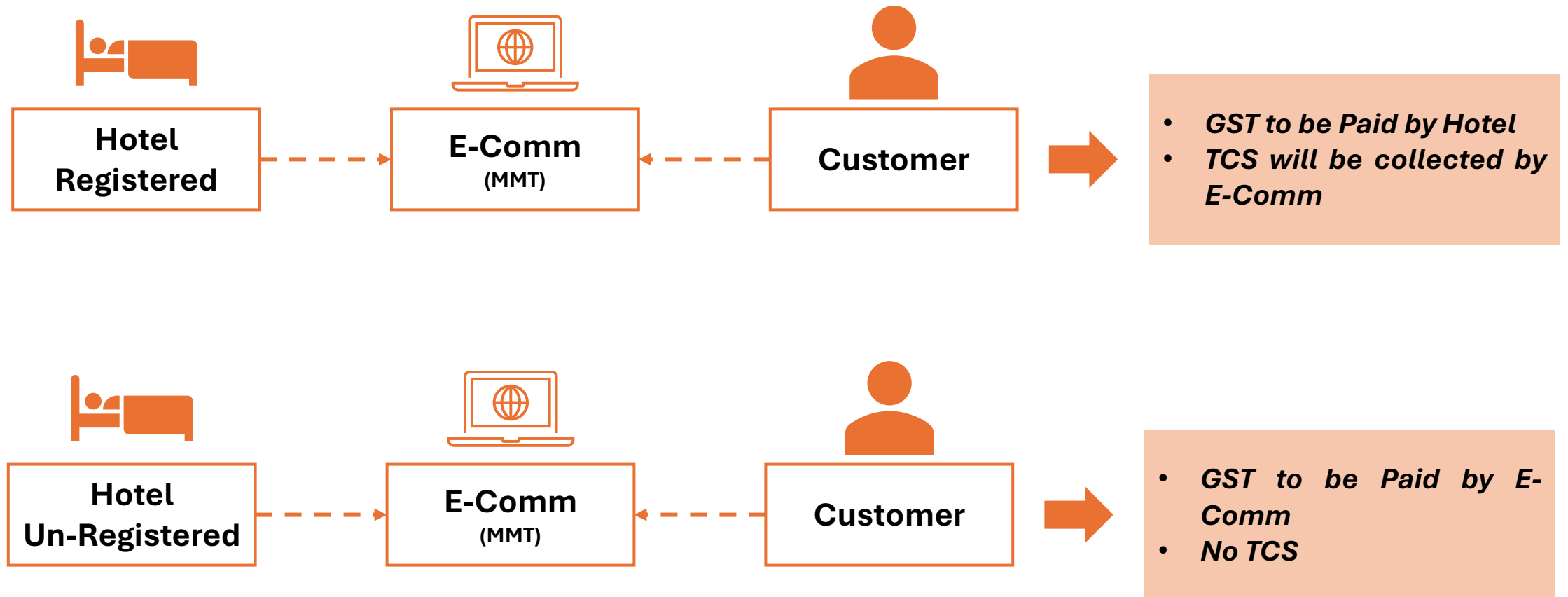
shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:

Place of Supply

Accommodation Services to SEZ Units

- Whether to Levy CGST+SGST or IGST?
- Section 7(5)b) of IGST overrides Section 12(3) of IGST
 - Clarified in Circular 48/22/2018-GST
 - Carnation Hotels AAR
- Challenge
 - Term 'Authorised Operations' inserted wef 31.07.2023
 - Hence obtaining DSPF becomes mandatory to claim zero-rated benefit

E-Commerce [Sec 9(5)]



Analysis

Issue – Nature of Supply

- Composite Supply or Mixed Supply or Independent Supply ?

- Combo Packages/Plan Room Sales
- Extra Bed Service
- Early Check-in and Late Check-out Charges
- In Room Dining (IRD) (Accommodation or restaurant)
- Mini Bar (Sale of Goods or Accommodation)
- Hotel Rooms purchased in bulk by Tour operators (accommodation or Tour operator)
- Airport Lounge (Accommodation or restaurant)

Analysis

Issue – Nature of Supply

➤ **No Show/Cancellation Charges**

- Cancellation Charges: No supply;
- Amount in the nature of Liquidated damages;
- Lemon Tree Hotel is in favour;
- CBIC Cir No. 178/10/2022-considers part of main services liable to GST at accommodation services rates.

