

## Impact of GST in hotel and restaurants

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### Abstract

GST is here, and businesses are still trying to understand the changes required in their current systems to accommodate the new compliance model. On this note, we bring you our impact analysis on something which is very near and dear to us; or, rather to our stomachs –the restaurant and food industry. Here we will try to explain how the restaurant bill will look under GST and what are its implications for the end consumers the owners and the overall industry.

**Keywords:** hotel, GST, restaurant etc

### Introduction

“Athithi devo bhavha” (Guest is God) has been one of central tenets of Indian culture since times immemorial. Today, hospitality sector (which includes tourism also) is one of the fastest growing sectors in India and is expected to grow at the rate of 8 % between 2007 and 2016. The boom in travel and tourism has led to the further development of hospitality industry. Consequently the hospitality industry is expanding globally and promoting its growth in a changing multicultural environment. Hotels contribute the output of goods and related services which build wellbeing of their nations and communities.

### Goods and Services Tax (GST) as a tax reform

Migrating to Goods and Services Tax (GST) is a time to reinvent the taxation and remove the anomalies. Hotel industry (includes tourism) contributes to 6.23 percent to the National GDP and 8.78 percent of the total employment in the country. Goods and Service Tax (GST) is a destination based consumption tax which is a levy of tax on all goods and services with the objective of expanding the tax base through wide coverage of economic activities , mitigating the cascading effect , reduction of exemptions , enable better compliances etc. thereby resulting into formation of common national market for goods and services.

### Current situation

The hospitality industry, like every other sector in the Indian economy, pays multiple taxes (VAT, luxury tax, and service tax) in the existing indirect tax regime.

- A hotel where the room tariff exceeds Rs 1,000 is liable for service tax at 15 percent. An abatement of 40% is allowed on the tariff value bringing the effective rate of service tax down to 9%. The Value Added Tax 5.5% to 14.5% and luxury tax will still apply.
- For restaurants there is 60% abatement which means that the service tax is charged at an effective rate of 6% on the F&B bills, apart from VAT (5.5 percent to 14.5%).

- Bills for bundled services like social functions (seminars, marriage etc.), are taxed with an abatement of 30%. The cascading effect of the existing indirect tax regime where the end consumer pays a tax on tax increases the end cost.
- Hoteliers and hospitality businesses do not get any input tax credit on the taxes they pay currently, as central taxes cannot be set off against state taxes (VAT) and vice-versa and also due to availability of abatement no input credit is available.

### GST Scenario

#### General provisions

The threshold limit of aggregate annual turnover of Rs.20 lakhs for registration purpose is applicable for hospitality Industry as well.

Composition levy: section 10 of the CGST Act provides for compounded levy of tax at the rate of 2.5% for service providers, if the gross annual turnover of the taxable person does not exceed Rs 75 lakhs. This provision is also applicable to the hotels and restaurants. However on availing this benefit, the owners of the restaurants would not be able to collect the tax from their customers and also they are not eligible for availing input tax credit on the goods and services used in providing the service.

#### Regular rates

The levy of GST on hotels and restraints is discussed in the following section of this article with examples for the better understanding of the readers

#### Type I hotels and restaurants

A non A/C Restaurant famous for evening snacks, sweets and Tiffen items. They do have a small eat out place under fan but do not have permit for serving liquors.

Currently these categories of restaurants which do not have AC in their hotels are exempted from Service tax. Only VAT is applicable as per the state provisions of VAT.

## **GST Scenario**

### **Option 1 Regular scheme**

Tax rate applicable under GST: 12 % (6% SGST + 6% CGST) to be charged additionally in the bill. Suppose bill value is Rs 300 GST to be charged is Rs.36 total bill value will be Rs336. Full Input tax Credit is available in respect of goods and services used for providing output service.

### **Option 2 – Composition Scheme**

Rate of tax applicable: 5% (2.5 % CGST + 2.5% SGST) no tax to be charged in bill to the customer. Tax to be borne by the owner.

