

25.1 Background

The various institutions like hotel, inn, guest-house, club, etc. supplies services of accommodation on short-term or long-term basis. The provision of basic accommodation, in earlier period consisting only of a room with a bed, a cupboard and a small table. In modern days, it has largely been replaced by rooms with modern facilities including climate control, internet, television, alarm clock, a safe, a mini-bar with snacks, food and drinks and facilities for making tea and coffee. Luxury features include bathrobes and slippers, a pillow menu, twin sink vanities and jacuzzi bathtubs. Larger hotels may provide additional guest facilities such as swimming pool, fitness centre, business centre, childcare, conference facilities and social function activities.

The services of short-term accommodation were taxed under Chapter V of the Finance Act, 1994 w.e.f. 2011 and w.e.f. July-2012 all the accommodation services became taxable. The liability of GST on different types of services provided under accommodation and incidental/ancillary issues are discussed in this chapter.

25.2 Contents

- (a) Nature of service [See *para 25.3*]
- (b) Levy of GST [See *para 25.4*]
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- (m) Payments [See **para 25.15**]
- (n) Returns [See **para 25.16**]
- (o) Rebate (Refund) [See **para 25.17**]

25.3 Nature of service

The tariff description in Sr. No. 7 of the Notification No. 11/2017-CT (Rate) uses different terms. It is essential to analysis meaning of these words to understand the scope of levy of tax. Further accommodation services are provided for different purposes like business, tourism etc. These are discussed below:

25.3-1 Meaning of terms and purpose of services

The meaning of various terms and purposes of services are discussed in below paras:

- (a) 'Or equivalent' [Please **refer para 25.3-2**]
- (b) 'Declared Tariff' [Please **refer para 25.3-3**]
- (c) Hotel accommodation [Please **refer para 25.3-4**]
- (d) Specified premises [Please **refer para 25.3-5**]
- (e) Purpose of Accommodation [Please **refer para 25.3-6**]
- (f) Short term or long term Accommodation [Please **refer para 25.3-7**]
- (g) Tariff value [Please **refer para 25.3-8**]
- (h) Rates [Please **refer para 25.3-9**]

25.3-2 Or equivalent

Normally, the hotel publishes rate which is chargeable for the day. However, in many cases more particularly the hotel located near airport or as part of airport charges on hourly basis. Normally, passengers staying in such hotels stays for few hours for any purpose and travels further through aircraft. Since, the rates are available for hours, the value for the day is required to be computed. This can be explained by example say Hotel 'X' is located at Mumbai airport and has tariff rate of ₹ 2,500 for six hours. The tariff rate will be multiplied by four (24/6) to arrive at the published tariff rate for the day. The tariff rate for the day will be ₹ 10,000 in this case.

25.3-3 Declared Tariff

The declared tariff prior to 1/10/2019 was defined in explanation given below the tariff description. It was defined as follows –

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.

The notification numbers 20/2019-CT (Rate) dated 30-9-2019 amended the notification number 11/2017-CT (Rate) and defined declared tariff in clause (xxxv) of para 4 of the notification as follows-

“Declared tariff” means 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.

It is evident from the above definition that it does not exclude any discount of the published charges of such unit. The declared tariff is decided by the owner of the hotel and is published by him. The tariff declared by the owner of the hotel shall be considered for the purpose of this entry.

Sometimes the booking of rooms are also made through different websites or travel agents. These websites of travel agents may publish the declared tariff in order to attract the customers. The publication of tariff rates in their websites is not relevant for the purpose of understanding the scope of this entry. The owner of the hotel will have no control on publication of tariff rate by these websites or agents. The declared tariff published by owner of the hotel is only relevant for the purpose of understanding the scope of this entry.

The determination of declared tariff when the charges for breakfast is included or when additional bed is provided is discussed in **para 25.3-8**. Further the tariff rate may be different for different category of rooms, it depends upon nature of class of customer, season etc. The same is discussed in **para 25.11-4**.

Prior to 27/07/2018 the rate of tax was determined based on amount stated in declared tariff. After 27/07/2018 the rate of tax is determined on the basis of value of supply of accommodation.

25.3-4 Hotel Accommodation

The Hotel accommodation has been defined in clause (xxxiv) of the para 2 of Notification No. 11/2017-CT (Rate) as follows:

“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.

The accommodation provided for residential or lodging purposes including the supply of time share usage rights by way of accommodation by these entities will be taxable under this entry. Many clubs provides right to the members the facility without any charges or with nominal charges. The members are required to book the premises in advance for the purpose of enjoying the facility. Such right provided to members are also considered as supply of hotel accommodation services taxable under this entry.

