

Return Disclosures for the Restaurants [Offline and Online services]

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Background:

The 45th GST Council meeting was held on 17th September 2021 at Lucknow under the chairmanship of the finance minister. The GST Council has made several recommendations relating to changes in GST rates on supply of goods and services and other changes related to GST law and procedure.

One such change in the law and procedure, impacted the business of Restaurants operating through the E-commerce operators such as Swiggy, Zomato etc.,

The changes are being notified through the Notification No 17/2021-Central Tax (Rate) dated 18.11.2021 and the same are made effective from 01st January 2022.

Further, CBIC has also issued a Circular vide No 167/23/2021-GST dated 17th December, 2021 to clarify certain aspects of the aforesaid changes which have been implemented w.e.f. 01st January 2022.

Through this article, author wishes to emphasize on the GST return disclosures for the Restaurants who supply through the E-commerce Aggregators like Swiggy, Zomato etc.,

Before understanding the GST return disclosures for the Restaurants, let's try to understand the taxability of the Restaurant services supplied through the ECO's.

Discussion on the Important terms:

✚ *"Restaurant service" means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, 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.*

[Defined under the explanation provided under Notification 11/2017-CT(Rate)]

- ✚ **“Specified premise”** 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.
- ✚ **“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.
- ✚ **“Electronic commerce”** means the supply of goods or services or both, including digital products over digital or electronic network; [Sec 2(44) of CGST Act]
- ✚ **“Electronic commerce operator”** means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce; [Sec 2(45) of CGST Act]

Note: In simple, Restaurants located at a premises, where the declared tariff for any unit per day for hotel accommodation exceeds Rs. 7,500 shall charge GST @18% on the restaurant services instead of 5% and such premises are called ‘specified premises under GST.

Further, 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, shall be treated as a supply of services. [Para 6 (b) of the Schedule II of the CGST Act 2017]

Taxability of the Restaurant services:

Till 31.12.2021:

- Supplier of Restaurant services other than at specified premises, through **ECO-Restaurant.**
- **GST Invoice:** GST registered Restaurants are liable to issue the Tax invoice to the customers for the services provided through the ECO’s and deposit the GST with the Govt.
- **Tax Collection at Source:** ECO’s (like Zomato, Swiggy) shall deduct TCS @1% [CGST-0.5% + SGST-0.5%] on the net value of the taxable supplies made through them by the Restaurants and remit the TCS collected by filing GSTR-8.

- **GST Rate-** 5% on the Restaurant services supplied other than at specified premises [The credit of input tax charged on the goods and services used in supplying the service has not been taken]

From 01.01.2022:

- Deemed Supplier of Restaurant services other than at specified premises, through ECO- **ECO (i.e., Swiggy, Zomato, etc.,)**.
- **GST Invoice:** ECO(**i.e., Swiggy, Zomato, etc.,**) is liable to issue the Tax invoice to the customers for the Restaurant services provided through them and deposit the GST with the Govt. Reason being 'Restaurant services other than at specified premises' supplied through ECO, is notified under Section 9(5) of CGST Act 2017, which makes the ECO the deemed supplier of services and all the compliances with respect to such supplies (like issuance of Invoice, payment of tax, etc.,) shall be complied by such ECO's.
- **Tax Collection at Source:** Not applicable, as the restaurant services other than at specified premises is notified under Section 9(5) of the CGST Act 2017. Wherever Section 9(5) applies, TCS provision under GST do not apply.
- **GST Rate-** 5% on the Restaurant services. ECO's shall discharge the GST liability arising on the Restaurant services using the electronic cash ledger only. The same is clarified vide Circular No 167/23/2021-GST.