[cancellation fee are the charges for the costs involved in making arrangements for the intended supply and the costs involved in the cancellation of the supply. Hence should be assessed at the same rate as applicable to the service contract]

Input Tax Credit

- **Building Civil Works**
- **Plumbing Works**
- **Electrical Works**
- **LAN/Internet/Telephone**
- **Furniture/TV/CCTV**
- **Lifts/Elevators**
- **HVAC**

FOOD & BEVERAGES

Legislative Provisions – Restaurants

Restaurant Services:

Defined in Notification No. 11/2017-central Tax (Rate) dated 28.06.2017, as amended, under Explanation [Para 4]

*(xxxii): "Restaurant service" means **supply**, by way of or as part of any service, **of goods**, being food or any other article for human consumption or any drink, 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.*

Schedule II of CGST Act:

6. Composite supply

*The following composite supplies **shall be treated as a supply of services**, namely:—*

*(b) 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.*

Legislative Provisions - Restaurants

(xxxvi): “**Specified premises**”, for a financial year, means,—

(a) a premises from where the supplier has provided **in the preceding financial year**, 'hotel accommodation' service having the value of supply of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent; or

(b) a premises for which a registered person supplying 'hotel accommodation' service has filed a declaration, on or after the 1st of January and not later than 31st of March of the preceding financial year, declaring the said premises to be a specified premises; or

(c) a premises for which a person applying for registration has filed a declaration, within fifteen days of obtaining acknowledgement for the registration application, declaring the said premises to be a specified premises;

[Explanation 1.—For the purposes of this clause, 'premises' means a place from where hotel accommodation services are being supplied or are to be supplied.

Explanation 2.—For the purpose of sub-clause (c), the expression 'a person applying for registration' shall include a person applying for amendment of registration to declare an additional place of business.]

Clarifications

– Restaurant Services supplied at ‘Specified Premises’

Question	Clarification (Ref: CBIC FAQ dated 28-03-2025)
<p>I am a supplier of hotel accommodation service, and I had supplied a unit of accommodation at value of supply above Rs. 7,500/- in the preceding financial year. Do I automatically fall under the category of 'specified premises' in the current Financial Year, or was I required to file a declaration to this effect before the beginning of the current financial year?</p>	<p>If you have supplied a unit of accommodation at value above Rs. 7,500/- in the preceding financial year, then you automatically and mandatorily fall under the scope of 'specified premises' for the current financial year, and you need not file a declaration to this effect.</p>

Clarifications

– Restaurant Services supplied at ‘Specified Premises’

Question	Clarification (Ref: CBIC FAQ dated 28-03-2025)
<p>I am a supplier of hotel accommodation service having multiple premises under a single GST registration. I have not supplied any unit of accommodation at value above Rs. 7,500/- in the preceding financial year from any of the premises. Does the declaration filed as per Annexure VII/IX apply to all my premises? Or do I have to file separate declarations for each of my premises?</p> <p>I am a supplier of hotel accommodation service, and I had supplied a unit of accommodation at value of supply above Rs. 7,500/- in the preceding financial year. Do I automatically fall under the category of 'specified premises' in the current Financial Year, or was I required to file a declaration to this effect before the beginning of the current financial year?</p>	<p>The declarations as per Annexure VII/IX apply to only one premises, and the supplier of hotel accommodation service shall have to file separate declarations for each of the premises from where hotel accommodation service is supplied. It may also be added that any premises from which hotel accommodation service for any unit has been provided for a value of supply of greater than Rs. 7500 in the preceding financial year, automatically and mandatorily becomes 'specified premises' for the current financial year and no declaration needs to be filed for such premises.</p>

Clarifications

– Restaurant Services supplied at ‘Specified Premises’

Question	Clarification (Ref: CBIC FAQ dated 28-03-2025)
I am a supplier of hotel accommodation service having multiple premises under a single GST registration. In FY 2025- 26, I have supplied a unit of accommodation having value of supply more than Rs. 7,500 from only one such premises. Will all of my premises automatically and mandatorily become specified premises for the next FY, i.e. FY 2026-27?	No, only that premise from which you have supplied a unit of accommodation having value of supply more than Rs. 7,500 will automatically and mandatorily become a specified premises for FY 2026-27. This will not affect the 'specified premises' status of your other premises.

