



# TOWNHALL 5.0

**IMPACT OF NEW GST STRUCTURE  
FOR RESTAURANT SERVICES SUPPLIED  
THROUGH E-COMMERCE OPERATORS**



**30 | DEC  
2021**



**THURSDAY  
11:30AM**

# **GST ON SUPPLY OF RESTAURANT SERVICES - FROM 1<sup>ST</sup> JULY, 2017 TILL 31<sup>ST</sup> DECEMBER, 2021 & CHANGES W.E.F. 1<sup>ST</sup> JANUARY, 2022**

## **Goods & Services Tax (GST)**

**1<sup>st</sup> July, 2017 till 14<sup>th</sup>  
Nov. 2017 - Vide  
Notification no.  
11/2017 dated 28<sup>th</sup>  
June, 2017**

**GST on Non AC  
Restaurant was  
applicable @ 12 %  
(with Input Tax  
Credit- ITC)**

**GST on AC  
Restaurant @ 18%  
(with Input Tax  
Credit - ITC)**

**15<sup>th</sup> Nov. 2017 till 31<sup>st</sup>  
December 2021 - Vide  
Notification no.  
46/2017 - Central Tax -  
Dated 4<sup>th</sup> Nov., 2017**

**GST reduced to 5% on  
Restaurant Service ( with  
condition that no ITC is  
available on Restaurant  
Services)**

**Restaurant Supplies made at  
its own - Tax Invoice to be  
raised by the Restaurant**

**Restaurant Supplies made  
through E-Commerce  
Operators (ECO) -Tax invoice  
to be raised by the  
Restaurant**

**With effect from 1<sup>st</sup>  
January, 2021 Vide  
Notification no. 17/2021 -  
Central Tax - Dated 18<sup>th</sup>  
Nov., 21**

**Restaurant Supplies made at its  
own - Tax Invoice to be raised by  
the Restaurant**

**Restaurant Supplies made through  
E-Commerce operators (ECO) -Tax  
invoice to be raised by Food  
Aggregators (FA)**

**GST Rate - 5% with No ITC (No  
change).**

**Supplies other than Restaurant  
Services – Tax Invoice continue  
to be raised by Restaurants at  
applicable GST Rates**

**Replaced erstwhile  
VAT/CST regime in  
India w.e.f. 1st July,  
2017**

# GST ON RESTAURANT SERVICES SUPPLIED THROUGH E-COMMERCE OPERATORS - (SWIGGY/ ZOMATO/ IRCTC ETC.) W.E.F. 1<sup>ST</sup> JANUARY 2022.

| Nature of Supplies  | Payment of Tax   | Clarification on Documents   |  | Disbursement to Restaurant*  |
|---|--|--|--|--|
|   |  | ECO  | Restaurant   |  |
| Restaurant Supplies @5%   | ECO under section 9(5)   | <ul style="list-style-type: none"> <li>• Tax Invoice on Behalf of Restaurant</li> <li>• Order Summary &amp; Receipt</li> </ul>                             | Restaurant may issue a Commercial Invoice for the same.                  | <p>ECO will pay value of product sold excluding Tax to the Merchant.</p> <p>TCS will not be deducted</p>   |
| All other Supplies (Other than Restaurant Services, example – Ice Cream, Bakery etc.) | Restaurant Partner (ECO to only collect TCS)                                       | <ul style="list-style-type: none"> <li>• Order Summary (same as current practice)</li> <li>• ECO will not issue a Tax Invoice for this category</li> </ul> | Tax Invoice  | ECO will pay full amount including Tax to the Merchant after deducting TCS as applicable.  |
| Both Restaurant Supplies and All other supplies                                       | <p>Restaurant Supplies: ECO</p> <p>Other: Restaurant (ECO to only collect TCS)</p> | <p>Restaurant Supplies: Tax Invoice</p> <p>Order summary to be issued for all supplies</p>   | <p>Restaurant Supplies: Commercial Invoice</p> <p>Other: Tax Invoice</p> | <p>Restaurant Supplies: ECO will pay value of product sold excluding Tax to the Restaurant.</p> <p>TCS will not be deducted.</p> <p>Other: ECO will pay full amount including Tax to the Restaurant after deducting TCS as applicable.</p> |

\*Note: The deductions from payouts with respect to Delivery commission / other charges etc. would be same as before.