In most cases the customer stay for a short duration. However the many cases the customer stays for long duration say six month to one year. He uses the accommodation as his residence. The definition of hotel accommodation includes both type of accommodation services.

25.3-5 Specified Premises

The word 'specified premises' is defined in clause (xxxvi) as follows:

(xxxvi) "specified premises" means premises providing "hotel accommodation" services having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent."

The meaning of hotel accommodation, declared tariff and "or equivalent" have been discussed in above sub-paras. The amount of ₹ 7500 per unit per day is required to be determined based on declared tariff and not the value of service. If any premises are considered as specified premises as per above definition, the rate of tax on the outdoor catering, restaurants are different.

25.3-6 Purpose of Accommodation

Accommodation service may be provided to tourists, business or other purpose. These services include services consisting of rooms with or without kitchens, with or without daily housekeeping and other services like ironing, TV, etc. These services may be provided by Hotels, Inn, Guest Houses, Clubs, Camps, Dharamsala, Temple, etc.

25.3-7 Short term or Long term Accommodation

The above accommodation services are generally for a very short duration. In many cases the accommodation services provided for fairly longer time or semi-permanent residences. These services are provided in hostel, residential clubs, boarding houses, etc. The services in hostel are provided to students undergoing the course in college or in different curriculum. Many community hostels have come up for accommodating students of particular community undergoing educational course.

25.3-8 Tariff value

In most cases, hostel, guest house, clubs, hotel, INN, etc. have printed tariff value on which discounts are offered. There is lot of variation in the tariff value. The value may be including breakfast or breakfast and dinner or excluding these. The scope of tariff value has been discussed below:

25.3-8a TARIFF VALUE WHEN BREAKFAST IS INCLUDED - Chapter V of the Finance Act, 1994 also levied service tax on accommodation services. At the relevant time also, the accommodation services provided by hotel, inn, guest house, etc. where declared tariff is less than ₹ 1000 was exempt from payment of tax. The CBIC in Circular No. 139/08/2011-TRU dated 10-5-2011 (Refer **Annex 25.1**) has clarified with regard to determination of tariff value in different circumstances. Since, the entire clarification except question No. 5 is relevant in GST, the

entire circular is reproduce in **Annex 25.1** The clarification given in Chapter V of the Finance Act, 1994 will equally apply to the determination of tariff value in GST also.

As per Q.No. 3 of the table given in Circular No. 139/08/2011 - TRU dated 10/05/2011, the declared tariff will not include the value for food and beverages, where bill is separately raised for food and beverages and the amount is charged in the bill. It must be noted that the rate of tax on accommodation service depends upon the amount of declared tariff upto 26/07/2018. As regards inclusion of charges of extra bed in tariff value CBEC under service tax clarified as follows -

- ◆ Tariff value when additional bed is provided – It was clarified by CBEC *vide* Letter No. D.O.F. 334/3/2011 - TRU dated 25/04/2011 that cost of extra bed will not form part of the declared tariff. The tariff is normally designated for specified number of person in a room. It is either single occupancy or double occupancy. Single occupancy and double occupancy respectively means accommodation for one or two persons. In case there are two or more guest intending to stay in room, the hotel has the facility of providing extra bed at charge. Say declared tariff for double occupancy is ₹ 6500 and the customer wants extra bed for which the charge is ₹ 1000. The customer will be charged ₹ 7500 for accommodation services, but the rate of tax will be determined as if the tariff rate is only ₹ 6500. The clarification given by CBEC in DOF Letter will equally apply in GST also as the provisions relating to determination of value has remained same.

25.3-9 Rates

The tariff rates are specified under Service Accounting Code (SAC) 9963 for services discussed in this chapter. The description of various services covered under SAC code are given in Sr. No. 7 of Notification no. 11/2017-CT (Rate). The description of services are given in clauses (i) to (vi) for accommodation, food and beverages services. The rates for accommodation services are specified in clauses (i) and (vi). Briefly it may be mentioned that lower rate of tax is prescribed for supply of service for unit of accommodation with value of service less than ₹ 7500 per day or equivalent. The higher rate of prescribed for unit having value above ₹ 7500 per day or equivalent.

