RAJASTHAN AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX

KAR BHAWAN, AMBEDKAR CIRCLE, NEAR RAJASTHAN HIGH COURT
JAIPUR – 302005 (RAJASTHAN)

सत्यमेव जयते

राष्ट्र कर बाजार

ADVANCE RULING No. RAJ/AAR/2020-21/06

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 Shereton 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 through video conference	:	10.07.2020
Present for the applicant	:	Shri Rahul Lakhwani (Authorised Representative)
Date of Ruling	:	23.07.2020

Note: *Under Section 100 of the CGST/RGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/RGST 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 Shereton 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.

A. SUBMISSION AND INTERPRETATION OF THE APPLICANT:

1. Crown Tours and Travels (hereinafter referred as 'the Applicant) is engaged in business of providing tour services to the tourists identified by the Main Tour Operator. In transaction which the Applicant intents to undertake, the Applicant is going to provide local transportation services along-with services like elephant ride, lunch/dinner, local sightseeing, guide services etc. As a practice in the industry, 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 sub- tour operator

such as the applicant to provide local transportation services along-with one or more of the services like providing guide services, sightseeing, and elephant ride. The said services together constitute an essential part of the packaged tour;

2. that in respect of the said transactions, the Applicant raises a single invoice wherein all the services are shown as separate line item (with its respective rate) for accounting purposes. However, the final amount charged by the Applicant from the Main Tour Operator is total amount of all the services together provided by the Applicant to the Tourist i.e. local transportation services along-with services like guide, elephant ride, local sightseeing. Thus, the amount charged from Main Tour Operator will be inclusive of charges in respect of all the services which are provided by the Applicant to the tourist. A sample copy of the service order in respect of the transaction which the Applicant intents to undertake and the copies of the invoice raised by the Applicant have been already submitted with the application;

3. that under Section 9 of the Central Goods and Services Tax Act, 2017 (hereinafter referred as 'CGST Act), the Central Government by way of Notification shall prescribe the rate of central tax which shall be applicable on supply of goods or services or both. Pursuant to Section 9 r/w Section 11, 15 and 16 of the CGST Act, the Central Government *vide* Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 (hereinafter referred as 'Rate Notification') notifies rate of 2.5% on supply of Tour Operator services under Heading 9985(i) subject to certain conditions. 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. The relevant entry from the Rate Notification is reproduced below:

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	-

4. that in the Rate Notification, 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. Further, the rate of 5% under the Rate Notification is subject to fulfilment of the conditions mentioned in the said Rate Notification;

5. that invoices submitted by the Applicant relates to the past transactions. In the said transactions, the Applicant though raised a single invoice but charged rate of 5% on the local transportation services under heading 9964 and rate of 18% on sightseeing services, guide services, elephant ride services under heading 9985(iii). However, it was pointed out by the service recipient i.e. Main Tour Operator that as per the market practice, when the local transportation services are provided along-with services like sightseeing, elephant ride, guide services, rate of 5% under heading 9985(i) is applicable. Accordingly, the current advance ruling has been sought to get clarity on the said matter;

6. that whether the rate of 5% under heading 9985(i) is applicable on transaction which the Applicant intents to undertake wherein a single invoice is raised in respect of all the services i.e. local transportation services along-with services like sightseeing, tour guide, elephant ride etc., provided by the Applicant to Main Tour Operator?;

7. that to determine whether the services provided by the Applicant are covered under heading 9985(i), it has to be first analysed that whether the transaction which the Applicant intents to undertake falls under the phase 'supply of tour operator service'. For the same, it is relevant to examine the meaning of the terms 'tour' and 'tour operator'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;

8. 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;

9. that in the transaction which the Applicant intents to undertake, the Applicant needs to provide local transportation service to the tourists along with services like local sightseeing, elephant or camel joy rides, lunch and dinner at local restaurant, boat ride. The whole day of the tourist is spent/utilized in the said activities. The services provided by the Applicant are covered under the *phrase sightseeing and other similar services by any mode of transport.* Thus, the Applicant provides the service of organizing and conducting a Tour' for the tourists;

Meaning of term Tour Operator

10. 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. The relevant definition is reproduced below:

> *"**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.***

11. that as per the above definition, the Tour Operator must provide the transportation service. It is humbly submitted that in transaction at hand, the Main Tour Operator specifies the services which has to be provided to particular tourist or group of Tourist. Accordingly, the Applicant intents to organize and arrange the tour for the Tourist(s) which includes local transportation along-with sightseeing, elephant ride, guide services.Thus, It is submitted that as per the above definition, Applicant is a Tour Operator';