# **GST ON RESTAURANT SERVICES SUPPLIED THROUGH E-COMMERCE OPERATORS - (SWIGGY/ ZOMATO/ IRCTC ETC.) W.E.F. 1<sup>ST</sup> JANUARY 2022.**

## **Changes to be made in Softwares used by Restaurants for supplies made through E-Commerce Operators - POS/ SAP etc.**

- 1. COMMERCIAL INVOICE (CI) - Restaurant to raise CI instead of Tax invoice w.e.f. 1st January 2022 to record these supplies as their turnover. It is important to note that Restaurants would continue to generate Tax Invoices for Dine In/ Take Away/ Own Delivery sales, however E-Com delivery sales, Tax Invoice is not to be printed**
- 2. NEW SERIES - New series of invoices may be started to identify sale made through each of the ECO for ease of reconciliation. *CI should mention that these sales are through aggregators.***
- 3. CONTENT OF COMMERCIAL INVOICE (CI) - CI to continue to have customer name / phone no. etc. on it as ultimate supply is to the customer. It should not show GST as part of the invoice. They can mention GST below the Invoice, stating – “*GST to be collected on behalf of E- Commerce operators*”.**

# **GST ON RESTAURANT SERVICES SUPPLIED THROUGH E-COMMERCE OPERATORS - (SWIGGY/ ZOMATO/ IRCTC ETC.) W.E.F. 1<sup>ST</sup> JANUARY 2022.**

- 4. DETAILS OF TAX INVOICE OF ECO - ECO should issue tax invoice basis details confirmed by restaurant including discount to customers. ECO can not change invoice details confirmed by the restaurant for issuing tax invoice. Any additional discount issued by the ECO should be shown below the tax invoice as tender & should not impact GST calculated by the restaurants.**
  
- 5. CASH ON DELIVERY ORDERS - For COD orders, where delivery is made by the restaurants through their own network, GST collected on behalf of ECO should be identified separately in POS/ SAP GL as this needs to be reimbursed to the ECO.**
  
- 6. REPORTING & RECONCILIATION OF SUPPLY MADE THROUGH ECO - Restaurant should reconcile their supplies made through ECO with turnover recorded at their end to ensure both report the same turnover in their GST returns to avoid any queries/ litigation in future . Any difference in CI & Tax invoice should be mutually resolved through manual reconciliation till there is API integration with these aggregators. NRAI on behalf of the Restaurant Fraternity would discuss with the ECOs to facilitate and mechanize the Reco process.**

# FAQS - CLARIFICATIONS W.R.T. SUPPLIES MADE THROUGH FOOD AGGREGATORS – U/S 9 (5)

| S. No. | Issue   | Clarification  |
|--------|---|--|
| 1      | Who will raise Invoice & collect GST on supplies made by unregistered/ registered Business Entities of Restaurant Services through E Commerce Operators   | ECO's will raise Tax Invoice, Charge, Collect & Pay GST on Restaurant Supplies made through them   |
| 2      | What legal document needs to be carried by Delivery Boy / can be asked by the Customer  | Tax Invoice which should be shared by ECO's through mail / E- invoice copy to be shared with the restaurant ( in case of delivery through Restaurant network)  |
| 3      | Whether ECOs will still collect TCS ?   | <ol style="list-style-type: none"> <li>1. Restaurant Services - ECOs will not be required to collect TCS</li> <li>2. Other than Restaurant supplies made through ECOs - they will continue to collect &amp; pay TCS.</li> </ol>  |
| 4      | Aggregate Turnover of person supplying 'Restaurant Service' through ECOs?   | Aggregate turnover of person supplying Restaurant Service through ECOs shall include the aggregate value of supplies made by the Restaurant through ECOs.  |
| 5      | <p>Whether 'Restaurant Service' and goods or services other than Restaurant Service sold by a Restaurant to a customer under the same order be billed differently?</p> <p>Who shall be liable for raising invoices in such cases?</p> | <p>Yes.</p> <ul style="list-style-type: none"> <li>- For Restaurant Services Thru E-Com - ECOs are liable to charge &amp; pay GST on Restaurant Services supplied through them . They should raise separate Tax Invoices for Restaurant Supplies made through them</li> <li>- For all other supplies ( other than Restaurant) made thru E-Com or at its own - issuance of Tax Invoice continues to lie with the respective supplier</li> </ul> |

# FAQS - CLARIFICATIONS W.R.T. SUPPLIES MADE THROUGH FOOD AGGREGATORS – U/S 9 (5)

| S. No. | Issue  | Clarification   |
|--------|--|---|
| 6      | Whether ECO utilize its Input Tax Credit (ITC) to pay GST w.r.t Restaurant Service supplied through them?*                             | No, GST liability against Restaurant Services has to be discharged in cash  |
| 7      | Reporting of Restaurant Services, Value and Tax Liability etc. in the GST Return *.  | <p>The ECO will continue to pay GST by furnishing the details in GSTR 3B, reporting them as outward taxable supplies for the time being.</p> <p>ECO to furnish the details of such supplies of Restaurant Services</p> <ul style="list-style-type: none"> <li>- in Table 7A(1) (Outward supplies- Intra state) or Table 4A (supply through E-Com) of GSTR-1, as the case maybe, for accounting purpose.</li> </ul> <p>Registered persons supplying restaurant services through ECOs to report such Restaurant Services made through ECOs</p> <ul style="list-style-type: none"> <li>- in Table 8 of GSTR-1 (Nil rated/ exempted / Non GST outward supplies) and</li> <li>- Table 3.1 (c) of GSTR-3B ( Outward supplies Zero rated/ Nil Rated/ Non GST) for the time being.</li> </ul> |
| 8      | Whether ECOs be liable to reverse proportional ITC on his input goods and services as ITC is not admissible on 'Restaurant Service'? * | <p>ECOs provide their own services as an electronic platform and are also intermediary for which it would acquire inputs/input service on which they avail Input Tax Credit (ITC).</p> <p>They would be eligible to ITC as before &amp; are not required to reverse ITC on account of Restaurant Services.</p>  |