Tax Rates - Restaurants

Heading	Description of Service	CGST Rate (per cent)	Condition
9963	Supply of 'restaurant service' other than at specified premises	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation No. (iv)]
9963	(vi) Accommodation, food and beverage services other than (i) to (v) above <i>(b) This entry covers supply of 'restaurant service' at 'specified premises'.</i>	9	Nil

Tax Rates – Optional??

Heading	Description of Service	CGST Rate (per cent)	Condition
9963	(vi) Accommodation, food and beverage services other than (i) to (v) above	9	Nil
	<p>Explanation.—</p> <p>(a) For the removal of doubt, it is hereby clarified that, supplies covered by items 1[(i)] (ii), (iii), (iv) and (v) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5), which is a mandatory rate and shall not be levied at the rate as specified under this entry.</p> <p>(i) <i>Hotel Accommodation less than or equal to 7,500/-</i></p> <p>(ii) <i>Restaurant Services other than specified premises</i></p> <p>(iii) <i>Supply of food by Indian Railways in Trains or Platforms</i></p> <p>(iv) <i>Outdoor Catering from other than specified premises</i></p> <p>(v) <i>Composite supply of Outdoor Catering together with renting of premises other than specified premises</i></p>	2.5	No ITC

Legal Provisions– Outdoor Catering

Outdoor Catering:

Defined in Notification No. 11/2017-central Tax (Rate) dated 28.06.2017, as amended, under Explanation [Para 4]

*(xxxiii): "Outdoor catering" means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, at **Exhibition Halls, Events, Conferences, Marriage Halls and other outdoor or indoor functions that are event based and occasional in nature.***

