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Gifts up to a value of Rs 50,000/- per year by an employer to his employee are outside the ambit of GST. However, gifts of value more than Rs 50,000/- made without consideration are subject to GST, when made in the course or furtherance of business.

It is being reported that gifts and perquisites supplied by companies to their employees will be taxed under GST. Gifts upto a value of Rs 50,000/- per year by an employer to his employee are outside the ambit of GST. However, gifts of value more than Rs 50,000/- made without consideration are subject to GST, when made in the course or furtherance of business.

The question arises as to what constitutes a gift. Gift has not been defined in the GST law. In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right by the employee and the employee cannot move a court of law for obtaining a gift.

Another issue is the taxation of perquisites. It is pertinent to point out here that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services). It follows therefrom that supply by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST. Further, the Input Tax Credit (ITC) Scheme under GST does not allow ITC of membership of a club, health and fitness centre [section 17 (5) (b) (ii)]. It follows, therefore, that if such services are provided free of charge to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer. The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to-company (C2C).

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