



# The Institute of Chartered Accountants of India

(Setup by an Act of Parliament)

**GURUGRAM BRANCH (NIRC)**

## e-Newsletter JUNE 2024

## Chartered Accountants



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**ICAI Gurugram Branch (NIRC)**  
**for the year 2024-2025**



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Chairperson  
ICAI Gurugram Branch



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Vice-Chairperson  
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Secretary  
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**CA. Vipin Agrawal**  
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**CA. Jitender Sharma**  
Chairperson NICASA  
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**CA. Amit Gupta**  
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**CA. Mohit Singhal**  
Past Chairperson  
(2022-23)  
9555379714



**CA. Nishant Kumar**  
Executive Member  
9560753535



**CA. Himmat Yadav**  
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9999929513

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Past Chairperson, NIRC  
2022-23



**CA. Pitam Goel**



**CA. Sangam Agarwal**



**CA. Sandeep Agrawal**

A large, stylized logo on the left side of the page, consisting of a dark blue 'C' shape with a grey circle inside, all within a white U-shaped frame.

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# ICAI MOTTO

य एष सुप्तेषु जागर्ति कामं कामं पुरुषो निर्मिमाणः ।  
तदेव शुक्रं तद् ब्रह्म तदेवामृतमुच्यते ।  
तस्मिंल्लोकाः श्रिताः सर्वे तदु नात्येति कश्चन । एतद् वै तत् ॥

Ya eṣa supteṣu jāgarti kāmam kāmam puruṣo nirmimāṇah ।  
Tadeva śukram tad brahma tadevāmṛtamucyate ।  
Tasminlokāḥ śritāḥ sarve tadu nātyeti kaścan । Etad vai tat ॥

That person who is awake in those that sleep, shaping desire after desire, that, indeed, is the pure. That is Brahman that, indeed is called the immortal. In it all the worlds rest and no one ever goes beyond it. This, verily, is that, kamam kamam: desire after desire, really objects of desire. Even dream objects like objects of waking consciousness are due to the Supreme Person. Even dream consciousness is a proof of the existence of the self.

No one ever goes beyond it: of Eckhart: ‘On reaching God all progress ends’.

Source: Kathopanishad







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# Message

## FROM THE CHAIRPERSON

### CA Amit Kithania

Chairperson  
ICAI Gurugram Branch

Dear Esteemed Members,

I hope this message finds you and your families in the best of health and spirits.

I am filled with a deep sense of gratitude and pride for the continued dedication and hard work displayed by our esteemed members and enthusiastic students of the ICAI-Gurugram Branch (NIRC).

The past few months have been a testament to our collective resilience and adaptability. We have successfully organized numerous professional development programs, workshops, and seminars, both in-person and virtually, ensuring that our members stay updated with the latest developments in the field of accounting and auditing. I am pleased to note the active participation and positive feedback we have received for these initiatives.

In the month of May, we have lined up several significant events and activities aimed at further enhancing our professional capabilities and knowledge base. I encourage all students to attend this seminar and gain valuable knowledge that can be applied in your respective professional domains.

We continue to offer robust support through our regular coaching classes, mentorship programs, and career counseling sessions. Our aim is to equip you with the necessary skills and knowledge to excel in your examinations and future careers. I urge all students to take full advantage of these resources and strive for excellence.

I would like to take this opportunity to express my heartfelt thanks to the managing committee, our members, and the students for their unwavering support and commitment. Together, we have achieved significant milestones, and I am confident that we will continue to work towards our shared goal of excellence in the profession.

Warm regards,

CA Amit Kithania  
Chairperson, ICAI Gurugram Branch (NIRC)





# GST Implications on Travel industry: Tour operators and travel agents; Explained

**CA Rishabh Jain**

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## Executive Summary

Here the month of vacation begins; the month of June. Now a days, travelling is favoured by all; some people like to travel domestically and others like to travel abroad and planning for trip begins with the preparation of budget for their trip as everyone used to plan their trip at their convenience. However, sometimes they ignored the other related expenses such as GST rates on services by travel agents and tour operators.

