Impact of GST on Hotels, Restaurants and Hospitality sector

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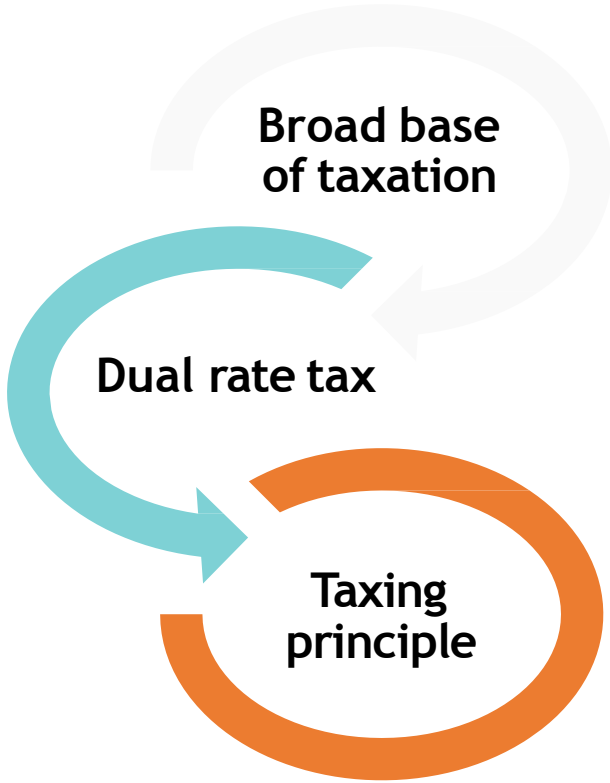
GST – Key features- The Tectonic Shift



- Tax on supply of both goods and services (incl. stock transfers) - Alcohol excluded. Petroleum and Electricity not included for the time being
- Subsumed - Central Excise, Service Tax, VAT, Entry tax, CST, Entertainment tax, Octroi, CVD, SAD, Luxury Tax

- Dual GST - CGST & SGST levied on common base on intra state supplies
- IGST on inter-state supplies and import
- Rates - Goods : 0/5/12/18/28+Cess : Services - 0/5/12/18/28
- Decentralized registration and compliances

- Shift to destination based tax - Place of Supply Rules
- Seamless flow of input tax credit

Input credit mechanism and order of set-off

Input	Output			
	IGST	CGST	SGST/ UTGST	Compensation cess
IGST	Yes (1)	Yes (2)	Yes (3)	No
CGST	Yes (2)	Yes (1)	No	No
SGST/ UTGST	Yes (2)	No	Yes (1)	No
Compensation cess	No	No	No	Yes

Highlights of Key GST concepts

Taxing activity

- Supply of goods and service is taxable
- Intra state supply – CGST & SGST
- Inter-state supply – IGST
- All forms of supply liable, **including stock transfers**
- Exports – zero rated
- Purchase from unregistered dealer attract GST – RCM
- Gifts to employee will attract GST

Time of supply

- **Advance** for supply also trigger point GST
- Separately provided for goods and services
- Different points of time prescribed

Place of supply

- Determines inter state / intra state/import and export
- B2B – Location of recipient
- In-transit supply – POS is the "bill to" location
- Hotels typically the location

Valuation

Transaction value

Subsidy, tax paid, FOC supplies, other payment made by buyer, etc to be included

Open market value (OMV) principle – If creditable invoice value is OMV

Discount deduction principle are defined

ITC

- State-wise five pools of credit
- **Allowed only on receipt of service and payment to Government**
- Negative list provided
- Time limit – Earliest of 30 Sep or Annual returns
- ISD mechanism
- 180 days time limit prescribed to making payment

Returns

- Electronically
- Outward - 10th of next month
- Inward – 15th of next month
- Monthly - 20th of next month
- Annual - 31st December of succeeding FY
- Separate returns for ISD and TDS
- Reconciliation mechanism provided vide GSTR 1A and 2A

Service tax – current positions

Particulars	(Air Conditioned) Restaurant services#	Outdoor catering services#	Room Rent*	Banquet*
Abatement	60%	40%	40%	30%
Effective rate	6%	9%	9%	10.5
CENVAT credit	Credit on inputs, input services and capital goods available except inputs under chapters 1 to 22 (food stuffs, consumables, etc.)	Credit on inputs, input services and capital goods available except inputs under chapters 1 to 22 (food stuffs, consumables, etc.)	Credit on inputs services available No credit on inputs and capital goods	Credit on inputs, input services and capital goods available except inputs under chapters 1 to 22 (food stuffs, consumables, etc.)

