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|  सत्यमेव जयते | RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX KAR BHAWAN, AMBEDKAR CIRCLE, NEAR RAJASTHAN HIGH COURT JAIPUR - 302005 (RAJASTHAN) |  |
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ADVANCE RULING NO. RAJ/AAR/2019-20/25

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| J.P.Meena Additional Commissioner | : | Member (Central Tax) |
| Hemant Jain Joint Commissioner | : | Member (State Tax) |
| Name and address of the applicant | : | M/s Crown Tours and Travels, Opposite Rajputana Sheraton Hotel, Jaipur, Rajasthan 302006 |
| GSTIN of the applicant | : | 08AAJFC6249G1ZA |
| Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised | : | a. Classification of goods and /or services or both |
| Date of Personal Hearing | : | 14.11.2019 |
| Present for the applicant | : | Shri Rahul Lakhwani (Authorised Representative) |
| Date of Ruling | : | 26.11.2019 |

Note: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.



- At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".



- The issue raised by *M/s Crown Tours and Travels, Opposite Rajputana Sheraton Hotel, Jaipur, Rajasthan 302006* (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (a) given as under: -

a. Classification of goods and /or services or both

- Further, the applicant being a registered person (GSTIN is 08AAJFC6249G1ZA as per the declaration given by him in Form ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.

1. **SUBMISSION AND INTERPRETATION OF THE APPLICANT:**

- The applicant is engaged in business of providing Tour Operator' as well as 'Support Services'. In a particular set of transactions, the Applicant receives service orders from the main tour operator to provide a range of services to the passenger/ tourist. There is a contractual understanding between the tourist and the main tour operator to provide a complete packaged tour. In turn the main tour



operator engages the Applicant to provide one or more of the following services (hereinafter referred as 'Ancillary Services'):

- i. Elephant Ride at Amber Fort
- ii. Guide Charges
- iii. Assistance Charges
- iv. Home Host Dinner
- v. Lunch/Dinner at Local Restaurant
- vi. Boat Ride at Udaipur
- vii. Camel Ride at Jaisalmer
- viii. Saree/Turban Tying



A sample copy of the service order issued by the main tour operator is annexed herewith and marked as Annexure-1.

- That the said services are provided in association with the services of organisation of tour provided by the Main Tour Operator and together, they form a consolidated Tour from the perspective of the Customer. Thus, the Ancillary Services provided by the Applicant are essential part of the main services of organisation of tour which are provided to the Customer.
- That under GST, supply of Tour Operator Services is classified under Heading 9985 as Support Services vide Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 as amended from time to time (hereinafter referred as 'Rate Notification'). The Rate Notification notifies the applicable rate of GST for supply of Support Services and conditions attached thereto. As per the said Rate Notification, the rate of tax for supply of tour operator services has been specified at the rate of 2.5% under Heading 9985(i). The rate specified for other support services under Heading 9985(iii) is 9%. Similar rates have been prescribed under Rajasthan Goods



and Services Tax Act, 2017 (Hereinafter referred as 'RGST Act'). On a combined reading of notifications issued under CGST Act and RGST Act, the effective rate of tax comes to 5% on supply of tour operator service and 18% on other support services.

- In the Rate Notification, the phrase 'Tour Operator' has been defined to mean: -

a. Any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport

b. any person engaged in the business of operating tours.

- That as per the definition of Tour Operator the same will include the person who provides services in the nature of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport. Thus, the definition of 'Tour Operator' clearly requires that such person must also provide transport services.
- Certain services as specified falling under Heading 9985(i) (i.e. tour operated services provided as a consolidated package) are leviable to GST @ 5%. That the services which are not qualified under the specified category of Supply of Tour Operator services, falls under the heading 9985(iii) i.e. other support services and are leviable to tax @ 18%.
- To determine whether the Applicant qualifies under Heading 9986(i) or 9985(ii), it is relevant to examine the meaning of the terms 'tour' and 'tour operator' for the purposes of the Rate Notification, and accordingly verify whether the Applicant falls



within the ambit of such terms. The same has been discussed herein.

Meaning of term 'Tour'

It is humbly submitted that the meaning of term 'Tour' has not been defined in the Rate Notification, therefore, reference is made to the dictionary meaning of the term 'Tour'. As per dictionary, the term 'Tour' is defined as:

Shorter Oxford English Dictionary pg. 3309 (5th Ed. Vol 2002)

Tour: A journey or period of travel from place to place esp. a holiday comprising visits to a number of places on a route through an area.



Hence, 'Tour' means a travel from one place to another by any mode of transportation.