**Note -** \*Department has clarified certain queries vide circular no. 167/23/2021-GST dated 17/12/2021 & same has been incorporated wherever required

# FAQS – OTHER QUERIES

| S. No | Issue   | Clarification   |
|-------|---|---|
| 9     | Changes to be made in POS- 31 <sup>st</sup> December 2021   | <p>Changes are applicable post midnight of 31<sup>st</sup> December 2021</p> <p>If changes are not possible due to technology constrain, aggregator may issue receipt and issue tax invoices within 30 days from the date of supply of services</p>   |
| 10    | Reconciliation between turnover reported by Restaurants and E-COM   | <p>E-Com operators should share the invoice wise details with restaurants to be reported in their GST return before 7<sup>th</sup> of the next month . This will ensure that;</p> <ul style="list-style-type: none"> <li>- Both E-Com &amp; Restaurants are reporting the same turnover to avoid any future litigation</li> <li>- To Ensure revenue are reconciled &amp; cash flow are maintained</li> <li>- Mitigating business impact due to GST changes</li> </ul>       |
| 11    | I am not registered under GST. Do I need to register if I want to do business with ECO? Do I need to file any returns?            | <p>If Aggregate Turnover of the Assesee is &lt; 20 Lacs than they neither have to take any registration under GST nor file any GST return .</p>   |
| 12    | If i am selling packaged ice cream on my Restaurant Menu, will this be under 5% or 18%. if 18% will this be also paid by the ECO? | <p>ECOs are required to raise Tax invoice only for restaurant services. For all other services, Restaurant has to raise Tax invoice.</p> <p>If restaurant is providing ice cream along with other services considering it as composite supply than GST should be 5% &amp; tax invoice has to be raised by ECO .</p> <p>If supply of ice cream is not considered as composite supply than GST @ 18% has to be charged &amp; Tax invoice has to be raised by restaurant .</p> |



# FAQS – OTHER QUERIES

| S. No. | Issue   | Clarification  |
|--------|---|--|
| 13     | What would be the GST rate on selling packaged beverages on my Menu at MRP ?  | <p>If Restaurant is providing Packaged Beverages along with services considering it as composite supply than GST should be 5% &amp; tax invoice has to be raised by ECO .</p> <p>Otherwise applicable rate on beverage has to be paid &amp; tax invoice has to be raised by the restaurant only</p>  |
| 14     | In case of Self Delivery / Hybrid System, Delivery Charge is 18%. Will Zomato raise an invoice for delivery charges too on our behalf | <p>1. If food is delivered by restaurant <u>through own Network</u> - Delivery charges can be considered as composite supply &amp; GST on restaurant supply would be 5% &amp; ECO has to raise tax invoice along with delivery charges</p> <p>2. If food is delivered <u>through aggregators</u> - ECO will raise two Tax invoices . One for restaurant services @ 5% and second for Delivery charges @ 18%.</p> |
| 15     | Do we keep our GST number on our invoice which we will have to generate at our end?   | Yes, Restaurant should raise Commercial Invoice having its own GSTIN for recording sales .   |
| 16     | In case of differences in turnover with Zomato / Swiggy who will be responsible?  | We should reconcile our sales with ECO every month to avoid mismatch & litigation. If restaurant has shared correct details with ECO's than only they may be answerable to the GST department. Restaurant should be ready with their record & proof that they have shared correct details with the ECO's.  |
| 17     | In case of hotel, we are paying GST @ 18% on food sales. What is the impact on such hotel ?   | <p>IN case of hotels;</p> <ul style="list-style-type: none"> <li>- If declared Tariff is &lt; Rs. 7500 - GST is payable @ 5% on food (without ITC)</li> <li>- If declared tariff is &gt; Rs. 7500 -GST applicable @ 18% ( WITH ITC)</li> </ul> <p>If supply of food is through ECO, then ECO will charge applicable GST rate in his tax invoice basis declared tariff of the hotel.</p>                          |

# FAQS – OTHER QUERIES

| S. No . | Issue  | Clarification  |
|---------|--|--|
| 18      | Would there be any change in Delivery Fee charged by ECO or Packing charge levied by Restaurant? | No, there would be no change on any of these items.  |
| 19      | Any specific requirements which are required by ECO?   | Swiggy has requested all Restaurant Partners to fill up a Declaration wherein it has to be clarified whether they would be providing only Restaurant Service or Supply of other products. Request all Restaurant Partners to reach out to your respective POCs and have it closed. |
| 20      | Is this applicable to only to large ECO like Swiggy and Zomato or all ECOs?                      | The law is applicable to all ECOs without any threshold in volume. Restaurant Partners need to coordinate with all the ECOs that they work with irrespective of the volume of business.  |

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**THANK YOU!**