- **By way of exemption notification*

VAT – key taxable transactions

Transaction	Karnataka VAT rates
Sale of food	14.5%
Sale of non alcoholic aerated beverages & alcoholic beverages	14.5% and tax as applicable
Sale of non aerated non alcoholic beverages (mineral water, juices, etc)	Mineral Water- 14.5% Juice- 5.5%
Sale of Spa products	
Sale of cigarettes	As applicable
Sale of food in composite packages	Rule 3 – Total Turnover and Taxable turnover
Composition Scheme	4%

Central Excise – key taxable transactions

Transaction	Central Excise duty rate
Food preparations prepared or served in a hotel, restaurant or retail outlet	Exempt from Central Excise duty
Cakes, pastries & cookies prepared by the hotel	6%
Chocolates prepared by the hotel	12.5%

Luxury Tax – key taxable transactions

Transaction	Karnataka luxury tax rate
Room tariff – payable on actual tariff (not declared tariff)*	
-Exceeding Rs 750 per day per room	Exempt
- Rs. 751 – Rs. 1,000 per day per room	4%
-Rs 1,001 – 2,000 per day per room	8%
-Exceeding Rs. 2,000 per day per room	12%

GST Applicability on Hotels & Restaurants

GST on Composite supply of food and room rental service

Schedule II to CSGT Act specifically defines certain supplies as a service

- Para 6b of the Schedule II reads as follows:
  - *"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"

Composition scheme for composite supply of food (An option)

- Whose aggregate turnover in the preceding FY did not exceed Rs.75 lakhs (Govt. can increase)
- Applicable rate 5% of the turnover in the state
- Conditions:
  - He should be exclusively engaged only in this service and should not have any not taxable supplies
  - Should not have any inter state supplies
  - He should not use the facility of E-Commerce operator for supply where TCS is required
  - He should not be a manufacturer (to be notified)
  - If more than one registered person with same PAN, then all of them should opt for this.
- No tax can be collected from the customers nor shall be entitled for ITC
- Option shall lapse once Rs.75 lakhs is breached.

GST rates Room rentals/other services

Ref	Description	Rate
Section	Accomodation, food and beverage services	(Full ITC)
Heading 9963	Accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of a unit of accommodation of one thousand rupees and above but less than two thousand five hundred rupees per unit per day or equivalent	12
Heading 9963	Accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of a unit of accommodation of two thousand five hundred rupees and above but less than seven thousand five hundred rupees per unit per day or equivalent.	18
Heading 9963	Accommodation in hotels including five star hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of a unit of accommodation of seven thousand and five hundred rupees and above per unit per day or equivalent.	28
Heading 9963	Bundled service by way of supply of food or any other article of human consumption or any drink, in a premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organizing a function) together with renting of such premises	18
Heading 9997	All other services not specified elsewhere	18
Heading 9985	Supply of tour operators' services	5

Note:

Accommodation in any hotel, including 5- star hotels having a declared tariff of a unit of accommodation of less than INR 7,500 per unit per day, will attract GST @ 18%. Star rating of hotels, is, therefore, irrelevant for determining the applicable rate of GST.

GST rates – Supply of food in eatery

Ref	Description	Rate
Heading	Accommodation, food and beverage Services	(Full ITC)
Heading 9963	Supply of Food/drinks in restaurant not having facility of air-conditioning or central heating at any time during the year and not having licence to serve liquor.	12
Heading 9963	Supply of Food/drinks in restaurant having licence to serve liquor	18
Heading 9963	Supply of Food/drinks in restaurant having facility of air-conditioning or central heating at any time during the year	18
Heading 9963	Supply of Food/drinks in outdoor catering	18

GST impact illustrative working

Karnataka Room Rent GST impact								
	Current			GST @18%			GST @28%	
Tariff	Rate	Amount		Rate	Amount		Rate	Amount
Actual (A)		6000			6000			6000
Luxury Tax	10%	600		9%	540		14%	840
Service tax	9%	540		9%	540		14%	840
Total tax (B)	19%	1140		18%	1080		28%	1680
Bill amount (A+B)		7140			7080			7680