- That reference can also be made to the meaning of the term 'Tour' as understood in common parlance. In common parlance, Tour is understood as tourists, usually taken in groups by the tour operator by any mode of transport from one place to another and, en route or at the terminal place, local sight-seeing trips (including visits to zoo, museum, monuments and other historic spots etc.), visits to temples or other places of worship, boat cruising in lakes, trips to hill resorts, etc. Thus, tours are organized or facilitated for the tourists by the tour operator. The definition of the Tour Operator as per Rate Notification also contains that the tours may include arrangements for accommodations, sightseeing and other similar services.
- That in present case also, the Applicant takes the tourists in groups for local sightseeing, elephant or camel joy rides, lunch and dinner at local restaurant, boat ride, etc. The whole day of the



tourist is spent/utilized in the said activities and all the important tourist destination of the city are covered by the Applicant. The services provided by the Applicant are covered under sightseeing and other similar services. Thus, the Applicant provides the service of organizing and conducting a 'Tour' for the tourists.

- That in the Rate Notification, the term 'Tour Operator' has been defined as the person who is engaged in the business of planning, scheduling, organising, arranging tours by any mode of transport. Thus, as per the said definition the Tour Operator must provide the transportation service. It is humbly submitted that the Applicant is organizing the whole day trip in the present case and the said trip for the whole day consists of various activities which together constitutes as a 'Tour' of the city. Further, during local sightseeing the Tourists are taken from one place to another by mode of any transportation. The said transportation facility may be provided by the main tour operator. Thus, there is ambiguity as to whether the Ancillary Services provided by the Applicant falls under 'Tour Operator' services.
- Moreover, as per the Rate Notification, Tour Operator includes any person engaged in the business of operating Tours. The term 'business of operating tours' is very exhaustive and it will include any activity which are in the nature of incidental and ancillary to the business of operating tours like elephant ride, guide services, boat ride, local sightseeing etc. Also, the annexure to the said Rate Notification i.e. List of Services, provides for various activities under the head of Travel arrangement, tour operator and related services. All such activities which are mentioned under this head shall be construed as a part of business of operating tour and can be said to be supplying tour operator services. Hence, it is submitting that the Applicant in present case shall be construed to be supplying tour operator services.



- That as per the Rate Notification, the rate of 5% under Heading 9985(i) can be availed in following cases:

- i. ITC in respect of goods and services used in supplying the service has not been taken except in case where ITC is in respect of input services in same line of business i.e. Tour operator service procured from another tour operator,
- ii. The bill issued by the supply for this services 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 tour including the charges for accommodation and transportation required for such tour.


- That the condition no. (ii), the bill raised by the Tour Operator must be inclusive of accommodation and Transportation charges. Accordingly, a gross amount should be charged by the Tour Operator for the entire Tour. In present case, the Tour services provided by the Applicant has various activities like Elephant/ Camel ride, Boat ride, Guide services, local sightseeing, dinner/lunch at local restaurant etc. For each such service no separate invoice is issued to the tourist and one consolidated bill is raised by the Applicant to the main tour operator. Copies of sample invoices in support of the above are annexed. Thus, the Applicant does not charge for the accommodation and transportation services as the same is not provided by the Applicant.

- That as per the Rate Notification, if the services provided by the supplier are not in the nature of services provided by Tour Operator', the said services will classify under Other support



services having rate of 18%. Thus, if the services of the Applicant are not qualified as services provided by the Tour Operator then the same will qualify as support services.

2. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT

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- a. Whether the 'Ancillary Services' provided to various tour operators falls under Chapter heading 9985 (i) (Supply of Tour Operator Service) or 9985 (iii) (Support Services)?
 - b. What is the applicable tax rate for ancillary services provided to various tour operators?

3. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 14.11.2019 at Room no. 2.29 NCRB, Statue Circle, Jaipur. Shri Rahul Lakhwani (Authorised Representative) of applicant appeared for PH. During the PH, he reiterated the submissions already made in the application. He further requested that the case may be decided at the earliest.

4. COMMENTS OF THE JURISDICTIONAL OFFICER

The jurisdictional officer (STO, State Tax, Ward-II, Circle- B, Jaipur Zone-III, Zonal Kar Bhawan, Jhalana Doongri, Jaipur, Rajasthan 302004) has submitted his comments vide letter dated 22.10.2019 which can be summarized as under:

The Services supplied to tour operators falls under SAC heading 9985(ii) (Support Services) other than Heading 9985(i) and applicable rate of GST is 18%.



5. FINDINGS, ANALYSIS & CONCLUSION:

- While going through the submissions made by the applicant, we find that, the applicant has sought advance ruling on the part where it is providing only ancillary services viz. Elephant Ride at Amber Fort, Guide Charges, Assistance Charges, Home Host Dinner, Lunch/Dinner at Local Restaurant, Boat Ride at Udaipur, Camel Ride at Jaisalmer Saree/Turban Tying etc. and is not involved in transportation and accommodation of persons/tourist engaged by tour operator.
- To determine whether the Applicant qualifies under Heading 9985(i) or 9985(iii), it is relevant to examine the meaning of the terms 'tour' and 'tour operator' for the purposes of the Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 (as amended) and accordingly verify whether the Applicant falls within the ambit of such terms. The same has been discussed herein.