12. that 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, 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;

13. that the Applicant in the transaction at hand is a sub-tour operator, who has been engaged by the Main Tour Operator to provide the services of local transportation of Tourist along-with services like

elephant ride, guide services, sightseeing. The said activities are incidental and ancillary to the Tour', hence, it is humbly submitted that the Applicant in present case shall be construed to be supplying tour operator services;

14. that in the light of above submission, it is humbly submitted that services of local transportation along-with sightseeing, guide services, elephant joy ride provided by the Applicant to the Tourist are covered under 'Supply of tour operators service';

15. that as per the Rate Notification, the rate of 5% is applicable on the ***supply of Tour Operator*** services under Heading 9985(i) can be availed in following cases: Input Tax Credit (hereinafter referred as *'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;

16. that the bill issued by the supply for 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;

17. that in respect of the condition no. (i), the Input tax credit in respect of goods and services used in supplying the said services has not been taken except in case wherein ITC is in respect of input services received from another Tour operator. Thus, for the satisfaction of the said condition, the person who is supplying the tour operator services cannot avail the ITC of the input services which it has used in supplying the said services except in case such input services has been received from another tour operator. In present case, the Applicant intents to comply with the said condition and not avail the ITC in respect of input services it has used in supplying the said

services to the tour operator. Thus, condition no. (i) is satisfied for the transaction which the Applicant intents to undertake;

18. that on perusal of condition no. (ii), it can be construed that the bill which is issued by the Tour operator should be inclusive of all the charges including charges of accommodation and transportation required for such a tour. The definition of the term 'tour operator' states that the person providing the tour operator's services may or may not provide the service of accommodation. Thus,it is humbly submitted on the co-joint reading of the condition no. (ii) with the definition of Tour Operator' and applying the rules of harmonious construction, it can be construed that the fulfilment of the condition of inclusion of accommodation charges in the bill of tour operator is required only when such services have actually been provided. However in thosecases where such accommodation services have not been provided by the 'tour operator' then in those cases he is only required to issue bill which will include the gross amount charged for all the services i.e. transportation services provided along-with local sightseeing, elephant or other joy ride;

19. that in the transaction which the Applicant intents to undertake, the Applicant is providing local transportation services along-with various services like Elephant ride, guide services, sightseeing and for all such services the Applicant intents to raise a single bill wherein the gross amount for providing all the services will be stated. Thus, no separate invoice will be issued in respect of the services provided by the Applicant to the Main Tour Operator;

20. that for accounting ease, the Applicant will show each service as separate line item with its rate (as shown in the past bill). However, the nature of the service will |De that of Tour Operator service'. Accordingly, it is submitted that since, the Applicant intents to raise a single invoice for all the services provided by it and also charge gross amount on the bill which will be inclusive of charges for all the

services provided by the Applicant, the condition no. (ii) is also fulfilled;

21. that it is humbly submitted that in case the services provided are in the nature of 'supply of service by tour operator', then in that case, the services provided will not be covered under heading 9985(iii) of the Rate Notification. Reliance is placed on the Advance Ruling passed in case of TUI India (P.) Ltd. by Authority for Advance Ruling, Delhi ([2019] 28 GSTL 346 (AAR - New Delhi)). It is humbly submitted that, in present case the services provided by the Applicant are covered within the tour operator services. Thus, the same will fall under the heading 9985(i) and the rate applicable therein 5% will be applicable;

22. that in light of above submission, it is humbly submitted that as per the Rate Notification, the transaction which the Applicant propose to undertake is in nature of 'supply of tour operator services'. Further, the condition no. (i) and (ii) are also fulfilled for the transaction under consideration. Thus, for said transaction, the rate of 5% is applicable.

B. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT

Whether the rate of 5% under heading 9985(i) is applicable on transaction which the Applicant intents to undertake wherein a single invoice is raised in respect of all the services i.e. local transportation services along-with services like sightseeing, tour guide, elephant ride etc., provided by the Applicant to The Main Tour Operator?

C. PERSONAL HEARING

In the matter personal hearing was granted to the applicant through video conference on 10.07.2020. Shri Rahul Lakhwani (Authorised Representative) of applicant appeared for personal hearing. During the personal hearing, he reiterated the submissions already made in the application. He further requested that the case may be decided at the earliest.

