M/s Compass Group (India) Support Services Private Limited

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 22 / 2018, Dated: 19th September 2018 Dated **19.09.2018**

Q Questions Before the Authority

- Whether cooking and subsequent supply of food by the Applicant to educational institutions under Transaction 1 (supply to employees within designated cafeteria or canteen areas) is classifiable as "mess/canteen services" and exigible to GST at 5%, in light of Circular No. 28/02/2018-GST and its Corrigendum.
- Whether cooking and subsequent supply of food by the Applicant in designated premises of customers other than educational institutions under Transaction 1 is classifiable as "mess/canteen services" and exigible to GST at 5%, in light of the same Circular and Corrigendum.
- Whether over-the-counter supply of food and beverages, including MRP products, on a stand-alone basis in educational institutions under Transaction 2 is classifiable as supply by an eating joint, mess or canteen and exigible to GST at 5%, in light of the same Circular and Corrigendum.
- Whether over-the-counter supply of food and beverages, including MRP products, on a stand-alone basis in establishments other than educational institutions under Transaction 2 is classifiable as supply by an eating joint, mess or canteen and exigible to GST at 5%, in light of the same Circular and Corrigendum.

F Facts

The Applicant supplies cooked food and beverages to the employees of its clients. Transaction 1 is supply within a designated area, generally a cafeteria or canteen, on the client's premises. Transaction 2 is over-the-counter supply of food and beverages, including products that carry a mandatory MRP under the Legal Metrology Act, 2009. The Applicant sought rulings on the GST rate for each transaction across educational and other establishments.

H Ruling

The Authority dismissed the application as withdrawn and gave no ruling on the merits of any of the four questions. The Applicant had asked to withdraw because it said that all the transactions in question were now covered by Notification No. 13/2018-Central Tax (Rate) dated 26.07.2018 and were liable to GST at 5%, which made the application infructuous. The Authority accepted the withdrawal.

R Reasoning

The order is a procedural disposal. The Applicant filed the application under section 97 of the CGST, KGST and IGST Acts, read with rule 104 of the CGST and KGST Rules, and paid the fee of Rs. 10,000 (CGST Rs. 5,000 and SGST Rs. 5,000). Before the ruling was passed, the Applicant wrote on 10.08.2018 seeking leave to withdraw, on the ground that Notification No. 13/2018-Central Tax (Rate) dated 26.07.2018 had settled the rate question. The Authority, under sub-section (4) of section 98 of both Acts, dismissed the application as withdrawn. It did not examine the notification or the Circular.

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

P Provisions Relied On

Section 97, CGST Act, 2017, KGST Act, 2017 and IGST Act, 2017 (application for advance ruling)

Section 98(4), CGST Act, 2017 and KGST Act, 2017 (order disposing of the application)

Rule 104, CGST Rules, 2017 and KGST Rules, 2017 (Form GST ARA-01)

Notification No. 13/2018-Central Tax (Rate) dated 26.07.2018, cited by the Applicant as the basis for its withdrawal (not exam…

Circular No. 28/02/2018-GST and Corrigendum, cited in the questions. The printed dates (08.11.2018 and 18.01.2018) are in…

Legal Metrology Act, 2009 (referred to in describing MRP-labelled products)

! For the Practitioner

This order is of little substantive value. It decides none of the four rate questions, so it cannot be cited as authority for treating canteen, mess or eating-joint supplies as 5% GST. The only point worth noting is the Applicant's submission that Notification No. 13/2018-Central Tax (Rate) had covered these transactions at 5%, and that submission was not adopted or tested by the Authority. Practitioners should read the notification itself, not this order, for the rate position.

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 -> krntk_22_2018_cgisspl.pdf

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