GST impact illustrative working

Karnataka F&B GST impact								
	Current			GST @18%			GST @28%	
F&B	Rate	Amount		Rate	Amount		Rate	Amount
Actual Bill (A)		1000			1000			1000
VAT	14.5%	145		9%	90		14%	140
Service tax	6%	60		9%	90		14%	140
Total tax (B)	18.5%	205		18%	180		28%	280
Bill amount (A+B)		1205			1180			1280

Time of supply for under GST

	Goods	Services
REVENUE STREAMS	Earlier of Date of receipt of consideration Invoice Date (in case invoice not raised , then the last date on which invoice should have been issued)	
	Note : Invoices has to be raised immediately on sale of goods	Note : Invoice can be raised within 30 days of provision of service
REVERSE CHARGE MECHANISM	Date of receipt of goods OR Date on which payment is made OR Date immediately following 30 days from the date of invoice , whichever is earlier	Date on which payment is made OR Date immediately following 60 days from the date of invoice , whichever is earlier From related party Date of entry in books of account of recipient of supply OR Date of payment, whichever is earlier

Composite Supply (Naturally Bundled)

Supply made by a taxable person to a recipient comprising two or more supplies of goods or services, 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

Can all inclusive package - where even food and other consumables are part of the package qualify as service and be eligible for 18% rate?

Composite supply, consisting of two or more supplies, one of which is a principal supply, shall be treated as supply of such principal supply

A hotel provides a 4-D/3-N package with the facility of breakfast. This is a natural bundling of services in the ordinary course of business. The service of hotel accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.

Composite Supply (Naturally Bundled)

A 5 star hotel is booked for a conference of 100 delegates on a lump sum package with the following facilities:

- Accommodation for the delegates
- Breakfast for the delegates,
- Tea and coffee during conference
- Access to fitness room for the delegates
- Availability of conference room
- Business centre

Could be bundled as convention service or individual billing is fine

Composite Supply (Naturally Bundled)

Service of stay in a hotel is often combined with a service or laundering of 3-4 items of clothing free of cost per day. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.

Mixed Supply (Not Naturally Bundled)

- 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
- Illustration: A supply of a package consisting of canned foods,sweets, chocolates and juices when supplied for a single price is a mixed supply. Each of the 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

Mixed supply, comprising two or more supplies shall be treated as supply of that particular supply which attracts the highest rate of tax

Value and place of supply in case of Restaurants

Place of Supply **for 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.**

Value of Supply:
The price actually paid or payable for the supply of goods or services

Value of Supply also includes
incidental expenses, including any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

Procurements – GST key tax positions

Tax Rates – Key domestic procurements of Goods

Procurement Type – Goods	Rates (%)
Fruits & Vegetables	Nil
Meat , Fish & Poultry	Nil
Cereals	Nil
Flowers	Nil
Wheat (unbranded/ branded)	Nil/ 5
Soft Drinks Without sugar/ With sugar (Aerated) **	18/ 28
Milk	Nil/ 5
Mineral / Purified Water**	18
Uniforms	Not fixed
Linen	Not fixed
Charcoal	Nil
Tobacco**	28

*** compensation cess applies*

Tax Positions – Key domestic procurements of Goods

Procurement Type –Goods	Type of levy
LPG*	VAT / CST
Natural Gas*	
High Speed Diesel Oil*	
Liquor	State Excise and VAT / CST

* GST council to decide applicability of GST, from go live date or from a deferred date

Tax rates – Key domestic procurements of Services

Procurement Type – Services	GST Rate (%)
Repairs & Maintenance	18
Laundry Services	18
Advertisement (in print media/ other than print media)	5/ 18
Courier Services	18
Festival Expenses	18
Entertainment Expenses	18/ 28
Professional Fees	18
Telecom Services	18
Commission	18
Manpower Services	18
Rent / Lease (property/ products)	18 in case of immovable property / the rate of goods taken on lease
Other Services	18
Cross charge (same legal entity in different state)	18
Cross charge to group companies different legal entity in same / different state)	18

Impact of GST on HOSPITALITY Sectors

1. Tour Operator

- This service was earlier taxed under Service Tax laws and consequent to introduction of GST, the same would also be liable to tax under this ACT.

- **Tour Operator Means** – any person engaged in the business of planning, scheduling, organizing or 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.

GST Rate on customized Tour

“Supply of tour operators services ” would be treated as supply of service.