The meaning of term 'Tour' has not been defined in the above said Rate Notification, therefore, reference is made to the dictionary meaning of the term 'Tour'. As per dictionary, the term 'Tour' is defined as:

Shorter Oxford English Dictionary pg. 3309 (5th Ed. Vol 2002) Tour: *A journey or period of travel from place to place esp. a holiday comprising visits to a number of places on a route through an area.*

Hence, 'Tour' means a travel from one place to another by any mode of transportation.



In common parlance, Tour is understood as tourists, usually taken in groups by the tour operator by any mode of transport from one place to another and, en route or at the terminal place, local sight-seeing trips (including visits to zoo, museum, monuments and other historic spots etc.), visits to temples or other places of worship, boat cruising in lakes, trips to hill resorts, etc. Thus, tours are organized or facilitated for the tourists by the tour operator.



While tour operator as defined in Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 means '*any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any arrangements for accommodation, sightseeing or other similar services) **by any mode of transport**, and includes any person engaged in the business of operating tours.*'

In view of the definition of tour and tour operator, we find that supply of transport service in a tour package is very essential to classified as tour operator under GST Act. While examining the submissions of the applicant, we observe that the applicant is engaged in business of providing services like sightseeing and other similar services but not providing service of transportation and accommodation, thus it is providing/supplying only a part of tour related services.

- To determine the classification and GST rate of the services supplied by the applicant, the relevant portion of the Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 (as amended) is as below-

Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017

| Sl No. | Chapter, Section or Heading | Description of Service | Rate (per cent.) | Condition |
|--------|---------------------------------|--|------------------|---|
| (1) | (2) | (3) | (4) | (5) |
| 23 | Heading 9985 (Support services) | (i) Supply of tour operators services. Explanation.- "tour operator" means any person engaged in the business of planning, scheduling, organizing, 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 of operating tours. | 2.5 | 1. Provided that credit of input tax charged on goods and services used in supplying the service [, other than the input tax credit of input service in the same line of business (i.e. tour operator service procured from another tour operator)] 48 has not been taken [Please refer to Explanation no. (IV)]. 2. 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 |
| | | [(ii) Services by way of house-keeping, such as plumbing, carpentering, etc. where the person supplying such service through electronic commerce operator is not liable for registration under sub-section (1) of section 22 of the Central Goods and Services Tax Act, 2017. | 2.5 | Provided that credit of input tax charged on goods and services has not been taken [Please refer to Explanation no. (iv)]. 49 |
| | | [(iii) Support services other than (i) and (ii) above | 9 | - |



While going through the above notification, we find that two conditions are essential to categorize a tour operator which are mentioned below -

- a. Bill issued for supply of tour operating service should be a consolidated one i.e. inclusive of accommodation and transportation charges.
- b. Provided that credit of input tax charged on goods and services used in supplying the service [other than the input tax credit of input service in the same line of business (i.e. tour operator service procured from another tour operator)] has not been taken.

In view of above conditions, we observe that a gross amount should be charged by the Tour Operator for the entire Tour. In present case, the services provided by the Applicant has various activities like Elephant/ Camel ride, Boat ride, Guide services, local sightseeing, dinner/lunch at local restaurant etc. For each such service no separate invoice is issued to the tourist and one consolidated bill is raised by the Applicant to the tour operator. The Applicant does not charge for the accommodation and transportation services as the same is not provided by the Applicant. Thus, the applicant does not satisfy the conditions for 'tour operator' and services provided by the applicant cannot be treated as "Tour Operator Services" in terms of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017.

The services provided by the supplier are not in the nature of services provided by Tour Operator, the said supply of services cannot be classified under SAC 9985(i) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017.

- In view of the above discussions and provisions of law, the services provided by the applicant are not 'Tour Operator Service' but Support Services classifiable under Serial No. 23 [(SAC 9985(iii))] of Notification



No. 11/2017 Central Tax (Rate) dated 28.06.2017 and attracts GST @ 18% (SGST 9% + CGST 9%).

6. In view of the foregoing, we rule as follows: -

RULING

- a. The 'Ancillary Services' provided by the applicant to various tour operators falls under Chapter heading 9985 (iii) (Support Services) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 (as amended).
- b. The applicable rate of GST for ancillary services provided by the applicant to various tour operators is 18% (SGST 9% + CGST 9%).


J.P. MEENA 26/11/19
Member
(Central Tax)




26/11/19
HEMANT JAIN
Member
(State Tax)

ok

SPEED POST

M/s Crown Tours and Travels,
Opposite Rajputana Sheraton Hotel,
Jaipur, Rajasthan 302006

F.No. AAR/CROWN/2018-19/197 - 200

Dated: 27/11/19

Copy to: -

1. Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
2. Commissioner, Central Tax, CGST and Central Excise Jaipur Commissionerate, NCRB, Statue Circle, Jaipur, Rajasthan 302005.
3. STO, State Tax, Ward-II, Circle- B, Jaipur Zone-III, Zonal Kar Bhawan, Jhalana Doongri, Jaipur, Rajasthan 302004.

