

**GIB/WB/MANOJ MITTAL/22.03.2021/AAR-452**

**Advance Ruling Category :** Classification of Supply

**State :** West Bengal

**Order No.:** GIB/WB/MANOJ MITTAL/22.03.2021/AAR-452

**Name of Entry :**  
MANOJ MITTAL

**Date :** 22-03-2021

**Breif Issue :**

**FACTS OF THE CASE:**

The applicant is stated to have a place of business with two sections out of which one section has a sweet parlour and the applicant is claimed to be engaged in selling sweetmeats, namkeens and bakery items off the counter in the form of takeaways from the said sweet parlour. In other section of the premises, the applicant is claimed to be engaged in preparing and serving fast food snacks and beverage items which can either be consumed at the premises or allowed as takeaways. In addition to this, the applicant is also engaged in providing catering services to an educational institution which provides education services up to secondary school

**ISSUE OF THE CASE:**

Whether sale from the portion of the sweetmeats and bakery shop should be categorized as supply of goods?

Whether input tax credit should be eligible on the sale of items specified in the preceding question?

Can the supply of food items and beverages from the facility which offers the opportunity of eating at the same premises be classified as restaurant services attracting a rate of GST of 5%?

Can input tax credit be availed on restaurant services provided in question (c) above?

In case of receipt of common input tax credit in the form of inputs, input services and capital goods, will reversal of input tax credit be required in terms of Rule 42 and 43 of the CGST Rules 2017?

Will the catering services provided to the educational institution qualify as an exempt supply

based on the agreement?

**Decision of Advance Ruling Authority :**

**DECISION:**

Supply of food and beverages from the sweetmeats counter by the applicant, where the customers have not been provided with any services in relation to consume the same in the premises, shall be categorized as supply of goods and the applicant is eligible to avail input tax credit in respect of such supply of goods subject to conditions as laid down in Chapter V of the GST Act and rules made there under.

Supply of food items and beverages by the applicant which offers the facility of eating in the same premises along with takeaway of the same shall be treated as restaurant services and shall attract tax @ 5% provided that credit of input tax charged on goods and services used in supplying the service has not been taken.

Supply of catering services to the educational institution, based on the agreement, is found to be covered under entry serial number 66(b)(ii) of the Exemption Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended from time to time (corresponding West Bengal State Notification No. 1136 F.T. dated 28.06.2017) and shall, therefore, be exempted from payment of tax.