For the same example as above tax to be paid by the owner of the restaurant is 5% of the bill value i.e. Rs.15. total value of the bill to the customer is only RS.300 as the owner cannot pass on the tax to the customer. No input tax credit is available on the inputs and services used in providing output service.

### **Type II Hotels**

ABC is known for its mouthwatering dishes and thali items. The ground floor portion of the restaurant is non a/c while in the top floor one can enjoy the tasteful dishes in a cool A/C environment with dim lights and channel music. The aggregate turnover of the hotel is around 1 crore during the last year. Shri X spends one evening with family in the first floor of the hotel and got a bill of Rs 1000 exclusive of taxes.

### **Current scenario**

Currently such types of restaurants are required to pay service tax @6% after the abatement of 60% and No Input Tax Credit is available there on. VAT is applicable as per the state provisions of VAT.

### **GST Scenario**

As per the decision of the **GST council**, Air-conditioned Restaurants and Restaurants with license to serve liquor come under GST rate of 18%. A plain reading of this gives rise to two types of interpretation as follows:

1. Since there are two distinct portions one with A/C and other without A/c, it is logical that the customers who take services in the non A/c conditioned portion should not be charged with the higher burden of tax and should be charged the same rate of tax as is applicable to other non a/c restaurants . Thus those customers taking services at the non a/c portion would be charged with tax rate of 12% while the take services at the top floor with a/c facilities should be charged with the higher rate of tax of 18%
2. In contrast to the above presumption, earlier in the Service Tax regime, while non a/c restaurants were exempted from payment of service tax, even if in any part of the restaurant if centralized air conditioning or air heating facilities are present the restaurant comes under the purview of service tax. On a similar footing even if air conditioning facilities are available in one portion of the restaurant if the whole restaurant comes under the higher rate of taxation of 18% , then even those who take food in the non a/c environment have to shed tax at 18%. This being the case in respect of majority of restaurants

This presumption is further supported by the fact that as per

the GST council decision, air-conditioned restaurants and restaurants with license to serve liquor come under GST rate of 18%. So even if it is a non a/c restaurant if they possess license to serve liquor, whether they serve liquor or not the hotel comes under 18% tax rate. Thus even those persons who does not take liquor and take only food has to pay tax at 18% just because the hotel is in possession of license to serve liquor.

Taking this analogy, even if the ground floor is non a/c, since the first floor is air-conditioned wherever one takes the services the tax rate to be charged would be 18%.

While the consumers have to shed 18% tax, the owner of the restaurant will be getting the relief of the input tax credit on the inputs and services.

But if this presumption is correct most of the customers of even ordinary restaurants would be severely affected.

### **Type III Out door catering services**

A and Co. catering services provides out door catering services in Jaipur. Apart from providing catering services for functions like marriages and other religious events, they also provide catering services to the employees of corporates in their offices and factories.

### **Current scenario**

Currently Outdoor catering is taxed at 9% of Service tax (abated rate) and VAT as per provisions of respective state VAT Act.

### **Scenario under GST**

GST at the rate of 18% of the value of services provided with full input tax credit. However since the inputs are mostly rice, grains etc which are zero rated, the availability of ITC does not substantially help the outdoor catering service provider. Thus the outdoor catering provider has to pay a GST of 18% (9% CGST +9%SGST) if it is intra state supply and 18% IGST if it is inter-state supply.

### **Type IV Hotels**

Restaurants in 5 stars and above rated hotels XYZ with 5 Star rating they also have their restaurant in the premises of the hotel.

### **Current scenario**

Currently these types of restaurants are required to pay service tax @6% and No ITC is available there on because of the availability of abated rate. VAT is applicable as per the state provisions of VAT.

### **GST Scenario**

There is no possibility to think that, these restaurants would ever fall in the category of below Rs 20 lakhs aggregate turn over in a financial year. Thus though the threshold limit is available to these type of hotels as any other case, it is not operative in such cases. Similar is the case with the composition scheme.

Thus these restaurants have to pay 28% GST (14% CGST and 14% SGST) on their intra state supply of services and 28% IGST on their interstate supply of services.

Full Input tax Credit is available in respect of goods and

services used for providing output service.

