

15th July 2022

To All Members

Dear Colleagues,

Subject:- Notifications issued by the Central Government to give effect to GST amendments recommended by GST Council in 47th Meeting held on 28-29 June, 2022 at Chandigarh

In continuation to our circular dt. 30.06.2022, explaining the important GST amendments suggested by the GST Council for the benefit of Tourism Industry, we would like to update you that the Central Government has now issued notifications on 13.07.2022. These notifications are operative from 18.07.2022 (Monday). For the benefit of our members, we are explaining the amendments as coming out of the notifications as under :-

1. Presently hotel accommodation having billing rate of Rs.1,000/- or below per day is fully exempted from GST under Sl. No. 14 of the exemption notification no. 12/2017-CT (R) dt. 28.06.2017. The exemption has now been withdrawn through notification no. 04/2022-CT (R) dt. 13.07.2022. This amendment, in our view, would not have any material impact on the tourism industry.
2. Hotel accommodation having the transaction value above Rs.1,000/- but upto Rs.7,500/- per day attract 12% GST as provided in Sl. No. 7 of CGST Notification No. 11/2017-CT(R) dt. 28.06.2017. Consequent upon withdrawal of GST exemption in low priced hotel accommodation as explained in para-1 above, it is now provided that hotel accommodation having the transaction value upto Rs.7,500/- per day will attract 12% GST. The hotel accommodation of upto Rs.1,000/- per day will also attract 12% GST. In other words, there will be only two slabs of GST rates on hotel accommodation as tabulated below:-

Transaction value of Hotel accommodation	GST rate
Upto Rs.7,500/- per day	12%
Rs.7,501/- and above per day	18%

3. Presently services provided by a tour operator to a foreign tourist in respect of tour conducted wholly outside India is fully exempted from GST at Sl. No. 54 of IGST notification no. 9/2017-IT(R) dt. 28.06.2017. In case the package includes India tour as well as tour to Nepal, Bhutan, Maldives and other countries, GST/IGST is payable on the entire package. IATO has been representing to the officials of the Ministry of Finance that the portion of the tour organized for the foreign tourist outside India should not suffer GST even if the package includes India tour. The GST Council finally agreed to our representation and clarified that service provided by an Indian tour operator to a foreign resident for a tour held partially in India and

partially outside India would be subject to tax proportionate to the tour conducted in India.

The Government has issued notification no. 04/2022-CT(R) dt. 13.07.2022 and inserted entry no. 52A in the parent exemption notification no. 12/2017-CT(R) dt. 28.06.2017. The basic features of the amendment are explained as under:-

- (a) The service of the tour operator to a foreign tourist, partly performed in India and partly outside India stands exempted from GST to the extent of the value of the service performed outside India.
- (b) The exempt value of tour operator service performed outside India will be calculated as per the following formula:-

$\text{Value of the entire package} \times \frac{\text{Number of days spent outside India}}{\text{Total number of days of the package tour}}$

The exempt portion of the package value is calculated proportionate to the number of days spent outside India vis-à-vis total number of days involved in the package tour.

- (c) Where the number of days spent by the foreign tourist outside India is more than 50% of total number of days of the tour, the exemption will be restricted to 50% of the total consideration / transaction value charged for the entire tour package.
- (d) In making the above calculations, time duration of 12 hrs. or more is considered as one full day and time duration of less than 12 hrs. will be considered as half day.
- (e) The expression “foreign tourist” means a person not normally resident in India and he enters India for a stay of not more than 6 months for legitimate non-immigrant purposes.
- (f) The amendment can be explained in the form of an illustration. For example, an Indian tour operator provides services to Mr. Peter (foreign tourist) for 3 days in India and 2 days in Nepal as part of the package. The tour operator charges consideration of Rs.80,000/- for the entire package. Applying the proportionate formula, the value of consideration of Rs.32,000/- will stand exempted from GST i.e.

$$\begin{aligned} & \text{Rs.80,000} \times \frac{\text{2 days}}{\text{5 days}} \\ & = \text{Rs.32,000/-} \end{aligned}$$

The tour operator will charge 5% GST on the balance consideration of Rs.48,000/-.

(g) Another illustration. The Indian tour operator provides services to Mr. Peter (foreign tourist) for 2.5 days in India and 3 days in Nepal as part of the package. The tour operator charge consideration of Rs.1,00,000/- for the entire package. Applying the above formula, the value of the exempt consideration works out to Rs.54,545/-. However, there is a rider. The exempt portion of the total consideration charged for the entire package would not exceed 50% of the total consideration. This means that exempt portion of the consideration would be Rs.50,000/- or Rs.54,545/- (as per formula), whichever is less. Accordingly, the exempt portion of the consideration will be Rs.50,000/- only and the tour operator will charge 5% GST on the balance taxable consideration of Rs.50,000/-.

4. Presently the service of transportation of passengers by public transport, in a vessel between places located in India is fully exempted from GST under Sl. No. 17(d) of exemption notification no. 12/2017-CT(R) dt. 28.06.2017. In the same entry, the Government has not allowed exemption of **transportation predominantly for tourism purpose even in a public transport**. The expression “public transport” was neither defined nor clarified by the Government. The GST Council, on recommendations of IATO has defined the expression “public transport” as under:-

“The expression ‘public transport’ used in the exemption entry at Sl No.17(d) of notification No.12/2017-CT(R), which exempts transport of passengers by public transport other than predominantly for tourism purpose, in a vessel between places located in India, means that such transport should be open to public for point to point transport [e.g. such transport in Andaman and Nicobar islands].

From the above clarification, it is evident that there would be no GST for the ferry service hired for transport of passengers (including foreign tourists) used as public transport for point to point transport including in Andaman & Nicobar Islands. This is much awaited relief for the tourism industry. Although the GST Council clarified the scope of the expression “pubic transport”, it appears that the Government has not carried out corresponding amendment in the exemption notification nor issued any circular to convey the recommendation of the GST Council. We will soon take up this matter with the concerned officials in the Ministry of Finance for necessary amendment through notification.

As already stated above, the notifications will come into effect from 18.07.2022. We advise the members to refer to the concerned notifications for the exact language and make necessary changes in their billing system to give effect to the above amendments.

Thanking you and with best wishes

Rajiv Mehra
President