

Shri Ananya Goel

Authority for Advance Ruling — Uttar Pradesh

Order No. 01

Dated **21.03.2018**

Q Questions Before the Authority

- Whether the activity of 'Manufacturing food as take away only with no sitting facility' is a restaurant service or manufacturing of goods?
- Whether the applicant falls under Restaurant Service with Rate of Tax @5% under Composition Scheme or under Manufacturer with Rate of Tax @1% under Composition Scheme?

F Facts

The applicant intends to start a 'Food counter sale joint' providing only packed food for takeaway with no seating arrangements for customers. The applicant contends that since no service is provided, the activity should be classified as manufacturing of goods rather than a restaurant service. The applicant seeks clarification on the applicable tax rate and classification under the GST composition scheme.

H Ruling

Classification of activity	Supply of service	Classified under Schedule II, Paragraph 6(b)
Applicable tax rate	5% (2.5% CGST + 2.5% SGST)	Under the composition scheme for restaurant services

The Authority ruled that the supply of food items in the manner described constitutes a 'supply of service' under Schedule II of the GST Act. Consequently, the applicant is liable to pay tax at the rate of 2.5% under the CGST Act and 2.5% under the SGST Act, totaling 5% under the composition scheme for restaurant services.

R Reasoning

The Authority relied on Schedule II, Paragraph 6(b) of the GST Act, which explicitly classifies the supply of food or any other article for human consumption as a 'supply of service'. Since the activity falls under this provision, the applicant is treated as a person engaged in supplying services. Therefore, the applicant is ineligible for the 1% manufacturing composition rate and must pay the 5% rate applicable to restaurant services under Section 10 of the GST Act.

P Provisions Relied On

Section 7(1)(d) of the CGST/UPGST Act

Schedule II, Paragraph 6(b) of the CGST/UPGST Act

Section 10 of the CGST/UPGST Act



For the Practitioner

This ruling clarifies that **takeaway food outlets** without seating are classified as a **supply of service** rather than manufacturing. It settles that such businesses must opt for the 5% composition rate for restaurants. It does not provide relief for those seeking the lower 1% manufacturing rate for food preparation activities.

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 -> up aar 01 21.03.2018 ag.pdf

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Pune (HQ)

RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Delhi

3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Ahmedabad

Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp...

Mumbai

104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Gurugram

Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram...

Talk to us: **+91 94594 56700** | sales@patronaccounting.com | patronaccounting.com