

**DELHI AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
DEPARTMENT OF STATE TAXES
7TH FLOOR, VYAPAR BHAWAN, IP ESTATE, NEW DELHI -110002**

ADVANCE RULING NO. 02/DAAR/2018 dated 28.03.2018

(In Application No: 02/DAAR/2017 dated 29.12.2017)

Name and Address of the Applicant	:	M/s Deepak & Co. A-96, Chander Vihar, Opp. Rama Krishna Apartment, IP Extension, Patparganj, Delhi-110092
GSTIN of the Applicant	:	07AADFD8487H1Z3
Date of Application	:	29.12.2017
Clause(s) of Section 97(2) of CGST/DGST Act, 2017, under which the question raised	:	(a) Classification of any goods or services or both
Date of hearing(s) for admission	:	19.01.2017, 23.02.2018
Date of Final Hearing(s)	:	09.03.2018, 16.03.2018
Date of receipt of written submission from the Applicant	:	23.03.2018
Date of receipt of comments from Revenue (Centre)	:	23.02.2018
Date of receipt of comments from Revenue (State)	:	Not Received
Present for the Applicant	:	Shri Puneet Agrawal, Advocate
Present for the Revenue (Centre)	:	Shri Arun Nautiyal, Superintendent, Mayur Vihar Division, GST East Commissionerate.
Present for the Revenue (State)	:	Shri Anand Dabas, GSTO (W-84)

Order No :- 189/DAAR/2018 Dated :- 28.03.2018



Statement of Facts as per the Applicant:

The applicant has entered into agreements with IRCTC/Indian Railways, for supply of food and beverages (packed/ MRP/ cooked) to the passengers of Rajdhani Trains as also Mail/ Express Trains. Pursuant to these agreements, the applicant is engaged in supplying of food on board the trains to the passengers travelling on these trains vide the menu approved by the Indian Railways/ IRCTC. Likewise, the applicant is also engaged in supply of food items to passengers/ public through food plaza/ food stall on the railway station.

2. The different modus operandi with respect to supply of food for human consumption on board a train are as follows:

A) SUPPLY OF FOOD THROUGH THE FOOD PLAZA ON THE RAILWAY PLATFORM (WITH A/C) / FOOD STALLS ON THE RAILWAY PLATFORM (WITHOUT A/C)

a. In these places, food and beverages (packed/ MRP/ cooked) are supplied to the passengers/ general public at the rates fixed by Indian Railways/ IRCTC. Food plaza has space for the consumer to consume the said items on premises, if he so wish. Food stalls also has a small counter offering the consumers to use the same and consume the food. Else, the consumer may take away the same and consume as per his wish.

B) SUPPLY OF FOOD ON BOARD THE RAJDHANI TRAINS

a. In the Rajdhani trains, menu for the purpose of supplying food items/ beverages is fixed by IRCTC, with respect to each class of travel preferred by the passengers. The Bid Document for services in such trains specifically provides tariff for meals supplied. The above-mentioned document also provides defined "MENU" as per which, meals are supplied to passengers. Food is supplied and served to the passengers and money for the same charged from the Indian Railways/ IRCTC by the Applicant.

b. Further, in some cases, IRCTC supplies some items of dinner/lunch menu from its own base kitchens/approved sources, to be picked-up by the representative of the Applicant. The Applicant charges money for the same from the Indian Railways/ IRCTC.

c. Also, it is mandatory for the Applicant to supply newspaper to the passengers. Railways is to pay to the Applicant with respect to said supply of newspaper, as the prices of these items are also included in the fare of the ticket.







C) SUPPLY OF FOOD ON BOARD THE MAIL/EXPRESS TRAINS

a. The menu of food items and the price at which the same are to be served on board the trains is defined by the Indian Railways/ IRCTC. The applicant supplies food from its Pantry/ storage as per the said defined menu to the passengers desiring to obtain the same as per the menu price. Apart from the above, there are certain MRP items which are also supplied by the applicant. The same is supplied through the team of waiters which keeps moving in the train and takes orders and supplies the food items/ beverages to the passengers and collect price from them. It is not compulsory for the passengers to buy any thing.