The SAC Code is “9985”

The applicable tax rate is 5 % (2.5 % CGST and 2.5% SGST)

The condition for the above rate of tax are

Provided that credit of input tax charged on goods and services used in supplying the service has not been taken

The bill issued for supply of this service indicates that it is inclusive of charges of accommodation and transportation required for such a tour and the amount charged in the bill is the gross amount charged for such a tour including the charges of accommodation and transportation required for such a tour.

Place of Supply – Tour Operators

Section 12(2) of the IGST Act, 2017 states that-

'Where the <u>location of supplier is in India, and the location of recipient is in India</u> –

a) Supply made to a registered person – Location of such person

b) Made to any person other than a registered person shall be –

i) the location of recipient where the address on record exists;

ii) the location of supplier in other cases.'

Place of Supply – Tour Operators

Section 13(2) of the IGST Act, 2017 states that-

'Where the location of supplier is in India, and the location of recipient is outside India – Place of supply shall be the location of recipient of service.

Provided, where the location of the recipient is not available in the ordinary course of business, the place of supply shall be the location of supplier of services.'

Conclusion to Place of Supply

It can be concluded that when the location of recipient is known – Place of supply shall be the address of such person.

In all other cases – Place of supply shall be the supplier of such service.

Example 1:

ABC is conducting a personalized tour to Ladakh. The client is registered in Hyderabad.

In such a case – Place of supply shall be the Location of the recipient i.e., Hyderabad. Accordingly, IGST shall be charged @ 5%

Example 2:

If the above client is unregistered, the place of supply shall be the address on record i.e., Hyderabad – IGST @ 5%

Example 3:

In case the address of the recipient is not available, the place of supply shall be the location of supplier – CGST & SGST @ 2.5% each.

Valuation of taxable Supply

Here, the amount so charged for the taxable supply must be inclusive of all the incidental charges and must indicate that it is inclusive of charges of accommodation and transportation.

2. Travel Agent

Levy under earlier law

- Travel agents were liable to discharge **Service tax @ 15% on the Commission** charged by them towards the services provided.

- Further, air travel agents were provided with an option to discharge taxes at a fixed rate as under:

  Sub rule (7) of rule 6, an air travel agent can discharge his service tax liability by opting for payment which is calculated at **0.7 % of the basic fare in case of domestic bookings and at 1.4% on basic fare in case of international bookings**.

- This option, once exercised, will apply uniformly in respect of all the bookings of passage for travel by air made during the financial year.

Levy under GST law

GST Rate Structure and SAC Code:

• **If tax is discharged on Commission basis:** The main source of income for travel agents, is the commission received for their supply of services i.e., booking and reservation.

• With regard to travel agents who are involved in the supply of services like
Air travel bookings,
Railway Travel booking and
other travel bookings
the **consideration** as defined in Section 2(31) for the said supply of service **is the commission amount that they charge to their customer in various forms like Service Charges, commission** etc.

Levy under GST law

Classification:
Heading 9985 - Support services other than tour operator services – 18%

998551- Reservation services for transportation
998552- Reservation services for accommodation, cruises and package tours
998559- Other travel arrangement and related services nowhere else classified

Levy under GST law

If tax is discharged as per Valuation Rules, 2017

- As per the Determination of Value of Supply Rules, 2017, Air Travel Agents have been provided an option to discharge tax at a compounding rate.

- 1) Domestic Bookings: CGST @ 9% + SGST @ 9% on 5% of Basic Fare.
- 2) International Bookings – CGST @ 9% + SGST @ 9% on 10% of Basic Fare,

Where, “basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airlines.

3. Transportation Industry

Classification of Passenger Transport Services

Passenger Transportation		
- Passenger transport services 9964	2.5% (Without ITC on goods and Services)	Transport of passengers, with or without accompanied belongings by- (a) air conditioned contract carriage other than motor cab; (b) air conditioned stage carriage; (c) radio taxi.
- Passenger transport services 9964	2.5% (Without ITC on goods and Services)	Transport of passengers by motor cab where the cost of fuel is included in the consideration charged from the service recipient.

Classification of Passenger Transport Services

The following services fall under the heading 9964:

Group 99641	Local transport and sightseeing transportation services of passengers
996411	Local land transport services of passengers by railways, metro, monorail, bus,
996412	tramway, autos, three wheelers, scooters and other motor vehicles Taxi services including radio taxi & other similar services;
996413	Non-scheduled local bus and coach charter services
996414	Other land transportation services of passengers.
996415	Local water transport services of passengers by ferries, cruises etc
996416	Sightseeing transportation services by rail, land, water & air
996419	Other local transportation services of passengers n.e.c.