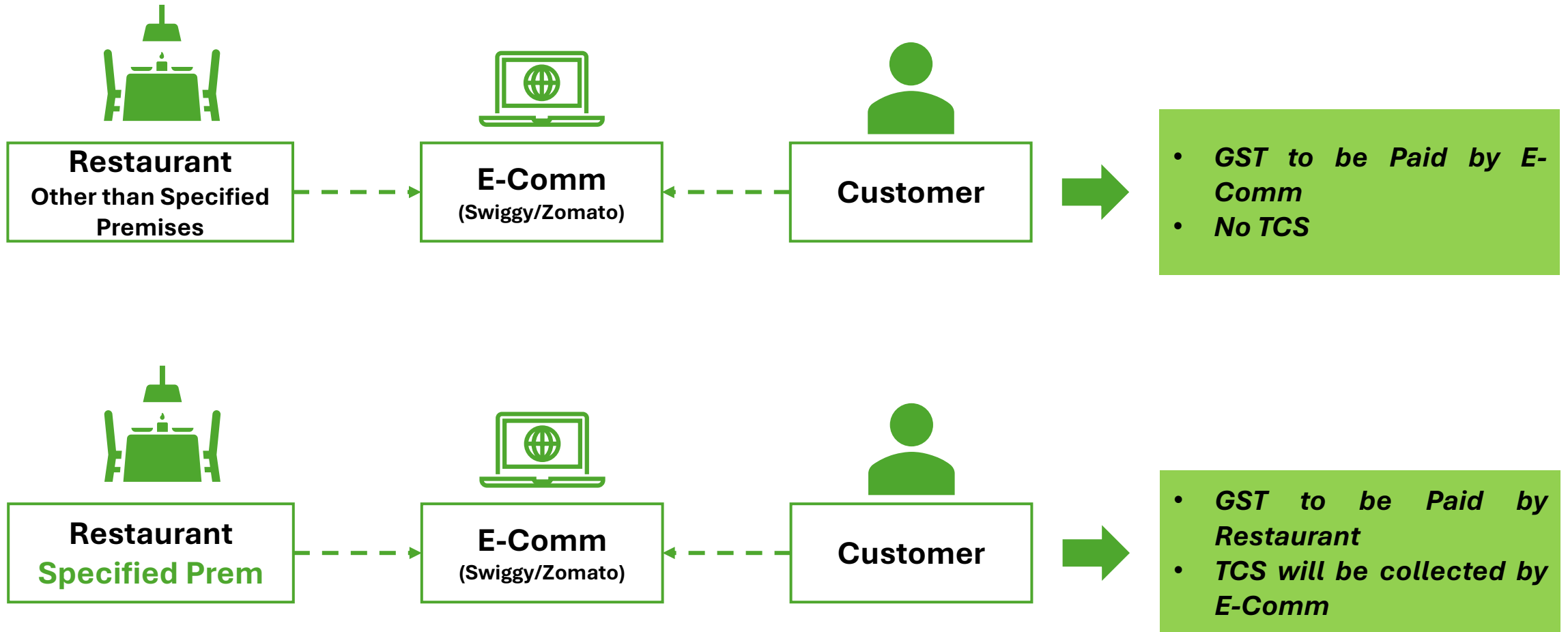
Tax Rates – Outdoor Catering

Heading	Description of Service	CGST Rate (per cent)	Condition
9963	(iv) Supply of 'outdoor catering', at premises other than 'specified premises' provided by any person other than— (a) suppliers providing 'hotel accommodation' at 'specified premises', or (b) suppliers located in 'specified premises'.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation No. (iv)]
9963	(v) Composite supply of 'outdoor catering' together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) at premises other than 'specified premises' provided by any person other than— (a) suppliers providing 'hotel accommodation' at 'specified premises', or (b) suppliers located in 'specified premises'.	2.5	

Tax Rates – Outdoor Catering

Heading	Description of Service	CGST Rate (per cent)	Condition
9963	<p>(vi) Accommodation, food and beverage services other than (i) to (v) above</p> <p><i>(d) This entry covers supply of 'outdoor catering', provided by suppliers providing 'hotel accommodation' at 'specified premises', or suppliers located in 'specified premises'.</i></p> <p><i>(e) This entry covers composite supply of 'outdoor catering' together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) provided by suppliers providing 'hotel accommodation' at 'specified premises', or suppliers located in 'specified premises'.</i></p>	9	Nil

E-Commerce [Sec 9(5)]



Place of Supply

– Restaurant & Outdoor Catering

Section 12(4) of IGST Act:

The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery **shall be the location where the services are actually performed.**

Issues - Classification

- Whether Supply of Goods or Restaurant Services??
 - Intention of the Supplier
 - Provide service to customer or merely over-the-counter sale of food/drinks?
 - License to operate the facility
 - FSSAI – Turnover & seating capacity
 - Shop & Establishment – Restaurant/Eating Joint/ Retail Shop
 - Hygiene & Sanitation audits, Fire NOC requirements
 - Food Safety Management Plan (FSMP) – Mandatory and often more detailed based on type of cuisine, prep methods.
 - Value perceived by the Customer
 - Goods or Services

Analysis

	Facility	Activities Performed	Intention of the supplier	Licenses to operate	GST Implications
1	Café / Eating Joints	<ul style="list-style-type: none"> • Preparation of food & drinks • Basic elements of service like heating, plating and serving, etc • Seating arrangement to a reasonable extent 	<ul style="list-style-type: none"> • To operate as a restaurant, not to only sell food items over-the-counter • Intent is to provide dining experience to customers 	<ul style="list-style-type: none"> • FSSAI – turnover & seating capacity based licensing • Shops & Establishments – eating joint license • Hygiene & sanitation audits • Fire NOC requirements • Food Safety Management Plan (FSMP) Mandatory and often more detailed (based on type of cuisine, prep methods). 	Restaurant Service

Analysis

	Facility	Activities Performed	Intention of the supplier	Licenses to operate	GST Implications
2	Food Kiosk / QSRs	<ul style="list-style-type: none"> • Very limited preparation of food/drink items like tea, coffee etc. • Basic service elements like heating, plating, serving etc. • Minimal or no seating/standing arrangement 	To operate as an eating joint	Same as restaurant / café / eating joint	Restaurant Service
3	Dark / Cloud Kitchens	<ul style="list-style-type: none"> • Preparation of food • No service element except packing of food • No seating arrangement 	To operate as eating joint without any service	Same as restaurant / café / eating joint	Restaurant Service (Circular 164/20/2021-GST)