3. Details of Question on which Advance Ruling is requested:

A. What is the applicable rate of tax on the activity of applicant of supplying food/ beverages, in each of the cases mentioned above in light of the amendment made in Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 vide Notification No. 46/2017 – Central Tax (Rate) dated 14.11.2017; amendment made in Notification No. 8/2017- Integrated Tax (Rate) dated 28.06.2017 vide Notification No. 48/2017 Integrated Tax (Rate) dated 14.11.17; amendment made in Notification No. 11/2017 – State Tax (Rate) dated 30.06.2017 vide Notification No. 46/2017 – State Tax (Rate) dated 28.11.17 in the NCT of Delhi?

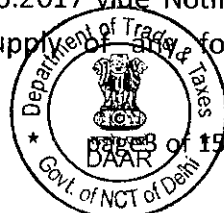
B. What is the applicable rate of tax on supply of newspaper as elaborated in the cases mentioned above?

4. Views of the Applicant:

(i) As per Entry in Column (3) at S. No. 7 of Notification No. 11/2017 – Central Tax (Rate) dated 28.06.2017 amended vide Notification No. 46/2017 –Central Tax (Rate) dated 14.11.2017, supply of any food article/ drink in any manner, whatsoever, by a restaurant, eating joint, etc., for consumption on or away from the premises is taxable at the rate of 2.5% each under the CGST & Delhi GST. Thus, it is submitted that the supply of food from on Food Plaza/ Food Stall falls under the above said category.

(ii) As per Entry in Column (3) at S. No. 7 of Notification No 11/2017 – Central Tax (Rate) dated 28.06.2017 vide Notification No. 46/2017 –Central Tax (Rate) dated 14.11.2017, supply of any food article/ beverage in any manner,







whatsoever, for consumption on or away from the premises is taxable at the rate of 2.5%. In this case, food is supplied by waiters on premises of a running train. Thus, the supply of food falls under the above said category and is taxable under CGST @ 2.5 % and Delhi GST @ 2.5 %. IGST, wherever is applicable, is applicable at the rate of 5%.

(iii) In respect of supply of newspaper, it is submitted that the same being exempt vide Entry at S. No. 120 of Notification No. 2/2017 – Central Tax (Rate) dated 28.06.2017, Entry at S. No. 120 of Notification No. 2/2017 – Integrated Tax (Rate) dated 28.06.2017 and Entry at S. No. 120 of Notification No. 2/2017 – State Tax (Rate) dated 30.06.2017, no tax is payable.

5. Comments of Jurisdictional Officer (CGST):

With respect to supply of food in Food Plaza/ Food Stalls :

For the purpose of this activity, the applicants perusal of relevant portion in entry in column (3) at S. No. 7 entry (i) of Notification No. 46/2017-Central Tax (Rate) dated 14.11.2017 seems to be correct.

With respect to supply of food on board the trains:

The applicant seeks to classify these services under S. No. 7 Entry (i) with the CGST rate applicable at 2.5% but the said activity seems to fall under the entry (v) as the said activities seems to be that of Outdoor Catering as the applicant is engaged by the railways in providing services in connection with supply of food and beverages in a place other than the applicant's premises. The applicable duty rate is 9% in this case.

With respect to supply of newspapers:

In respect of supply of newspaper is nil rated on account of being exempt vide entry S. No. 120 of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017. Also newspapers fall under GST HSN Chapter 4902 which attracts Nil rate of duty.

6. RELEVANT NOTIFICATIONS:

The S. No. 7 (i), (v) & (ix) and Annexure of Notification No. 11/2017 –Central Tax (Rate) dated 28.06.2017 as amended vide Notification No 46/2017- Central Tax (Rate) dated 14.11.2017 and parallel Notifications issued under IGST and Delhi GST, reads as under:



ADVANCE RULING NO. 02/DAAR/2018 dated 28.03.2018

S. No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
7	Heading 9963 (Accommodation, food and beverage services)	(i) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied, other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent. Explanation.- "declared tariff" includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]

Explanation:- For the purposes of this notification,-

(iv) Wherever a rate has been prescribed in this notification subject to the condition that credit of input tax charged on goods or services used in supplying the service has not been taken, it shall mean that,-

- (a) credit of input tax charged on goods or services used exclusively in supplying such service has not been taken; and
- (b) credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, if supply of such service is an exempt



Handwritten signature/initials

Handwritten signature/initials

ADVANCE RULING NO. 02/DAAR/2018 dated 28.03.2018

supply and attracts provisions of sub-section (2) of section 17 of the Central Goods and Services Tax Act, 2017 and the rules made thereunder.