The Serial No. 14 of exemption notification No. 12/2017-CT(Rate) provides exemption from payment of GST. The tariff description of Sr. No. 14 of Notification No. 12/2017-CT (Rate) was amended with effect from 27/07/2018 by which the word 'declared tariff' were replaced by the word 'value of supply'. Therefore, in determination of exemption from payment of GST after 27/07/2018, the 'value of supply' shall be considered as against 'declared tariff'. The exemption under Sr. No. 14 is deleted from 18-7-2022. The scope of exemption is discussed in *para 25.10*.

25.4 Levy of GST

The different type of GST are levied on supply of accommodation services. The provisions are discussed in below paras.

25.4-1 Different type of GST

Refer *para 26.4-1*

25.4-2 Composite Supply and mixed supply

Composite Supply has been defined in Section 2(30) of the CGST Act as follows:

‘(30) “composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Illustration: Where goods are packed, and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.’

It is evident from the definition that when the supply is of two or more taxable supplies of goods or services are made in conjunction with each other in the ordinary course of business, one of which is a principal supply, it is considered as a ‘composite supply’. In modern days, the accommodation service is provided with modern facilities like internet, television, safe deposit locker, snacks, fruit plate, towel, shaving kit, facility of making tea and coffee and many other facilities. The intention is to give a comfortable stay in the Hotel, Inn, etc. All these facilities are provided in the ordinary course of business and are supplied only when the accommodation services are provided. Thus, principal supply is of accommodation.

◆ **The composite supply of outdoor catering and renting of premises.**

The clause (v) of entry 7 specifically provides rates for composite supply of outdoor catering together with renting of premises. The description of the entry has been reproduced above. The scope of this entry can be explained by example. say person books banquet hall for marriage. He also contracts with hotel for making supply of food. Thus, the banquet hall is booked together with outdoor catering. Further, assume that the supplier is not providing accommodation at specified premises or supplier is not located in specified premises. In such event even for the booking of banquet hall the rate of 5% will be levied. Normally, the hotel supplying banquet hall with catering charges on per plate basis. It means the charges depending upon the number of guest expected in the function. The higher number of guests the lower is per plate rate and *vice versa*. Exclusion in this entry is only for the supplier providing accommodation at specified premises or supplier located in specified premises. Thus, if the value of supply of accommodation is less than ₹ 7,500 per day per unit the rate of 5% will be charged for renting of premises as well as for the catering.

25.4-2a TAXABILITY – As per Section 8 of the CGST Act and similar other Acts, the tax liability of composite supply comprising two or more supplies one of which is considered as principal supply, shall be treated as a supply of such principal supply. Thus, the entire amount paid by the guest will be taxable under the accommodation services at the rates mentioned above. The amount paid by the guest cannot be bifurcated into different facilities mentioned above and taxed separately. For example, now a days hotels also provide facility of telephone, TV, fruits, making of tea/coffee in the room etc. along with accommodation service. The principal supply is accommodation service. Hence the total value recovered for all the services will be taxed as accommodation services.

25.4-3 Charging Section

Refer *para 26.4-3*.

25.4-4 Composition

Refer *para 26.4-4*.

25.5 Cross Charge

Refer *Para 26.5*.

25.5-1 Statutory provision

Refer *para 26.5-1*.

25.5-2 Method of valuation

Refer *para 26.5-2*.

25.6 Registration

The provisions relating to registration, exemption from registration, compulsory registration is contained in Sections 22 to 25 of the GST Act. These are discussed below:

25.6-1 Basic exemptions

Refer *para 26.6-1*. As per section 22, the supplier is not required to obtain registration if aggregate turnover does not exceed ₹ 10 lacs (in specified state) or ₹ 20 lacs (other states).

The 'aggregate turnover' is defined in Section 2(6) of the CGST Act. The amount of **₹ 20 Lacs or ₹ 10 Lacs** (for specified states) is required to be computed on the basis of definition of aggregate turnover given in section 2(6) of the Act. As per this definition it includes the value of exempted supply. In computing aggregate turnover of **₹ 20 Lacs or ₹ 10 lacs**, (for specified states) the amount received from all the rooms will be considered.

25.6-1a EXEMPTION FROM REGISTRATION WHEN SERVICE IS SUPPLIED THROUGH ELECTRONIC COMMERCE OPERATOR - As per section 24(ix) of GST Act compulsory registration is required to be taken by the supplier who supply goods or services through electronic commerce operator who is required to collect tax under section 52. However, CBIC has exempted the supplier of service *vide* notification No. 67/2017-CT from obtaining registration if the aggregate turnover to be computed on all India basis of the supplier does not exceeds ₹ 20 lacs. Therefore, even when the person is supplying services through electronic commerce operator, he is not required to obtain registration.

