

GIB/DL/TUI India/28.06.2019/AAR-251

Advance Ruling Category : Classification

State : Delhi

Order No.: GIB/DL/TUI India/28.06.2019/AAR-251

Name of Entry :

TUI India Private Limited

Date : 28-06-2019

Breif Issue :

Facts & Issue of the Case

The applicant, “M/s. TUI India Private Limited” is mainly engaged in the business of outbound tours. It also provides reservation services for accommodation (service code: 998552) or services of booking of hotel rooms in foreign countries to Indian B2B (other travel agents & tour operators) and B2C (tourists) clients who are visiting overseas.

For this purpose, the applicant has entered into contracts with various online / off- line hotel aggregators for booking of hotel rooms in foreign countries. As per the requirement of its clients, the applicant does online booking of hotel rooms from the websites of such hotel aggregators or otherwise and make payment to them on behalf of the clients.

The applicant has also entered into a “Commercial Agreement” dated 27.01.2017 with M/s Destinations of the World DMCC, Dubai, UAE (“DOTW”). The DOTW is a dedicated global wholesale travel distributor that sells a variety of travel components including accommodation, which are made available on a non-exclusive basis to travel companies such as travel agents, tour operators on DOTW’s Website or via XML.

The applicant seeks advance ruling to know if in case of ‘Accommodation Only’ services, GST will be charged @ 18% on only the Service Fee / Convenience Fee charged by the applicant, if the applicant satisfies the following conditions of Pure Agent (i) It acts as a Pure Agent of its B2B Client to incur expenditure or costs for supply of hotel services. (ii) It books the hotel services purely as per the requirements of the B2B client and does not do so on its own accord. (iii) It does not use for its own Interest hotel services so procured. However, it gets the bill from Hotel in its own name. (iv) It receives only the actual amount incurred to procure the hotel services, in addition to the amount received for the services it provides on its account and also is there any option available to a ‘Tour Operator’ to either charge GST @ 5% (with no ITC) or charge EST @ 18% (with full ITC).

The applicant is of the view that it satisfies the above stated conditions of Pure Agent, accordingly, it should charge GST @ 18% on only its Service Fees / Convenience Fee.

Decision of Advance Ruling Authority :

Decision

The applicant is supplying booking of hotel accommodation services. They are admittedly paying GST @ 18% (9% CGST + 9% SGST) on service fee / convenience fee commission received from clients and also on target based sales commission received from the foreign hotel aggregators (DOTW). The value of 'hotel accommodation' paid by the client to them, which is remitted by them to the foreign hotel / hotel aggregator, cannot be included in such taxable value, provided the conditions of pure agent are satisfied.

The applicant is required to collect / deposit GST under Section 9(1) of the CGST Act, 2017 on the amount received by them from the clients on the value of 'hotel accommodation' service, while acting as an agent under Section 2(5) of the said Act being "taxable person" defined under Section 2(107) of the said Act and "supplier" defined under section 2(105) of the said Act.

The 'tour operators services are covered under entry (I) of S. No. 23 of **Notification No. 11/2017 — Central Tax (Rate) dated 28.06.2017** and they are required to pay GST @ 5% (2.5% CGST + 2.5% SGST) (without ITC) subject to fulfillment of conditions and they are not covered under entry (ii) of the S. No. 23 of the said Notification before 25.01.2018 and entry (Iii) of S. No. 23 of the said Notification from 25.01.2018 and hence option to pay GST @ 18% (9% CGST + 9% SGST) (with ITC) is not available to them.