

GIB/OD/PIONEER BAKERS/09.03.2021/AAR-448

Advance Ruling Category : CLASSIFICATION OF GOODS

State : Odisha

Order No.: GIB/OD/PIONEER BAKERS/09.03.2021/AAR-448

Name of Entry :
M/S PIONEER BAKERS

Date : 09-03-2021

Breif Issue :

FACT OF THE CASE

In the above case the Applicant is a registered Partnership Firm and is operating under the Brand name of "Go - cool" since the year 1997. It has established itself as a brand in the field of bakery items and especially in cakes. Further, it has several outlets operating in the state of Odisha and offers a wide range of goods and services in the business of bakery items. That, the principal business of the Applicant is producing and selling of bakery products viz cakes, artisan cakes, pastries, pizza, patties, sandwich, self-manufactured ice-creams, handmade chocolates, cookies, beverages etc. in its outlets. It is pertinent to mention here that, the applicant offers a number of customization options to its customers with respect to the above mentioned products.

Decision of Advance Ruling Authority :

ISSUE OF THE CASE WITH DECISION

Whether supply of Cakes, bakery items, ice creams, chocolates, drinks and other eatable products prepared at the premises of the applicant and supplied to the customers from the counter with the facility to consume the same in the air-conditioned premises itself covered under the restaurant services?

DECISION-The transaction of the applicant is examined and it was found that the applicant is supplying Cake, Ice Cream and other items of food which are made to order along with certain services. Hence the applicant is supplying both goods and services - Since the supplies made by the applicant in its outlets involve both supplies of goods and services, with one of them as principal supply i.e. supply of goods which are naturally bundled and supplied in conjunction with each other, therefore, the same has to be considered as a composite supply. Further, Restaurant Services have been defined under the purview of composite supply (in clause (b) of para 6 of Schedule -II) - the composite supply of goods being food or

any other article for human consumption or any drink, where supply or service is for a consideration, then such composite supply shall be treated as a supply of services. Since the applicant is supplying ice creams, cakes and other eatables, which are items for human consumption, by way of or as part of any service or in any other manner, the composite supply has to be treated as a supply of services, more specifically the 'Restaurant Service' - the applicant is supplying items of food as a part of service and since the provision of eating in the premises is provided or the customers may take the same away from the applicant's place, the transactions under question are covered under the amended provision of Entry 7(i) of Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017 as amended by Notification No. 46/2017-Central Tax (Rate), dated 14-11-2017 and attracts a tax of 2.5% without any input tax credit.

Whether supply of items such as birthday stickers, candles, birthday caps, snow sprays etc. related items which are essentially used in birthday celebration can be classified as Composite Supply ?

DECISION-The said related items are being purchased and sold as such without any further processing in the restaurant. These items are not articles of foods and drinks and are covered under goods. Sale of such bought out goods as such, is not a service but sale of goods - Since this notification is applicable only to supply of services and not supply of goods, only Notification No. 1/2017-Central Tax (Rate) is applicable and hence all the supply of bought out goods as such which are enlisted by the applicant is taxable as 'supply of goods' and at rates applicable as per Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017 as amended from time to time - since the goods are supplied and output tax is payable on the same, the applicant is eligible to take applicable input tax credit which is admissible as per the GST laws.

Whether the sale of handmade chocolates which are manufactured in the workshop of the Applicant and are utilised for the purpose of providing other services such as shakes, brownies and are also retailed by packing in different containers as per the choice of the customer will be covered under the under the restaurant services?

DECISION-The raw chocolates are manufactured in the nearby workshop of the applicant which are utilised for the purpose of providing other services such as shakes, brownies and are also retailed by packing in different containers as per the choice of the customer . In no case, chocolates are sold as such from the work shop but are customized and sold from the outlets - the sale of handmade chocolates which are manufactured in the workshop and brought to the outlets for further processing will be covered under the 'restaurant services'.