- ◆ **Reverse charge** – As per notification No. 17/2017-CT (Rate) dated 29-6-2017 when the person provides accommodation service in hotel, inn, guest houses, etc. and the supplier of service is not liable for registration, GST will be payable by electronic commerce operator. Thus, if the aggregate turnover of the supplier of accommodation service does not exceeds ₹ 20 lakhs, he will not be liable to obtain registration as per notification No. 65/2017-CT, even if he supply the services through electronic commerce operator. In such case, the electronic commerce operator will be liable to pay GST.

25.6-1b ACCOMMODATION SERVICE PROVIDED THROUGH E-COMMERCE OPERATOR WHERE ROOM TARIFF IS LESS THAN RS.1000/- PER DAY PER UNIT (UP TO 27-7-2018) – As explained above, if room tariff per day per unit is less than ₹ 1000 the supply of services are exempt from payment of GST under Sr. No. 14 of notification No. 12/2017-CT (Rate). As per section 23, if the person is engaged exclusively in the business of supplying goods or services or both which are not liable to tax or wholly exempt from payment of GST, he is not required to obtain registration. Thus, if the supplier of accommodation service is engaged in supply of accommodation service with tariff value of less than ₹ 1000 per day per unit, he will not be liable for registration as per section 23(1) even if he has supplied the services through electronic commerce operator and his turnover exceeds ₹ 20 lacs. He will not be required to obtain registration in view of provisions of section 23. In such case even electronic commerce operator also will not be liable for payment of GST as clause (ii) of notification No. 17/2017-CT (Rate) provides that the person should not be liable for registration under section 22(1). If the person is not liable for registration under section 23, as he is exclusively supplying exempted service, provisions of notification No. 17/2017-CT(Rate) will not apply. Electronic commerce operator is not liable for payment of tax.

25.6-1c EXCLUSIVELY PROVIDING EXEMPTED SERVICE (UP TO 17-7-2022) – If all the rooms in the hotel have tariff value of less than ₹ 1000 per day per unit, the services provided by the supplier will be entirely exempt from payment of GST under Sr. No. 14 of Notification 12/2017-CT (Rate). In such case, the supplier of service will not be required to obtain registration as per notification No. 5/2017-CT dated 19-6-2017.

The tariff description of Sr. No. 14 of Notification No. 12/2017-CT (Rate) was amended. The word 'declared tariff' were replaced by the word 'value of sup-

ply'. Therefore, in determination of exemption from payment of GST after 27/07/2018, the 'value of supply' shall be considered as against 'declared tariff'. This entry is deleted w.e.f. 18.07.2022. Therefore supplier of service will be liable to pay tax even if the value of supply is less than ₹ 1000 per unit per day w.e.f. 18-7-2022.

25.6-2 Voluntary registration

Refer *para 26.5-2*. It will be advisable for the person providing accommodation services to obtain registration so that the customer can avail the credit of taxes paid by him.

25.6-3 Compulsory registration

Refer *para 26.5-3*

25.7 Raising of invoice, debit note or credit note

The provisions relating to invoices, debit note or credit note are provided in Section 31 & Section 34 of the GST Act. Different organizations are following different practices in respect of raising of invoice. The accommodation services are provided to different types of customers. The supplier of service receives advance, cancellation charges, etc. The nature of documents prepared under different situations are discussed below:

25.7-1 Invoice

Refer *para 26.6-1* and **Chapter 15**. The type of invoice depends on mode of booking made by the customer

25.7-1a DIRECT CUSTOMER - In many cases the customer approaches the hotel directly for providing the services of accommodation. The contract for supplying accommodation services is between the hotel and the customer. The invoice is raised on the customer directly by the hotel and the amount is collected. The customer can be a walk-in customer or like other customers like corporate customer etc.

25.7-1b WALK-IN-CUSTOMER - In case of walk-in customers, it will be advisable that the registration number of the customer is asked at the reception so that the same can be incorporated in the invoice to enable the customer to take input tax credit on accommodation services. The invoice will be raised by the hotel on the customer incorporating all the details mentioned under Rule 46 of the CGST Rules. If the customer is not registered, no registration number will be provided, and it will be B2C transaction.