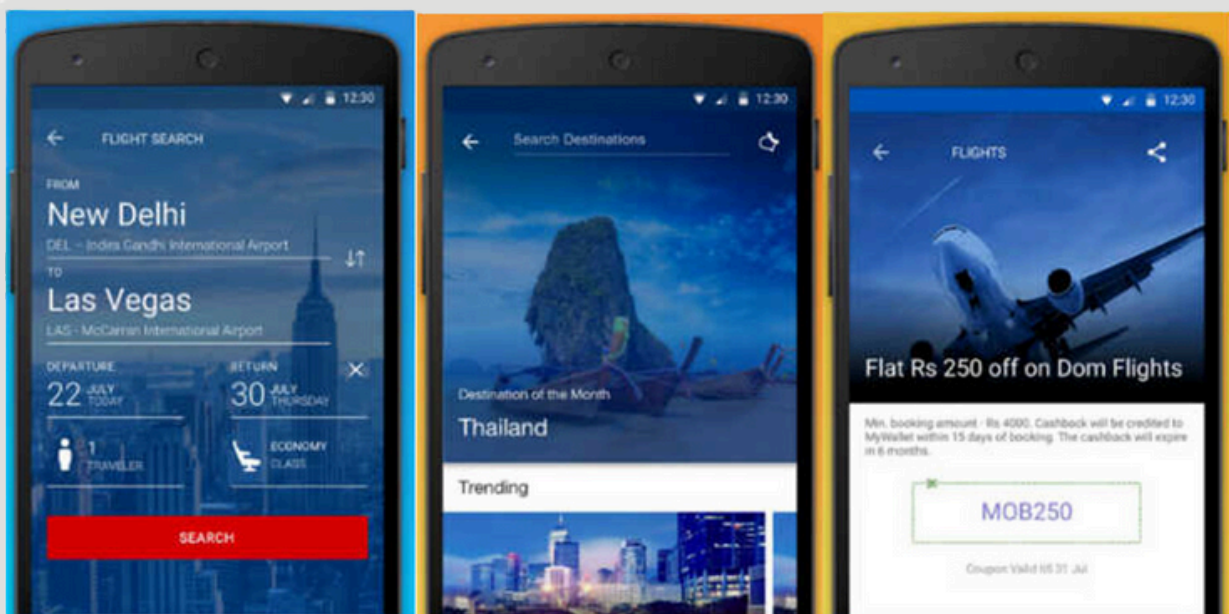
This article focuses on what are the compliance required to be followed, what is the process for travel agents and what are the major differences between tour operators and travel agents. We shall learn about the reasons for the variation in the GST rate with the SAC code that they supply before consumers.

## Who are travel agents and tour operators: difference explained?

A travel agent organises travelling, stay, exploring etc for end clients on the behalf of suppliers (Airlines, Hotels, vehicles, travel insurance, train etc). His service is to provide consultancy services to their client to ease the process of holiday planning.

1. A travel agent sells the tour packages while tour operator conducts those tour packages.
2. Tour operator creates the services while travel agent buys those services from tour operator and sells them to their clients.

A travel agent can be self-employed work for an independent travel agency, or be a member of a travel agency group.





# GST Implications on Travel industry: Tour operators and travel agents; Explained



## Threshold limit of GST registration for Tour Operators and Travel Agents

Every tour operators and travel agents with a turnover **exceeding Rs. 20 Lakhs in the previous financial year** should have a GST registration in India. The main thing which should be keep in mind for GST Registration is calculation of turnover:-

**Aggregate turnover is the aggregate value of all taxable supplies, exempt supplies, exports of goods or services or both and inter-state supplies of persons having the same Permanent Account Number, to be computed on an all-India basis but excludes Central tax, State tax, Union territory tax, Integrated tax and cess.**

## GST rates applies on travelling related expenses and their eligibility for input:

The Goods and services tax (GST) regulations provide tour operators with three different ways to operate and claim input credits:-

1. Tour Operator not claiming ITC:- A tour operator charges 5% GST to the customer on the total package but does not claim any ITC.
2. Tour Operator claiming ITC:- A tour operator charges 18% GST to the customer on the total package and claims ITC. But it is important to consider the place of supply rule while claiming ITC.
  - For Hotels, the place of supply is the city in which the hotel is located. However, the company cannot claim ITC on that specific invoice if it is not registered for GST in the state where hotel is located.
  - For Flight tickets, the place of supply is the place of flight departure and if the company is not registered under GST in the state from which flight departs, ITC cannot be claimed for that invoice.
3. Travel agent acts as a pure agent:- The travel agent charges 18% GST on the commission amount. However, the actual expenses incurred for hotels, travel and boarding are separately mentioned on the invoice and considered it as a reimbursement from customer.

## Time of supply for GST on tours and travels

The GST shall be charged at the time of payment or issuance of invoice, whichever is earlier.

## Value of supply for GST on tours and travels

- Value of supply in case of tour operator is the value of total package.
- Value of supply in case of travel agent acts as a pure agent is the value of commission.