Analysis

Circular No. 164 /20 /2021-GST dated 6th October 2021

*The explanatory notes to the classification of service state that „restaurant service“ includes services provided by Restaurants, Cafes and similar eating facilities including takeaway services, room services and door delivery of food. Therefore, it is clear that takeaway services and door delivery services for consumption of food are also considered as restaurant service and, accordingly, service by an entity, by way of **cooking and supply of food**, even if it is exclusively by way of takeaway or door delivery or through or from any restaurant would be covered by restaurant service. This would thus cover services provided by cloud kitchens/central kitchens.*

*Accordingly, as recommended by the Council, it is clarified that service provided by **way of cooking and supply of food**, by cloud kitchens/central kitchens are covered under „restaurant service“, as defined in notification No. 11/2017- Central Tax (Rate) and attract 5% GST [without ITC].*

Analysis

	Facility	Activities Performed	Intention of the supplier	Licenses to operate	GST Implications
4	Cake Shop / Bakeries	<ul style="list-style-type: none">• Cakes & pastries are pre-cooked• Over-the-counter supply of cakes/pastries• Minimal or no element of service• Limited or no seating arrangement	<ul style="list-style-type: none">• To operate as retail shop	<ul style="list-style-type: none">• FSSAI – turnover & scale based license• Shops & Establishments – retail shop license	Sale of Goods

Analysis

	Facility	Activities Performed	Intention of the supplier	Licenses to operate	GST Implications
5	Ice-Cream Parlour	<ul style="list-style-type: none"> • Very limited preparation of food like sundaes, shakes etc. • Some brands prepare live ice-creams • Basic elements of service like scooping, serving etc. • Minimal or no seating arrangement 	<ul style="list-style-type: none"> • To operate as eating joint 	<ul style="list-style-type: none"> • Same as eating joints 	<p>Already manufactured ice-cream - Goods Freshly made ice-cream – Service</p> <p>(Circular 164/20/2021-GST)</p> <p><i>However, wef 22nd Sept 2025 the rates of Ice-creams are reduced to 5%. Thus, this issue stands resolved.</i></p>

Analysis

Circular No. 164 /20 /2021-GST dated 6th October 2021

Ice cream parlors sell already manufactured ice- cream and they do not have a character of a restaurant. Ice-cream parlors do not engage in any form of cooking at any stage, whereas, restaurant service involves the aspect of cooking/preparing during the course of providing service. Thus, supply of ice-cream parlor stands on a different footing than restaurant service. Their activity entails supply of ice cream as goods (a manufactured item) and not as a service, even if certain ingredients of service are present.

Accordingly, as recommended by the Council, it is clarified that where ice cream parlors sell already manufactured ice- cream and do not cook/prepare ice-cream for consumption like a restaurant, it is supply of ice cream as goods and not as a service, even if the supply has certain ingredients of service. Accordingly, it is clarified that ice cream sold by a parlor or any similar outlet would attract GST at the rate of 18%.

Analysis

	Facility	Activities Performed	Intention of the supplier	Licenses to operate	GST Implications
6	Sweet Shop	<ul style="list-style-type: none"> • Major food items are pre-cooked • Preparation of limited fresh farsan items like samosa etc. • Over-the-counter supply of food/drinks • No element of service • No seating arrangement or minimal eating/standing space 	<ul style="list-style-type: none"> • To operate as a retail shop • No intent to provide any service or experience to the customers 	<ul style="list-style-type: none"> • FSSAI – turnover & scale based license • Shop & Establishment – Retail shop 	Sale of Goods

Analysis

Supply of food or beverages in Cinema Hall/Movie Theatres

- Circular No. 201/13/2023-GST dated 1st August 2023 clarified as follows:

supply of food or beverages in a cinema hall is taxable as ‘restaurant service’ as long as:

- a) the food or beverages are supplied by way of or as part of a service, and*
- b) supplied independent of the cinema exhibition service.*

It is further clarified that where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

Analysis

Banquet Services

- Banquet with catering
 - *Catering is part of banquet service*
 - *Consolidated pricing*
 - *Composite Supply*
 - *Cannot be artificially split*
 - *GST Rate – 5% and 18% (if Specified premises)*
- Banquet with 3rd party catering
 - *Banquet Hall Rent –Party X*
 - *Food Catering Service – Party Y*
 - *Separate Supplies*
 - *Banquet Rental – 18% with ITC*
 - *Catering Service - 5% and 18% (if Specified premises)*