Exemptions of Passenger Transport Services

Heading 9964: Transport of passengers, with or without accompanied belongings by :

i. air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland Sikkim, or Tripura or at Bagdogra located in West Bengal;

ii. non- air-conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or

iii. stage carriage other than air-conditioned stage carriage.

Exemptions of Passenger Transport Services

Heading 9964:

Services **provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air**, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding – exempted only for a period of One year from commencement of operations at the regional connectivity scheme airport.

Heading 9964: Service of transportation of passengers, with or without accompanied belongings, by—

(a) railways in a class other than —

(i) first class; or

(ii) an air-conditioned coach;

(b) metro, monorail or tramway;

(c) inland waterways;

(d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and

(e) metered cabs or auto rickshaws (including e-rickshaws).

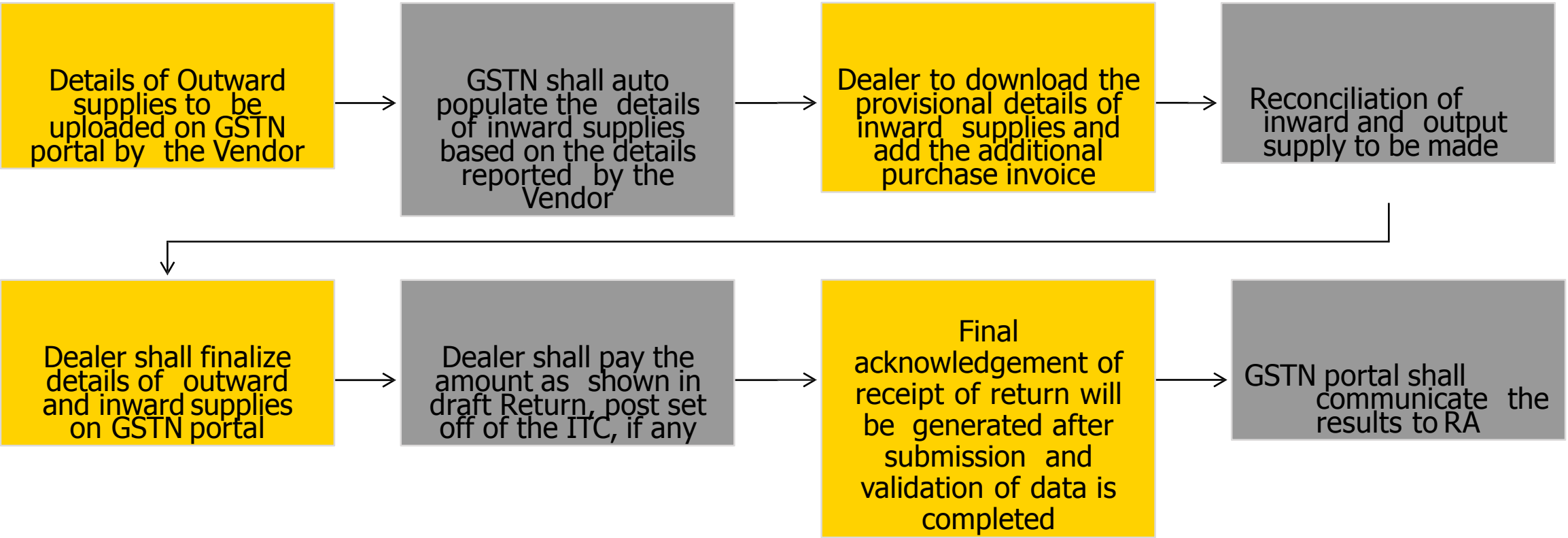
Place of Supply

As per Section 12 of the IGST Act, 2017, the following provisions have been specified for determination of Place of Supply of service:

i. If the recipient is **registered** under GST Act - **Location of such recipient**
ii. If the recipient is **not registered** under GST Act - **Location where passenger embarks on the conveyance for continuous journey.**

Impact on Returns & compliances

Process- matching of ITC



Returns under GST

Return requirements

Return	Nature of the return	Due date of the return
GSTR 1	Details of outward supplies made	10th of the succeeding month
GSTR 2	Details of inward supplies made	15th of the succeeding month
GSTR 3	Monthly return	20th of the succeeding month
GSTR 9	Annual return	31st December following end of Financial Year