# GST Implications on Travel industry: Tour operators and travel agents; Explained



## GST on Travel Related Services like Visa, Passport, etc. by an Agent or Company



• No GST charged on government fees or consular charges paid for the particular services

**If a customer directly approaches Visa Statutory Authorities, then the charges charged by the Statutory Authorities are exempted from GST.**

• 18% GST levied on Service Charge paid on travel-related services like Visa, Passport, etc.

**If a visa/passport is obtained from facilitation centers or through a travel agent, then the same shall be taxable. When an air travel agent provides these services by adding his commission, the same will be taxable at 18% GST, and he can take ITC of the tax paid to Visa Facilitation Centres.**

### Another service related to travel industry: Cab services

There are two types of models followed in the cab industry:-

- Cab services provided through cab aggregators such as Ola, Uber etc.

1. In this case, driver need not to be registered under GST as this service is covered under section 9(5) of CGST act, therefore cab aggregators collect GST on the behalf of drivers from consumers and pays to the government directly.

**\*\*But drivers cannot claim ITC on car purchased as the drivers are not registered under GST.**

1. If the car is owned by the cab aggregators, then cab aggregators will charge GST@18% from cab drivers for leasing services.

**\*\*Cab aggregators can claim ITC on car purchase if supplying cab services by charging GST@12%.**

- Cab services providing in individual capacity

1. In this case, Supplier exceeding turnover of Rs. 20 lakhs during the previous financial year should have to register under GST.

Supplier have a two option to pay GST:-

- Pay GST@5% restricted to claim ITC.
- Pay GST@12% can claim ITC.



# GST Implications on Travel industry: Tour operators and travel agents; Explained



**SAC Codes applicable to the various services defined above**

Nature of services	SAC Code
Services provided by agents	
❖ Air ticket booking services	998551
❖ Sale of tour packages	998552
❖ Visa, passport etc.	998555
❖ Hotel/cruise booking	998552
Passenger transportation services	9964

## **Conclusion:**

Tourism, as one of India's largest service industries, plays an extraordinary role in driving the nation's growth and prosperity. The Tourism sector is an integral part of the Make in India initiative, serving as a vital economic catalyst that fuels job creation and rapid development.

It acts as a stimulant for the growth of multi-use infrastructure, including world-class hotels, resorts, exquisite restaurants, efficient transportation networks (aviation, roads, shipping, and railways), and state-of-the-art healthcare facilities.

India proudly boasts a tapestry of geographical diversity, encompassing awe-inspiring world heritage sites and niche tourism offerings such as captivating cruise tourism, exhilarating adventure tourism, renowned medical tourism, and mesmerizing eco-tourism. These unique offerings have resulted in an exponential increase in tourist arrivals, opening up vast employment opportunities.

The recently announced 2023 Union Budget has firmly placed tourism as a key sector in the spotlight. The Ministry of Tourism, in its mission mode, is dedicated to promoting the industry through active participation from all States, the convergence of Government Programs, and the establishment of impactful Public-Private Partnerships. This visionary approach will facilitate comprehensive development in at least 50 selected destinations through a challenge mode process.

Recognizing the importance of diversity and gender empowerment, the tourism industry stands as a leading employer of women. The government proactively collaborates with industry stakeholders to create a conducive work environment that fosters equal opportunities and celebrates the contributions of female employees.

The Ministry of Tourism has also designated the Year 2023 as the 'Visit India' year, an invitation to the world to witness the splendor and magnificence that our nation has to offer.

Embracing a progressive outlook, India welcomes 100% Foreign Direct Investment (FDI) in the tourism industry under the automatic route. Additionally, 100% FDI is permitted for tourism construction projects, including the development of exquisite hotels, resorts, and unparalleled recreational facilities.

For comprehensive details, please refer to the FDI Policy, which highlights the investment opportunities and guidelines in the tourism sector.

India's tourism industry stands as a beacon of boundless possibilities, with its rich heritage, cultural tapestry, and captivating destinations. We invite you to embark on an extraordinary journey of investment and partnership, where your vision aligns with the immense potential India holds.



**CA Gopal Nathani**

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**India-Mauritius DTAA is once again amended vide Protocol signed on 7 March 2024 to provide for following three amendments:**

## 1. New Preamble

India has signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (commonly referred to as MLI) along with representatives of many countries, which has since been ratified. In an effort to realign purpose of entering into Double Taxation Avoidance Agreements (DTAA) with Multilateral Instrument (MLI) it is confirmed in the budget memorandum for 2020-21 that India has since deposited the Instrument of Ratification to OECD, Paris along with its Final Position in terms of Covered Tax Agreements (CTAs), Reservations, Options and Notifications under the MLI, as a result of which MLI has entered into force for India on 1st October, 2019 and its provisions will be applicable on India's DTAA's from FY 2020-21 onwards.

