M/s HATSUN AGRO PRODUCT LTD (Assessment No. 47/4, Sheegehalli Village, Yeshwanthapura Hobli, Bengaluru North Taluk, Bengaluru-560112; GSTIN 29AAACH0945G1ZP)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 68/2019, Dated: 21st September, 2019 Dated **21.09.2019**

Q Questions Before the Authority

- Whether the supply of ice creams, chocolates, ice cream cakes and pizza cakes in an IBACO outlet can be classified as a composite supply under section 2(30) of the CGST Act and KGST Act, where the principal supply is the goods (ice cream and other products) and the services (air-conditioned place, place to sit, mixing of ice creams) are naturally bundled in the ordinary course of business?
- Whether the said supply will be covered under serial no. 6(b) of Schedule II of the CGST Act and serial no. 6(b) of Schedule II of the KGST Act, which deems such composite supply to be a supply of services?
- Whether the said supply will be classified under chapter 9963 and chargeable to 5% GST in accordance with serial no. (ii) of Notification No. 46/2017-Central Tax (Rate) dated 14.11.2017, read with serial no. 7(iv) of Notification No. 11/2017 dated 28.06.2017, and the similar notification under the KGST Act?

F Facts

The applicant sells dairy products and ice creams and runs air-conditioned IBACO outlets. At these outlets customers choose ice creams, toppings and chocolates or cakes, which are mixed, weighed and billed by total weight, then served in a cup, cone or bar with seating, drinking water and tissue facilities provided. The applicant states that these items are not sold in packaged form and are not subject to MRP.

H Ruling

Whether the IBACO outlet supply is a composite supply under s.2(30)	**Yes, qualifies as composite supply under section 2(30) of the CGST Act and KGST Act**	Applies to ice creams, chocolates, ice cream cakes and pizza cakes made per customer order and served at the outlet
Whether the composite supply is covered by serial no. 6(b) of Schedule II (deemed supply of services)	**Yes, deemed a supply of service under entry 6(b) of Schedule II of CGST Act and KGST Act**	Applies to supply of food or drink as part of a service for cash, deferred payment or other valuable consideration

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

Classification and GST rate for the IBACO outlet supply	**Chapter 9963; chargeable at 2.5% under entry 7(i) of Notification No. 11/2017-CT(Rate), as amended by Notification No. 46/2017-CT(Rate) from 14.11.2017**	Rate is 2.5%, not the 5% the applicant claimed; subject to the condition that credit of input tax on goods and services used in supplying the service has not been taken. Parallel KGST position under entry 7(i) of Notification 11/2017 (FD 48 CSL 2017) as amended by 46/2017

The authority held that the ice creams, chocolates, ice cream cakes and pizza cakes made to customer order and served at an IBACO outlet qualify as a composite supply under section 2(30) of both Acts. It held that the composite supply is deemed a supply of services under entry 6(b) of Schedule II. It classified the supply under chapter 9963 and held it chargeable at 2.5% under entry 7(i) of Notification No. 11/2017, as amended by Notification No. 46/2017, subject to the no input tax credit condition.

R Reasoning

The authority found that the outlet supplies combine supplies of goods (ice cream and other food) and services (seating, mixing, serving, air conditioning) that are naturally bundled and supplied together in the ordinary course of business, so they are a composite supply under section 2(30). It then applied entry 6 of Schedule II, under which a supply of food or drink as part of a service for consideration is treated as a supply of services. For the rate, it relied on entry 7(i) of Notification No. 11/2017 as amended by Notification No. 46/2017, read with Explanation (iv), which applies 2.5% where input tax credit has not been taken. The order rejects the applicant's 5% position under entry 7(iv).

P Provisions Relied On

- Section 2(30) of the CGST Act, 2017 (and the parallel KGST Act provision)
- Schedule II, entry 6(a) and 6(b) of the CGST Act, 2017 (and KGST Act)
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, entry 7(i)
- Notification No. 46/2017-Central Tax (Rate) dated 14.11.2017, amending entry 7
- Explanation (iv) to Notification No. 11/2017 (meaning of the input tax credit not taken condition)
- Section 97 of CGST/KGST Act and Rule 104 (cited in the application)
- Section 98(4) of CGST/KGST Act (basis of the order)

! For the Practitioner

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This ruling helps food and dessert outlets that customise and serve ice cream or cakes on premises or as takeaway, since it treats such supplies as a composite supply taxed as a service at 2.5% without input tax credit. It settles the classification and the rate for IBACO-type outlets. It does not decide whether the ITC condition is met in practice, whether packaged ice cream sales are covered, or the position under other notifications. As an advance ruling it binds only the applicant, and the 2.5% rate differs from the applicant's own 5% claim, so the full order should be checked before relying on it.

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 -> kar_aar_68_2019_hapl_21.09.19.pdf

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