

GST शास्त्र : What is happening with your favourite restaurants ?

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Introduction: –

Recently, major decisions were taken in **23rd GST Council meeting**. GST rates applicable to hotels, restaurants etc. have been revised. Even after lower revised rates, no reduction in the billing amount is observed. Hence, there is chaos among people. This article talks about all changes applicable to hotels, restaurants etc. and answers chaotic situation as mentioned above.

GST rate structure before 14th November, 2017: –

As per **notification no. 11/2017 – Central Tax (Rate) dt. 28th June, 2017**, applicability of GST rates to hotels, restaurants, eating joints etc. were as follows: –

(i) 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 drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, **neither having the facility of air-conditioning or central air-heating** in any part of the establishment, at any time during the year **nor having licence or permit or by whatever name called to serve alcoholic liquor for human consumption.**

Rate applicable for above service was 12% and Input Tax Credit was fully allowed.

Above concessional rate is applicable only if such restaurants or eating joints does not have air-conditioning or air heating facility and also does not have licence to serve liquor.

(ii) 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, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, **having licence or permit** or by whatever name called **to serve alcoholic liquor for human consumption or having the facility of air-conditioning or central air-heating.**

Rate applicable for above service was 18% and Input Tax Credit was fully allowed.

It is pertinent to note that irrespective of actual serving of alcoholic liquor, merely having licence or permit to serve liquor or having the facility of air-conditioning or central air heating will attract GST at the rate of 18%.

GST rate structure 14th November, 2017 onwards: –

Changes in the tax rate structure was suggested in 23rd GST council meet. Notification no. 46/2017-Central Tax (Rate) dt. 14th November, 2017 was issued to give effect to those suggestions. Following changes were made in the said notification: –

(i) For above mentioned item no. (i) following entry is **substituted**: –

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 drink, where such supply or service is for cash, deferred payment or other valuable consideration, 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, **other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above** per unit per day or equivalent.

Rate applicable for above service is **5%** provided **no Input Tax Credit has been taken**.

It is pertinent to note that as against old conditions of having air conditioning or heater facility and licence to serve alcoholic liquor, following types of restaurants or hotel are eligible to charge GST at the rate of 5% provided no Input Tax Credit is allowed: –

(a) standalone restaurants i.e only restaurants which does not have premises for facility of residence or lodging and

(b) restaurants with premises having facility of residential or lodging purposes **and** having declare tariff upto Rs. 7,499/-.

(ii) Restaurants other than above i.e restaurants or hotels having premise for facility of residence or lodging and having declare tariff of Rs. 7,500/- or above shall attract 18% rate of GST. In such cases Input Tax Credit benefit is also available.

If even single room rent is Rs. 7,500/- or above, it will attract 18% rate of GST.

Whether 5% or 18% GST rate is optional? Whether taxable person, covered under new scheme, can still pay GST at the rate of 18% and avail Input Tax Credit without any restriction?

⇒ Notification no. 11/2017 – Central Tax (Rate) dt. 28th June, 2017, contains residual entry. As per the entry no. IX, any accommodation, food or beverages services other than mentioned in same notification (from serial no. I to VIII) shall attract GST at the rate of 18%. Any service, which does not fulfil conditions attached for concessional tax rates, falls under such residual entry and shall attract GST at the rate of 18% without any restriction to avail Input Tax Credit.

However, as per notification no. 46/2017 – central tax (Rate) dt. 14th November, 2017, residual entry was substituted as follows: –

“Accommodation, food and beverage services other than (ii), (iii), (v), (vi), (vii) and (viii) above” [*entry no. (iv) in earlier notification was removed]

In above entry, serial no. (i) was removed which was present in earlier notification. It implies that all standalone restaurants and restaurants with premises having facility of residential or lodging purposes **and** having declare tariff upto Rs. 7,499/- shall **compulsorily** attract 5% rate of GST and no Input Tax Credit shall be allowed. Such restaurants, alternatively, cannot avail the option of charging GST at the rate of 18% and avail Input Tax Credit without any restriction.

Why my restaurant billing amount is still same even after reduction in GST rates?

⇒ As explained above, lower GST rate of 5% comes with condition of non availment of Input Tax Credit. Hence, as restaurants can not avail benefit of Input Tax Credit, it is cost to them. Especially where premises of restaurants are rented, this cost goes on higher side. Hence, it is observed that even after lower revised GST rate of 5%, there is no reduction in billing amount.

Whether change in rate also applies to accommodation service?

⇒ No. Accommodation service will continue to attract GST as per following slab rate: –

Declared tariff	Rate of GST
Upto Rs. 999/-	Nil
From Rs. 1,000/- to Rs. 2,499/-	12%
From Rs. 2,500/- to Rs. 7,499/-	18%
From Rs. 7,500/- and above, 5 star hotel	28%

*** above article was written on 28th November, 2017.**

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