Golden Vacations Tours and Travels

Authority for Advance Ruling — West Bengal

26/WBAAR/2019-20 Dated **23.09.2019**

Q Questions Before the Authority

- Should the applicant, when it only arranges clients' accommodation in hotels and does not provide a full tour, continue to be classified as a tour operator, or how is that service classified?
- Can the GST charged by the hotels on the applicant's accommodation supply be claimed as input tax credit?

F Facts

The applicant is a tour operator that books hotel rooms and provides accommodation to customers, and it argues that this accommodation-only arrangement should not be treated as tour operating service. The Revenue's view was that the service is tour operating procured from another tour operator under SAC 9985, because the bills charge inclusive of accommodation and transportation. The applicant sought a ruling on classification and on the availability of input tax credit for the hotel GST.

H Ruling

Classification of the applicant's service where it arranges only hotel accommodation for clients	**SAC 998552**	Applies to the accommodation-only arrangement. The order does not treat the applicant's tour packages as covered.
Rate Notification entry under which that service is taxable	**Sl No. 23(iii) of Notification No. 11/2017-CT (Rate)**	The order does not state a rate percentage.
Whether the applicant can claim input tax credit on the GST charged by hotels	**Yes, eligible to claim input tax credit as admissible under the law**	Stated in one sentence in the ruling, with no separate analysis of the ITC conditions.

The Authority held that an accommodation-only arrangement is not tour operating service, so Sl No. 23(i) of the Rate Notification does not apply to it. It held that the supply is classifiable under **SAC 998552** as arranging reservations for accommodation, is taxable under **Sl No. 23(iii)** of the Rate Notification, and that the applicant is eligible to claim input tax credit.

R Reasoning

The Authority read the Explanation to Sl No. 23(i) as describing tour operating as planning and arranging tours by any mode of transport. It held that arranging accommodation alone, which may be a standalone business, falls outside that definition. It also found that Sl No. 7 refers to accommodation under SAC 996311, which is limited to hotels, guest houses and similar providers, so it does not cover an intermediary. Because SAC 998552

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

specifically covers arranging accommodation reservations, the Authority found no need to consider the applicant's alternative SAC 9997 argument.

P Provisions Relied On

- Section 97(2)(a) and (d) of the GST Act (admissibility of questions)
- Section 100(1), 100(2) and 100(3) of the GST Act (appeal provisions in the preamble)
- Section 103 and Section 104(1) of the GST Act (validity of the ruling)
- Notification No. 11/2017-CT (Rate) dated 28/06/2017, Sl No. 23(i) with its Explanation, Sl No. 23(iii), Sl No. 7 and Sl No. 35
- State Notification No. 1135-FT dated 28/06/2017 (corresponding West Bengal rate notification)
- SAC 996311, SAC 998552, SAC 9985 and SAC 9997

! For the Practitioner

A tour operator that sells hotel rooms to clients on an accommodation-only basis can use this ruling to classify that supply under SAC 998552 and Sl No. 23(iii), and to take the view that input tax credit is available. It also rejects the Revenue's SAC 9985 position for such standalone supplies. The ruling does not decide the treatment of full tour packages, and it binds only the applicant. The input tax credit point is stated in one sentence without analysis, so the full order should be read before relying on it for ITC.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> wb_aar_26_2019-20_gvtt_23.09.19.pdf

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