Consequently, section 90 has been initially amended to so include the words:

"without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this agreement for the indirect benefit of residents of any other country or territory)".

Parallely, the protocol to the existing Indo Mauritian Agreement now also include the following preamble text similar to that prescribed by section 90:

"The Government of the Republic of India and the Government of the Republic Mauritius Intending to eliminate double taxation with respect to the taxes covered by this Convention without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third jurisdictions),

## 2. Principal Purpose Clause

**The following new article is introduced in the DTAA:**

"Article 27B-ENTITLEMENT TO BENEFITS: Notwithstanding the other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention."





### 3. Date of entry into force of the Protocol

"Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Protocol. This Protocol shall enter into force on the date of the later of these notifications.

The provisions of this Protocol shall have effect from the date of entry into force of the Protocol, without regard to the date on which the taxes are levied or the taxable years to which the taxes relate."

Thus the aim of the protocol is to deny treaty benefits and apply Income Tax Act provisions if one of the principal purposes of the arrangement or transaction is to **obtain the DTAA benefit**.

Given the language employed in entry into force clause it is widely feared that past investments could be covered by the amended protocol.

To allays fears regarding the retrospective effect or application of this change viz a viz past concluded transaction /arrangement it is lightly clarified by GOI that

"Some concerns have been raised on the India Mauritius DTAA amended recently. In this context, it is clarified that the concerns /queries are premature at the moment since the Protocol is yet to be ratified and notified u/s 90 of the Income-tax Act, 1961. As and when the Protocol comes into force, queries, if any, will be addressed, wherever necessary."

The trepidation and twinge can also be felt through the budget memorandum for 2020-21 which explained that the MLI will modify India's DTAA's to curb revenue loss through treaty abuse and base erosion and profit shifting strategies by ensuring that profits are taxed where substantive economic activities generating the profits are carried out. The MLI will be applied alongside existing DTAA's, modifying their application in order to implement the BEPS measures.

From the reading of the above it is thus clear that impact of the amendment will come into effect only upon modification of the existing DTAA's hence the protocol will have no retrospective application to income or transactions of periods earlier to the date of modification of the respective treaties.

Even though, this amendment nullifies the well-known decision in Union of India vs. AZADI BACHAO ANDOLAN AND ANOTHER [2003] 263 ITR 706Z (SC) yet, as a piece of good fortune, it will be a saving grace for any adverse action taken by the department for periods earlier to the date of modification of treaty. This decision will serve as a silver lining in the dark clouds though retrospective amendment would also be a call in question per se.





















# Glimpses

## Two Days National Conference on Internal Controls

Friday-Saturday, 17th-18th May 2024

DoubleTree by Hilton Hotel Gurgaon, Sector -56, Gurugram





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## Annual Study Group Membership 2024-25

We take this opportunity to thank all our professional colleagues for their participation in large numbers in programs organized by Gurugram Branch. During the Financial Year 2023-24, various programs were organized which were a grand success with participation of members in large numbers.

Particulars	Fee per Member	GST @18%	Total Amount
For Individual Member	Rs. 5500/-	Rs.990/-	<b>Rs. 6490/-</b> <a href="https://imjo.in/ExybaM">imjo.in/ExybaM</a>
For five or more declared Members from any organization	Rs. 5000/-	Rs.900/-	<b>Rs. 5900/-</b> <a href="https://imjo.in/SrgXWg">imjo.in/SrgXWg</a>

### Payment Option:

**1. Offline Mode** - Please fill up the form (<https://shorturl.at/cfsAT>) and send the cheque to the branch along duly filled form.

**2. NEFT/RTGS Mode** - RTGS/NEFT at the below bank and share the details of payment along duly filled form at [gurgaoncai1@gmail.com](mailto:gurgaoncai1@gmail.com)

### Bank Account Details :

**Bank Name:** Axis Bank

**A/C Name:** Gurgaon Branch of NIRC of ICAI

**A/C Number:** 910010026661826 | **IFSC Code:** UTIB0000056

Kindly mention your name and Membership Number in the remarks while making the payment

**Note:** GST details (in membership form) need to be shared at the time of making the payment. An invoice once issued will not be altered.

### Disclaimer:

Request you to please send a mail to [gurgaoncai1@gmail.com](mailto:gurgaoncai1@gmail.com) along with invoice/GST details (in membership form) within 3 days of making the payment to receive a copy of the GST Invoice with your details.

**Team ICAI-Gurugram Branch (NIRC)**



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