No. of GST Returns annually (excl. ISD) × **Place of business** = **Total no. of GST Returns**

** State-wise registration under the GST regime.*

Other compliances

- Payment of CGST, SGST and IGST for every place of business through electronic cash/ credit ledger by 20th of every month
- Maintenance of accounts and records
- GSTR 7 is also required to be filed on a monthly basis where tax is deducted/collected
- Issuance of invoices/statements in duplicate

Transitional Provisions

Transitional provisions (Key items)

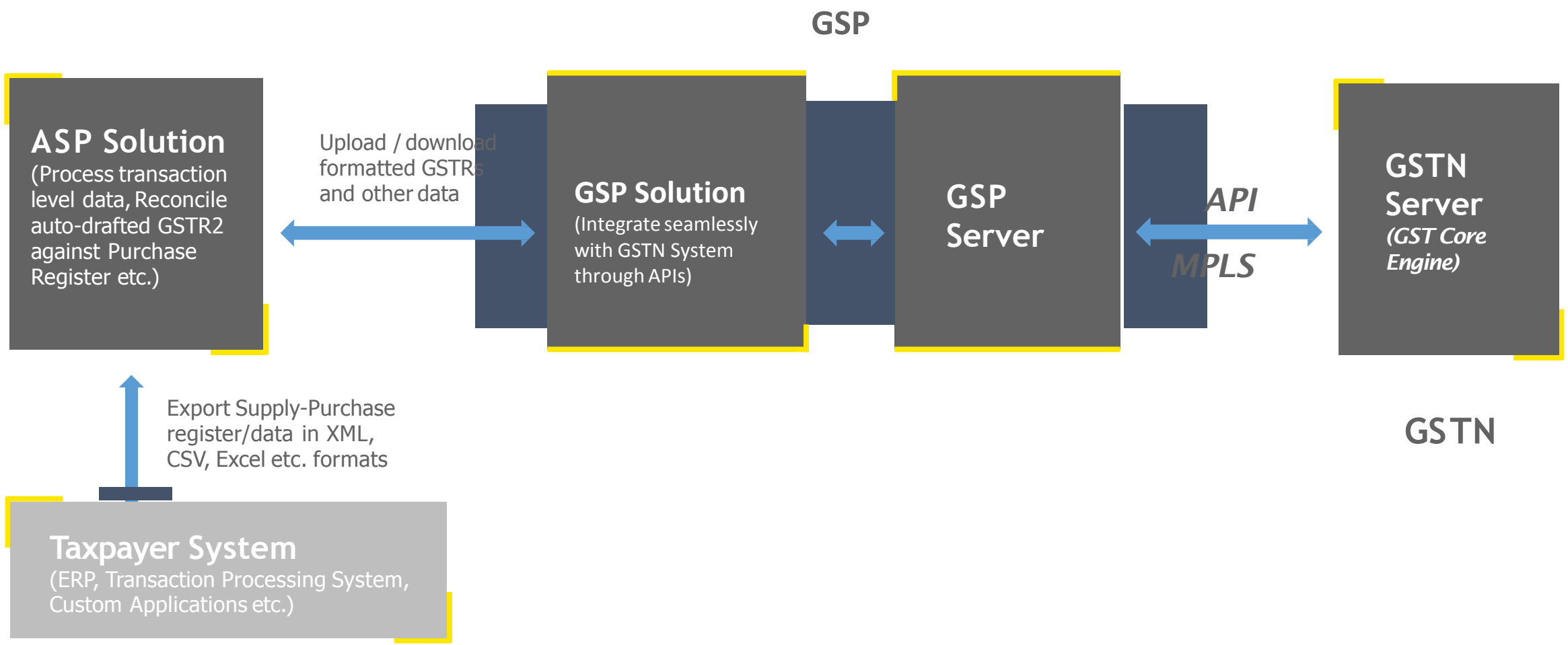
Credit related provisions

- Closing balance of eligible Cenvat credit as per last return filed will be allowed to be taken in GST regime, if eligible as per GST Law
- Closing balance of eligible VAT (Entry tax) credit as per last return filed will be allowed to be taken in GST regime within 90 days from the appointed day
- Unavailed Cenvat credit pertaining to capital goods, not carried forward in the return furnished under the existing law, would be allowed as credit under GST provided such credit is admissible under earlier law as well as in the GST Law
- In cases where the Cenvat credit was reversed due to non payment of the consideration within 3 months and the said consideration has been paid within three months from the appointed date, the Cenvat credit earlier reversed could be reclaimed now as input tax credit under GST

