

GST Implications on Travel & Tour Industry - A Brief Insight

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Most of us love to travel, but not many of us know the GST ramifications in respect to the Travel & Tour industry. GST, ever since its implementation in 2017, has evolved with numerous circulars, notifications etc. But not many address the core issues concerning the travel industry.

This article attempts to highlight a few such issues which need immediate attention.

Sources of income for a travel agent:

1. Air ticketing
2. Hotel bookings
3. Tour packages
4. Cruise bookings
5. Exchange of foreign currency
6. Car rental
7. Miscellaneous services like insurance, visa etc.

Air Ticket

The CGST Rules, 2017 (herein after referred to as the 'Rules'), under Rule 32(3), provide that the value of the supply of services **in relation to** booking of tickets for travel by air provided by an air travel agent **shall** be deemed to be an amount calculated at the rate of five percent of the basic fare in the case of domestic bookings, and at the rate of ten per cent of the basic fare in the case of international bookings of passage for travel by air.

It is interesting to note the use of the terms 'in relation to' and 'shall' in the above Rules which imply that the said valuation rules cover all aspects of valuation as concerning booking of air tickets and that the said rules case a mandate on an Assesee to follow the valuation as prescribed. When a travel agent books an air ticket for a passenger, it essentially may earn income from two ends, viz.:

- a. Commission from the airline
- b. Service charge / markup from the passenger

Now, if one was to follow the valuation as prescribed under Rule 32(3) of the Rules, it will not be overemphasizing to say that the usage of the term 'in relation to' in the rules, covers all aspects of valuation and hence both incomes which a travel agent may earn by booking an air ticket is thereby taken care off. If such be the case, the outcome may not be picture perfect.

Say a travel agent, Mr. A books a ticket for another travel agent B who in turn books the said ticket for travel agent C. Travel agent C ultimately sells the ticket to the passenger.

Base fare of a domestic ticket Rs. 100

Service charge Rs. 10 (charged by each travel agent)

Reference the valuation rules, the value for the ticket at each stage will be Rs. 5 (5% of base fare). Hence the element of service charge which implies a value addition, perse goes untaxed. In case, for sake of an example, if service charge is say Rs. 1000, the valuation will still be Rs. 5.

Secondly the travel agent may earn commission from the airlines. As noted above, the terms 'in relation to' is broad enough to cover this part of the income too. However, this does not seem to be the intention of law.

Booking of cruise

Cruise bookings form an integral part of business of many travel agents. For sake of an example let us assume that the cruise company charges Rs. 10000 for the cruise. The travel agent charges his customer a certain amount towards service charge and pays GST on this. Hence, the travel agent does not charge nor pay GST on Rs. 10000 and treats this as a reimbursement in capacity of a Pure Agent as defined under Rule 33 of the Rules.

In order to treat reimbursements as that in capacity of a pure agent, the following conditions should be satisfied, viz.:

- i. the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- ii. the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- iii. the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Explanation.- For the purposes of this rule, the expression —pure agent means a person who—
(a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;

(b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;

(c) does not use for his own interest such goods or services so procured; and

(d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

It is unambiguous that in the above case, a travel agent will never be able to satisfy the conditions of being a Pure Agent. Hence by not paying GST on Rs. 10000, the travel agent attracts a huge liability in future. On the contrary, by paying GST on the Rs. 10000 we are looking at huge working capital blockage for the travel agents.

Hotel bookings

When a travel agent books a hotel somewhere outside India, no GST liability is attracted as the place of supply is outside India (reference section 13(4) of the IGST Act, 2017). However, when

the same hotel bookings are secured via another travel agent located outside India, liability to pay tax under import of service will arise – reference section 2(11) of the IGST Act, 2017 read with section 13(2) of the said Act). It is a given fact that nine out of ten travel agents are not paying GST under reverse charge on such import of service.

Miscellaneous services

When a travel agent provides services in relation to getting Visas, travel insurance etc. for its customers, they charge GST @ 18% on the service charges only. Their premise of doing so is that the reimbursements received against visa fee, insurance etc. is received in capacity of a pure agent. Given the stringent conditions under Rule 33, it is a herculean task for any travel agent to manage fulfilling all the said conditions.

Tour Operator services

Reference notification 11/2017-CT (rate) dated 28/06/2017, a tour operator has been defined 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.

Further, it is interesting to note that a reduced rate of 5% is applicable for tours 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). 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.

Hence, the rate of 5% will apply subject to fulfillment of certain conditions, one being that the bill issued indicates that it is inclusive of accommodation and transportation. Hence it appears that the rate of 5% will apply, where amongst others, the supply includes services of accommodation and transportation. Hence a question may arise as to where a travel agent is organizing a tour, sans the transportation, will it still be eligible to opt for the rate of 5%.

GST on advance

It is a well-established law that GST is payable on receipt of advance towards services. Many a times, travel agents receive voluminous advances towards supply of service. However, at the time of receipt or shortly thereafter, they are in no position to determine as to which supply will be made by them against the said advance. It may be towards tour operator services, or towards cruise bookings or towards air ticketing each of which come under a different SAC and attract different rates of GST.

Credit Notes

Reference the time of supply of services as defined u/s 13 of the CGST Act, time of supply is the earliest of the following events, viz.:

- (a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or
- (b) the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or
- (c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply

Such are the vagaries of the travel industry, that invoices are raised and payment of tax made per the time of supply, but the service is eventually not rendered. However, that the service

contract will be cancelled comes to surface only after the time period for issuing credit note u/s 34 of the Act has lapsed. This is for no fault of the travel agent. Take the case of an event like a World Cup for which events are planned years in advance. Invoices are raised and taxes are paid. Due to an unforeseen event, eg COVID 19 the event stands cancelled. By the time this happens, the time period for issuing credit note has expired. Hence GST is paid on a supply which never took place. The taxpayer has no avenue left to issue a credit note.

Reconciling books with GST returns

The amounts reflected under the financial statements is clubbed under different heads. It's not just a humongous task to reconcile the same with the values appearing under GST returns, but in most cases an impossible task. Take for an example, in case of air ticketing services, the valuation under GST vis-à-vis the values reflecting in statutory financial statements are different. Similarly, in cases where a travel agent is operating as a Pure Agent, the values reflecting in the statutory records will be different than that under GST returns. With the combination of services provided by a travel agent, this problem only amplifies.

The issues stated above were very much prevalent even under the erstwhile regime of service tax. It is indeed a need of the hour for the Government to clarify these issues under which the tour and travel industry is reeling.