

Hotel Industry –GST Issues Relating to Invoice & Free Supplies

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'A' is an entrepreneur from Gujarat. His Company owns a Five Star Hotel, Marriage Garden & a Convention Centre in M.P. As the GST is still at nascent stage, he has following three queries:

Query No. 1:

Hotel is having different categories of rooms. The tariff of Executive Room is Rs.10000.00 per night over which GST @ 28% is payable. This tariff includes complimentary breakfast. But at times the customer also takes lunch/ dinner at the Hotel restaurant over which GST @ 18% is payable. At the time of check out a single bill is issued to the customer containing charges for room and restaurant bill. Recently one of the GST authority had visited the Hotel and has advised for charging 28% on the entire bill. What is the correct position?

Reply :

Hotel is charging 18% on restaurant sales & 28% on room sales having tariff Rs.10000.00 i.e. exceeding Rs.7500.00.Both are separate services & invoice for the same is separately accounted for in the ledger.

Now while issuing a single bill at the checkout time , whether both services can be taxed at different rates or higher rate is to be applied while issuing the bill can be ascertained on examining the relevant provisions of the GST Act which deals with Composite Supply &

Mixed Supply.

As per the provisions of the Act a “**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.

Similarly ‘**Mixed Supply**’ means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply. For example, A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

In case of composite supply comprising of two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply & accordingly prescribed rate of tax rate shall be applicable.

In case of a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax & accordingly higher rate of tax shall be applicable.

In the instant case, if room rent is inclusive of breakfast or other food services, then it is in the category of naturally bundled services & accordingly **GST rate** applicable on room rent i.e. 28 % shall also be applicable on other services.

However if the customer avails food services in the restaurant apart from room services which are not part of the room package, then it will be a separate contract for room accommodation service.

It is immaterial that the hotel is charging to the customer through a single ledger posting. It is for the accounting convenience to charge both the amount in a single invoice. It is not a naturally bundled services hence cannot be treated as composite supply.

Further the price for room accommodation & restaurant services are separately mentioned, separately charged & collected, it is not the case of single price for two or more individual supplies of goods or services, or any combination thereof, hence it cannot be treated as mixed supply.

Hence the hotel is correctly charging the GST on room accommodation services @ 28% & restaurant services @ 18%, although it is issuing one single tax invoice.

Query No. 2 :

The Company's Corporate office is situated in Gujarat . Company's Directors, Executive Employees, Auditors & others visit the Hotel in M.P. for their respective official works. Room for their stay and food is supplied to them at free of cost. Whether tax is chargeable on the Services provided to them, though no tax invoice is issued to them ?

Reply :

The situation is quite peculiar in the common parlance. Presently many Hotels are not paying GST in case of room accommodation & other services provided to Directors / Company Executives / Auditors on the value of their stay in hotels.

For understanding the tax incidence on this transaction it is pertinent to understand the concept of 'related person ' in GST. As per the provisions Directors & Company Executives are deemed as "related persons" .

As per Schedule I of CGST Act / SGST Act, Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business, shall be treated as Supply even if it is made without consideration.

Hence, in the given case, if supply is made to Directors / Company's executive without any consideration, then it will be in the category of supply made to "related persons", hence GST will be payable on such supply & accordingly as per valuation rules, open market value of such supply shall be the value of supply made to related persons.

In the case of supply made to Auditor without any consideration, the same will not fall in the category of "related persons", hence GST will not be payable on value of such supply. However the input tax credit availed in relation to such supply has to be reversed in accordance with Section 17(5) & Rule 42.

Query No. 3 :

Hotel is supplying free meals to the staff. This is customary in all big Hotels & this is not a sale. In the books of accounts the Hotel is treating this expenditure under the head 'Staff Welfare'. Is there any GST liability on this transaction ?

Reply :

As per the provisions of GST Act, this transaction will be treated as supply. Hence the Hotel will be required to reverse the **input tax credit** on actual cost incurred on free meals provided to staff, on monthly basis.

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Author Bio



Name: CA Manoj P Gupta

Qualification: CA in Practice

Company: K K & Company

Location: Indore, Madhya Pradesh, IN

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