Cut over date

Particulars	Key Considerations
Open POs	• Situation 1: Goods already received before cut over date - Where goods are already received credit would be allowed as per provisions of existing laws • Situation 2: Goods in transit on cut over date, but received within 30 days (60 days where permission for extended period is received) – Credit to be allowed under GST law for eligible duties / taxes • Situation 3: Goods in transit on cut over date, but not received within period mentioned above – Credit not to be allowed under GST regime.
Revision of Contract Price (Upward or Downward revision)	• Contracts entered prior to appointed day, price of goods or services revised upwards / downwards after appointed day • The seller is required to issue to the recipient a debit/credit note containing such particulars, as may be prescribed, within 30 days of such price revision • Upward revision would deem to be an outward supply made under GST regime • In case of downward revision of price, the tax liability on account of issue of the credit note shall be reduced only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability

ASP-GSP Implementation Framework



Key action points

Any savings that accrue would have to be passed on to the customer by way of price reduction –Anti Profiteering

Planning transition credit

Valuation of Composite supplies

Revisit business models, contract changes to be carried out

Vendor Training

Compliance –GSP/ASP

Key points

- Value will be transaction value and discount to be reduced.

- In case of tour operator service, the eligible input tax credit will be
  a) food & beverage- 12%/ 18%
  b) rent- a- cab- 5%
  c) transportation- 5%/ 18%
  d) accommodation- 12%/ 18% / 28%
  But the output tax to be discharged by the tour operator is 5%. Therefore, the input tax entitled will be 5%

- Place of supply:
  In case of Hotel: location of the immovable property
  In case of restaurant: performance based
  In case if tourism: recipient based

Key points

- Input tax credit

Eligibility of input tax credit	
Food & beverages	Yes
Rent- a- cab	Yes
Catering (outdoor)	Yes
Construction of hotels	No
Composition- only restaurant/ caterer not for lodging	No

Key points

- Banquet Hall
  Banquet hall with room: 18%
  Banquet hall with food: 18%
  Electricity charges and cleaning charges are the other charges charged.

- Resort- accommodation
  Mandal keeper- 18%
  Day package (without accommodation)
  Day/ night package (without accommodation)
  Rides- 28%
  Spa- 28%

Key points

- Hotel- Lodging+ serving food
- Restaurant- only serving food
- dining service- **service**
- Buffet- **service**
- catering service- **service**
- take away service- **sale of goods**
- serving the food- **service**
- home deliver service- **service**
- processed food- **sale of goods**
- complimentary may include lodging and breakfast

Issues

Rate of tax applicable to restaurant with partial or full sir- conditioning or serving liquor:-

Clarification states that restaurants with partial AC will be at 18%

Rate of tax not serving alcoholic liquor but having license/ permit:-

Mere acquiring of license/ permit to serve liquor and not actually serving the same in the restaurant shall also attract 18% rate of tax.

Restaurants paying under normal levy in one financial year, may opt to pay under composition scheme in the next financial year.

Rate of tax for food parcel cooked as per order:-

In case of non- AC restaurant- 12%

In case of AC- restaurant- 18%

Rate of tax for supply of pre- packaged/ pre- cooked namkeens sold from the restaurants- 12%

Issues

Whether in outdoor catering service there will be any difference in applicability of GST if the food is prepared is in Hotel or on- site

No, the notification provides for outdoor catering services it will be 18%

Aerated drinks being sold in hotel- applicable rate

As per entry 6 in Schedule II supply by way of service of goods…… such composite supply will be treated as supply of service. Therefore, aerated drinks will be composite supply. Rate: a) non AC- 12%, b) AC- 18%. Further, no compensation cess of 12% will be applicable.

In room dining- whether rate applicable will be of supply of goods/ drinks or rate applicable for rooms.

In room dining will fall under the heading 996332- services provided by hotels, INNS, guest house along with takeaways, delivery of food and room services and under the heading 996311- accommodation services.

Issues

Tax treatment for supply of water bottles in restaurants

If it is sold separately or over the counter- no GST

If it is supplied as a part of dining, then the rate applicable to the service of food will be applicable.

Applicable GST rate for retail items sold in the hotel?

It will be treated as supply of goods and the rate will be based on HSN code. Tax will calculated on inclusive basis and not charged additionally to the customer.

Thank You