D. COMMENTS OF THE JURISDICTIONAL OFFICER:

The jurisdictional officer i.e. the Deputy Commissioner, State Tax, Circle-B, Jaipur Zone-III, Zonal Kar Bhawan, Jhalana Doongri, Jaipur, Rajasthan 302004 has submitted his comments vide letter dated 19.05.2019 which can be summarized as under-:

The services supplied by the applicant to the Main Tour Operator falls under SAC heading 9985(ii) [support services] other than heading 9985(i). So the tax rate applicable on single invoice raised by the applicant is 18% (CGST 9% + 9% SGST).

E. FINDINGS, ANALYSIS & CONCLUSION:

1. While going through the submissions made by the applicant, we find that the applicant is involved in supply of local transportation service and services like elephant ride, guide services and sightseeing to tourists engaged by various tour operators, also called in trade parlance as Main Tour Operators (hereinafter MTO). The tourists as discussed above are primarily engaged by MTO and thereafter delegated to the applicant and the likes.
2. The applicant has earlier also filed an advance ruling on similar subject matter wherein this authority pronounced that the applicant is not a tour operator as per definition and condition provided in Serial No. 23(i) of Notification No. 11/2017-Central Tax (rate) dated 28.06.2017 (as amended) vide its order number RAJ/AAR/2019-20/25 dated 26.11.2019 (hereinafter the RAAR Order).
3. The facts submitted by the applicant in its earlier application and in present application are similar except some submission. In the present application, the applicant has further from previous application submitted that it is also providing transport services to tourists besides service of elephant ride, guide services and sightseeing. Further, that the MTO treats the supply by the applicant

a tour operator service as applicant is providing transportation besides other tourist services.

4. We find that only additional fact from previous application is service of transportation provided by the applicant. So, question before us to decide is whether applicant will fall under definition of Tour Operator or not as per definition and condition enumerated in Serial No. 23(i) Chapter head 9985 of Notification No. 11/2017-Central Tax (rate) dated 28.06.2017 (as amended).

5. The Notification No. 11/2017-Central Tax (rate) dated 28.06.2017 (as amended) in Entry Number 23 (i) define Support Services under Chapter heading 9985. The relevant portion of the Notification is as under—

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

The said entry defines Tour Operator as "*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.***".

On examination of above definition, we find four elements in the definition; tour operator is a person, who;

- plan, schedule, organize and arrange tours;
- might be providing accommodation, sightseeing and other similar services;
- engaging any mode of transport for above services;
- engaged in business of operating tours.

Further, the above said Notification also delineates two conditions for a tour operator;

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.

6. We find that, the first condition is related to restriction of input tax credit whereas second condition is related to criteria for inclusion of charges of accommodation and transportation in the bill of a tour operator.

The second condition clearly emphasise that a bill issued by a tour operator for supply of its services should be inclusive of charges of **accommodation and transportation** required for such a tour. The conjunction ***'and'*** clearly explains that accommodation and transportation, both are must elements for a tour whereas conjunction 'or' may have rendered option between accommodation and transportation. Whereas, the applicant is rendering only transportation with some ancillary services and not accommodation, as such does not satisfy the conditions as mentioned under Serial No. 23 (i) {Chapter heading 9985} of Notification No. 11/2017-Central Tax (rate) dated 28.06.2017 (as amended), therefore, rate of GST 5% is not applicable.

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

RULING

The services provided by the applicant do not fall under the purview of Serial No. 23(i) {Chapter heading 9985} of Notification No. 11/2017 -Central Tax (rate) dated 28.06.2017 (as amended) and rate of GST 5% is not applicable.

RAJASTHAN AUTHORITY FOR ADVANCE RULING, JAIPUR
सत्यमेव जयते
G.S.T.

23/07/2020
J.P.MEENA
Member
(Central Tax)

o/c

23/7/20
HEMANT JAIN
Member
(State Tax)

SPEED POST

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

F. No. AAR/CROWN/2019-20/ Dated:

Copy to: -

1. The Chief Commissioner CGST and Central Excise Jaipur Zone, NCRB, Statue Circle, Jaipur, Rajasthan 302005
2. The Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme, Jaipur, Rajasthan 302005.
3. The Commissioner, Central Tax, CGST & Central Excise Commissionerate, Jaipur, NCRB, Statue Circle, Jaipur, Raj. 302005.
4. The Deputy Commissioner, State Tax, Circle-B, Jaipur Zone-III, Zonal Kar Bhawan, Jhalana Doongri, Jaipur, Rajasthan 302004.