### **Hotels providing short term accommodation services along with supply of food type I hotels**

#### **Lodging Houses**

Budget hotels with room tariff of less than Rs. 1000. These category of hotels are exempted from the payment of GST.

#### **Type II hotels**

This kind of hotels with room tariff ranging between Rs. 1000 and above but less than Rs 2500.

#### **Current scenario**

A hotel where the room tariff exceeds Rs. 1,000 is liable for service tax at 15 percent. An abatement of 40% is allowed on the tariff value bringing the effective rate of service tax down to 9%. The Value Added Tax 12 % to 14.5 % and luxury tax will still apply. Not input service credit was allowed due to adoption of abated rates.

#### **Scenario under GST**

Such type of hotels attracts a GST of 12% (6% CGST +6%SGST) with full input service credit. Thus even if we assume 12% VAT, then as against 21% tax paid earlier under the GST regime these types of hotels end up in paying only 12 % GST with the benefit of input tax credit also. This appears to be a cheerful situation for the owners of such hotels.

#### **Type III Hotels**

Hotels with room tariff more than Rs 2500 but less than Rs. 5000.

#### **Current scenario**

Such hotels are liable for service tax at 15 percent. An abatement of 40% is allowed on the tariff value bringing the effective rate of service tax down to 9%. The Value Added Tax 5% to 14.5% and luxury tax will still apply. No input service credit was allowed due to adoption of abated rates.

#### **Scenario under GST**

Such hotels are liable for GST of 18% (9% CGST +9%SGST) as against the effective tax of 21% under the present indirect tax regime. Further the effective tax rate would further reduce due to availability of input credit for the payment of tax. Thus GST is beneficial to owners of such hotels as it reduces the overall tax burden and makes their services more competitive to their next higher level service provider via five star hotels.

#### **Type IV Hotels**

Hotels with room tariff exceeding Rs. 5000 per night per room.

#### **Current scenario**

Such hotels are liable for service tax at 15 percent. An abatement of 40% is allowed on the tariff value bringing the effective rate of service tax down to 9%. The Value Added Tax 5.5 % to 14.5 % and luxury tax will still apply. No input service credit was allowed due to adoption of abated rates.

Thus the effective rate of tax paid works out to 21% with the minimum VAT of 12%. Adding luxury tax it would further go up.

#### **Scenario under GST**

Such hotels are liable for GST of 28% (14% CGST +14%SGST) as against the effective tax of 21% under the present indirect tax regime. Adding the luxury tax component, the tax rates before and after GST appears to be in the same range. Thus the owners of such hotels and their customers have no impact on account of introduction of GST.

#### **Conclusion**

Companies specializing in food and beverages operations could be the biggest beneficiaries of GST within the hospitality sector. Food and beverages bills have multiple components and can inflate the bills by 30-35%. A single-slab tax will benefit consumers and should lead to savings of 10-15% on the overall bill.

The restaurant industry has been burdened with high and multiple taxations. However, liquor should be included in GST. Exempting it defeats the very purpose of bringing in a uniform single tax structure. This allows states to have their own taxes without a cap with separate accounting requirements and results in double compliance for the restaurant / hotel industry. This is neither beneficial for 'Ease of doing business' nor for the customers.

"Everybody likes consolidation of taxes as it leads to greater transparency and will help guests and buyers understand overall costs. We welcome the development," said Raj Rana, CEO, South Asia, for hotel group Carlson Rezidor. "Some states have luxury tax and that impacts room rates. If India aspires to be competitive, then the tax structures too need to be competitive.

"Luxury and other service taxes in hospitality amount to more than 22%, compared with the proposed 18% under the GST regime. Overall, GST should be positive for the sector assuming the multiplicity of taxes will go away in food and beverages.

The lacunas in the present regime of indirect taxation in India demands for the major breakthrough in this field for facilitating the ease of doing business effectively and efficiently. Hopefully, GST is going to be pinnacle which aims at evolving an efficient and harmonized consumption or destination based tax system and will remove the problems faced by the sector leading to cost optimization and free flow of transactions.

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