25.7-1c OTHER CUSTOMERS LIKE CORPORATE CUSTOMER - In case of other customers like corporate customer, the hotel will normally maintain the database of the registration number of the corporate customers. However, the corporate customers have multiple registration. Therefore, it will be advisable to ask the

said customer about the registration number and incorporate the same in the invoice raised on the customer.

25.7-1d THROUGH WEBSITE - In modern days, many customers book their rooms through the website and the entire amount is paid by the customer through Net banking, debit card, credit card etc. to website. Website issues the confirmation voucher which confirms the booking with other details like time of checking-in, checking-out, complimentary breakfast, pickup facility, etc. The customer checks-in and surrenders the voucher at the reception.

It is seen that different hotels follow different practise for raising of invoice. Many hotels raise the invoice through website, as if the services are provided through website only. Many other hotels, etc. follow the practice of raising invoice on the customer. The registration number of the customer is mentioned on the invoice as the services are provided by the hotel to the customer. The practice of raising the invoice on customer appears to be more proper, as hotels, etc. are service provider.

In any case, the invoice raised by the hotel either on the customer or on the website shall contain all the information which are specified in Rule 46 of the CGST Rules.

25.7-1e CHECK-OUT AFTER MONTH END - Refer *para 25.8*.

25.7-2 Credit note

Refer *para 26.7-2* Sometimes, the provision of service provided by Hotel, Inn, etc. may be different inasmuch as all the facilities may not be provided to the recipient. For example, the recipient has paid for AC room, but due to some reason AC could not function and the recipient may have to stay in the room for few hours without AC. This is one of the examples of deficient service. The supplier of service may therefore, grant credit note for the deficient service. The tax in such case is payable on the net amount.

The credit note may also be issued for certain error in determining the value to the customer. Very often, the contract is entered into with Corporate customers giving substantial amount of discount. Generally, the payments are made by the Corporate office of the customer after the normal credit period. The supplier of service raise invoice and send it to the Corporate office for payment. Sometimes, by mistake, the hotel may charge more than the rate agreed to the Corporate customers. Therefore, the hotel shall issue credit note for adjustment of the amount.

25.7-2a CANCELLATION OF BOOKING – Please refer to *para 25.7-5*. It is advisable to make advance voucher of receipt of advance amount and pay the tax. The company shall prepare refund voucher against cancellation and disclose it in GSTR-1 for adjustment in the tax payable.

25.7-3 Debit note

Refer *para 26.7-3*.

25.7-4 Receipt voucher

In many cases the hotel is booked in advance and the advance amount is also paid to the hotel. As per the provision contained in Section 13 of the CGST Act, the time of supply is the date of raising of invoice or receipt of advance whichever is earlier. Therefore, when the amount is received in advance, the hotel shall prepare the receipt voucher containing the information specified in Rule 50 of the CGST Rules and pay GST. The hotel shall declare the details of the receipt voucher in Table-11 of Form GSTR-1.

After rendering the accommodation services, the hotel should raise the invoice on the customer adjusting the advance amount received by him. The GST shall be charged for the gross amount of supply *i.e.* before adjusting the advance amount. The invoice with the gross amount shall be declared in Form GSTR-1 by the hotel. The adjustment of the advance amount shall be declared in Table-11 of para 11B of Form GSTR-1. The adjustment shall be made rate wise and shall be separately shown for Inter-State supply and Intra-State supply.

25.7-5 Cancellation of booking

Sometimes after receiving the advance payment, but before making the actual supply of service, the booking is cancelled. The advance amount is refunded to the customer after adjusting the cancellation charges. As per Section 31(3)(e) of the CGST Act, if no supply is made and no tax invoice is issued, refund voucher against such payment shall be made. The advance paid shall be adjusted against the refund voucher. The adjustment shall be disclosed in para 11B of Form GSTR-1. However, if any cancellation charges are retained, GST will be payable on the same. In such case, refund voucher shall be prepared for the net amount.

25.7-6 Bill of supply

As per Section 31(3) of the CGST Act, a registered person who makes exempt supply is required to prepare bill of supply as against the invoice. The bill of supply shall contain the information specified in Rule 49 of the CGST Rules which is discussed in **Chapter 15**.

25.8 Time of Supply

The provisions relating to time of supply are contained in Section 13 of the GST Act. The said provisions are discussed below:

25.8-1 Supplier liable to pay tax

Refer **para 26.7-1**. The accommodation service is supplied to different type of customers. The customers can be broadly divided into two parts –

- (i) Advance payment from customers [Refer **para 25.8-1a**]
- (ii) Credit customer [Refer **para 25.8-1b**]