GST Return disclosures for Restaurants

Before 01st January 2022:

GSTR-1:

Offline sales	
B2B	Table 4A- Supplies other than RCM and ECO which attract TCS. (Credit Notes under Table 9B)
B2C	Table 7 – Taxable supplies to Unregistered persons. (Net of GST Credit Notes)

Online Sales [Through ECO's]	
B2B	Table 4A- Supplies other than RCM and ECO which attract TCS. Despite the title of the Table, ECO sales were also disclosed under Table 4A, as the below-said proposal was not in place in the GST portal. <u>Proposed:</u> Table 4C Supplies made through ECO attracting TCS. Never implemented in the GST portal.
B2C	Table 7- Taxable supplies to Unregistered persons.
HSN wise summary of outward supplies	Table 12 [Including both online and offline]

GSTR-3B:

All the supplies, i.e., Online sales and Offline sales shall be shown under Table 3.1.(a) of GSTR-3B and taxes shall be discharged.

From 01st January 2022 to 31st December 2023:

GSTR-1:

Offline sales	
B2B	Table 4A (Credit Notes under Table 9B)
B2C	Table 7 (Net of GST Credit Notes)
Online Sales [Through ECO's]	
B2B	Table 8 [Nil rated, exempted, and non-GST outward supplies] [See the *Note given below]
B2C	
HSN wise summary of outward supplies	Table 12 [Including both online and offline]

GSTR-3B:

Offline sales	
B2B	Table 3.1.(a) [i.e., Outward taxable supplies,] and taxes on the same shall be collected from the customers and deposited with the Government by the Restaurant themselves.
B2C	
Online Sales [Through ECO's]	
B2B	01st January 2022 to 31st July 2022.
B2C	<p>Table 3.1(c) [i.e., Exempt supplies.]</p> <p>Restaurants need not discharge GST on such turnover. It is the responsibility of the ECO to collect the GST from the customers on behalf of the Restaurant and deposit with the Government.</p> <p>[See the *Note given below]</p> <p>From 01st August 2022 to 31st December 2022:</p> <p>Table 3.1.1.(ii)- Taxable supplies made by the registered person through electronic commerce operator, on which electronic commerce operator is required to pay tax under Sub-section (5) of Section 9 [To be furnished by the registered person making supplies through electronic commerce operator.</p> <p>[The aforesaid new table is inserted vide Notification No 14/2022- Central Tax dated 5th July 2022.]</p> <p>The detailed advisory on the same can be accessed from the following link; https://tutorial.gst.gov.in/downloads/news/gstr_3b_sec_9_5_advisory_19_07_22.pdf</p>

***Note:** Registered persons supplying restaurant services through ECOs under section 9(5) will report such supplies of restaurant services made through ECOs in Table 8 of GSTR-1 and Table 3.1(c) of GSTR-3B, for the time being. *[Clarified vide Circular No 167/23/2021-GST dated 17th December 2021]*

From 01st January 2024:

GSTR-1

Offline sales	
B2B	Table 4A Supplies other than RCM

	(Credit Notes under Table 9B)
B2C	Table 7 Taxable supplies to Unregistered persons. (Net of GST Credit Notes)
Online Sales [Through ECO's]	
B2B	<p>Table 14(b) Details of the supplies made through e-commerce operators on which e-commerce operators are liable to pay tax u/s 9(5) [Supplier to report]</p> <p>The detailed advisory on the same can be accessed from the following link: https://tutorial.gst.gov.in/downloads/news/updated_advisory_new_table14_15_cr23892_sj_10.01.2024.pdf</p> <p>Note: The turnover and the tax disclosed under this table, will not add any tax liability in the GSTR-3B of the Restaurant (i.e., supplier). The taxes on such turnover shall be deposited with the Govt. by the ECO.</p>
B2C	
HSN wise summary of outward supplies	Table 12 [Including both online and offline]

GSTR-3B:

Offline sales	
B2B	Table 3.1.(a) [i.e., Outward taxable supplies,] and taxes on the same shall be collected from the customers and deposited with the Government by the Restaurant themselves.
B2C	
Online Sales [Through ECO's]	
B2B	Table 3.1.1.(ii)- Taxable supplies made by the registered person through electronic commerce operator, on which electronic commerce operator is required to pay tax under Sub-section (5) of Section 9 [To be furnished by the registered person making supplies through electronic commerce operator.
B2C	

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