

M/s. Ridhi Enterprise

Authority for Advance Ruling — Gujarat

GUJ/GAAR/R/2022/51, dated 30/12/2022

Q Questions Before the Authority

- Whether the food and beverages prepared and supplied by the Applicant to its customers whether consumed in the restaurant or by way of takeaway qualifies as 'restaurant services' and is classifiable under SAC 996331 leviable to GST @ 5% with no input tax credit as per Sr. No. 7(ii) of Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017, read with Sr. No. 7(ii) of Notification No. 11/2017-State Tax (Rate) dated June 30, 2017?
- Whether the readily available food and beverages (not prepared in the restaurant) sold over the counter by the Applicant to the customer whether consumed in the restaurant or by way of takeaway qualifies as 'restaurant services' classifiable under SAC 996331 leviable to GST @ 5% with no input tax credit as per Sr. No. 7(ii) of Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017, read with Sr. No. 7(ii) of Notification No. 11/2017-State Tax (Rate) dated June 30, 2017?

F Facts

The applicant operates a standalone restaurant that serves prepared food and beverages for consumption on-premises or as takeaway. Additionally, the applicant sells readily available, non-prepared food items (such as chocolates, chips, and bottled beverages) over the counter. The applicant sought a ruling on whether both categories of supply qualify as 'restaurant services' subject to 5% GST without input tax credit.

H Ruling

Prepared food and beverages	Qualifies as 'restaurant services' under SAC 996331, liable to 5% GST without ITC.	As per Sr. No. 7(ii) of Notification No. 11/2017-Central Tax (Rate) and State Tax (Rate).
Readily available, non-prepared food items	Does not qualify as 'restaurant services'; constitutes a supply of goods.	Liable to the applicable GST rate for the specific goods sold.

The authority ruled that food and beverages prepared in the restaurant qualify as 'restaurant services' subject to 5% GST without input tax credit. However, it held that the sale of readily available, non-prepared food items sold over the counter does not qualify as 'restaurant services' and constitutes a supply of goods liable to the applicable GST rate.

R Reasoning

The authority relied on the definition of 'restaurant service' in Explanation (xxxii) of paragraph 4 of Notification No. 11/2017-CT (Rate), which requires the supply to be provided by a restaurant. It determined that while prepared

food is naturally bundled with restaurant service, the sale of pre-packaged, non-prepared items is a distinct supply of goods. The authority distinguished this from the applicant's reliance on the Kundan Mishthan Bhandar ruling, clarifying that the latter supports the view that non-prepared items sold over the counter are treated as a supply of goods.

P Provisions Relied On

Section 97(2) of CGST/GGST Act, 2017

Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017

Notification No. 11/2017-State Tax (Rate) dated June 30, 2017

Circular No. 164/20/2021-GST dated October 6, 2021

! For the Practitioner

This ruling clarifies that standalone restaurants cannot apply the **5% concessional GST rate** to the sale of pre-packaged or non-prepared items sold over the counter. Practitioners should advise clients to bifurcate their accounting for prepared restaurant food and over-the-counter retail goods. It does not decide the specific tax rate applicable to the retail goods, only that they are **not restaurant services**.

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 -> [gujarat aar order no.51-2022 ridhi enterprise.pdf](#)

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