Analysis

Combo Package – Buffet with Alcohol

(Food + Alcohol Beverage for a fixed price)

- GST on Supply of Food and VAT on Alcohol
- Price is consolidated. How to derive Value of Service & Sale?
 - Law does not prescribe any valuation mechanism in such cases
 - In absence of valuation mechanism the levy fails (Suresh Kumar Bansal)
 - If separate costing available, then taxes to be discharged accordingly
 - If not, then bifurcation on consumption basis
 - Excise consumption records can be taken as base

TRAVEL & TOURISM

Legislative Provisions

Tour Operator:

Defined in Notification No. 11/2017-central Tax (Rate) dated 28.06.2017, as amended, under Heading 9985

"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.

Tax Rates – Tour Operator

Heading	Description of Service	CGST Rate (per cent)	Condition
9985	(i) Supply of tour operators services	2.5	Provided that credit of input tax charged on goods and services used in supplying the service , <u>other than the input tax credit of input service in the same line of business (i.e. tour operator service procured from another tour operator)</u> has not been taken. [Please refer to Explanation No. (iv)]
9985	(iii) Support services other than (i) and (ii) above	9	Nil

Tax Rates – Travel

Heading	Description of Service	CGST Rate (per cent)	Condition
9964	(i) Transport of passengers, with or without accompanied belongings, by rail in first class or air conditioned coach.	2.5	Provided that credit of input tax charged in respect of goods used in supplying the service is not utilised for paying central tax or integrated tax on the supply of the service
9964	(ii) Transport of passengers, with or without accompanied belongings by— (a) air conditioned contract carriage other than motorcab; (b) air conditioned stage carriage; (c) radio taxi.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation No. (iv)]

Tax Rates – Travel

Heading	Description of Service	CGST Rate (per cent)	Condition
9964	(iii) Transport of passengers, with or without accompanied belongings, by air in economy class.	2.5	Provided that credit of input tax charged on goods used in supplying the service has not been taken [Please refer to Explanation No. (iv)]
9964	(ivb) Travel in helicopter on seat share basis	2.5	
9964	(v) Transport of passengers by air, with or without accompanied belongings, in other than economy class.	9	Nil

Tax Rates – Travel

Heading	Description of Service	CGST Rate (per cent)	Condition
9964	(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.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business, has not been taken. [Please refer to Explanation No. (iv)]
9964	(via) Transport of passengers, with or without accompanied belongings, by ropeways.	2.5	The credit of input tax charged on goods used in supplying the service has not been taken. [Please refer to Explanation No. (iv)]

Valuation under Rule 32

Description	Valuation
For Domestic Tickets	5% of the Base fare
For International Tickets	10% of the Base fare

The value arrived as per the above calculation will be considered as value of Supply for Commission on Air Ticket Bookings from Airlines and GST @ 18% will be charged on such value.

ENTERTAINMENT & RECREATION

Tax Rates – Entertainment

Heading	Description of Service	CGST Rate (per cent)	Condition
9996	(i) Services by way of admission or access to circus, Indian classical dance including folk dance, theatrical performance, drama or planetarium. (iia) Services by way of admission to exhibition of cinematograph films where price of admission ticket is above one hundred rupees.	9	Nil
9996	(ii) Services by way of admission exhibition of cinematograph films where price of admission ticket is one hundred rupees or less.	2.5	Nil

Tax Rates – Entertainment

Heading	Description of Service	CGST Rate (per cent)	Condition
9996	(iiia) Services by way of admission to (a) casinos or race clubs or any place having casinos or race clubs or (b) sporting events like Indian Premier League.	20	Nil
9996	(iv) Services provided by a race club by way of licensing a bookmaker in such club.	20	Nil
9996	(iii) Services by way of admission to; (a) theme parks, water parks and any other place having joy rides, merry-go rounds, go-carting, or (b) ballet,— other than any place covered by (iiia)	9	Nil
9996	(vi) Recreational, cultural and sporting services other than (i), (ii), (iia), (iii), (iiia), (iv) and (v) above.	9	Nil

Thank You

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