S. No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
7	Heading 9963 (Accommodation, food and beverage services)	(v) Supply, by way of or as part of any service or in any other manner whatsoever in outdoor catering wherein goods, being food or any other article for human consumption or any drink (whether or not alcoholic liquor for human consumption), as a part of such outdoor catering and such supply or service is for cash, deferred payment or other valuable consideration	9	
	Heading 9963 (Accommodation, food and beverage services)	(ix) Accommodation, food and beverage services other than (ii), (iii), (v), (vi), (vii) and (viii) above. Explanation.- For the removal of doubt, it is hereby clarified that, supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied, other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent shall attract central tax at 5% without any input tax credit under item (i)	9	



Handwritten signature or initials.

Handwritten signature or initials.

		above and shall not be levied at the rate as specified under this entry.		
--	--	--	--	--

Annexure: Scheme of Classification of Services			
S.No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
1	Chapter 99		All Services
71	Heading 9963		Accommodation, food and beverage services
80	Group 99633		Food, edible preparations, alcoholic and non-alcoholic beverages serving services
81		996331	Services provided by restaurants, cafes and similar eating facilities including takeaway services, room services and door delivery of food
82		996332	Services provided by Hotels, Inn, Guest House, Club and the like including room services, takeaway services and door delivery of food
83		996333	Services provided in canteen and other similar establishments
84		996334	Catering Services in exhibition halls, events, marriage halls and other outdoor/indoor functions
85		996335	Catering services in trains, flights and the like
86		996336	Preparation or supply services of food, edible preparations, alcoholic and non-alcoholic beverages to airlines and other transportation operators
87		996337	Other contract food services
88		996339	Other food, edible preparations, alcoholic and non-alcoholic beverages serving services nowhere else classified

7. The S.No. 120 of Notification No. 2/2017 Central Tax (Rate) dated 28.06.2017 and parallel Notifications of IGST and Delhi GST reads as under:

Schedule

S. No	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
120.	4902	Newspapers, journals and periodicals, whether or not illustrated or containing advertising material

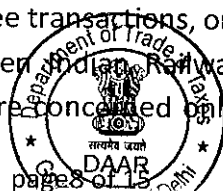
(Handwritten signature)



(Handwritten mark)

DISCUSSIONS:

8. The applicant has submitted a copy of 'Letter of Award' dated 02.08.2016 issued by IRCTC to them for setting up of and to operate 'Fast Food Unit' at Old Delhi Railway Station on payment of specified annual licence fee. The applicant has submitted that food and beverages (packed/ MRP/ cooked) are supplied by them to passengers at the rates fixed by the Indian Railways/ IRCTC. However, details of food and beverages supplied, the method of prices and details of services have not been submitted.
9. The applicant has also submitted a copy of agreement dated 29.09.2017 between IRCTC and the applicant for temporary licence to manage on board catering services on Rajdhani Express Train. The consideration for these services is included in the fare charged by Indian Railways from the passengers and the applicant is paid by Indian Railways/ IRCTC for the catering services provided to the passengers. Under the 'Scope of Work' in the said agreement, the applicant is required to provide catering services to the passengers as per the menu and instructions issued by the Railways. They are also required to provide baby food to infants less than five years of age. They are also required to pick-up duly packed dinner/ lunch menu from the base kitchens/ approved sources of IRCTC. Only service charges are payable to the applicant where IRCTC has supplied the food and both service charges and catering charges are payable to the applicant where material is also supplied by them. The applicant is required to arrange necessary service gears and equipments including disposables viz. Service trays, paper napkins, tray mat, paper cup, thermo flask etc. for provision of onboard services. The applicant is also required to serve newspaper at a fixed rate of Rs. 2 per passenger. It is mandatory for the applicant to supply Rail Neer (Packaged Drinking Water) at rates fixed at Rs. 15 per bottle of one litre. The payment for on-board catering services is made by IRCTC to the Service Provider on agreed rates. The applicant is required to submit separate bills for supply of food item-wise and service charges. In the rates accepted by the IRCTC, separate rates for each item viz. Tea, Breakfast, Dinner supplied by the applicant and separate service charges are given for serving tea, breakfast, dinner, whether provided by the applicant or provided by IRCTC from their base Kitchens. In the invoices issued by the applicant to IRCTC, similarly separate rates of each item and their respective service charges wherever applicable are separately mentioned. However, rates of newspaper, packed drinking water are fixed and no service charges are paid on the same.
10. In this case, there are three transactions, one between the passengers and the Indian Railways, second between Indian Railways and IRCTC and third between IRCTC and the applicant. We are concerned only with the third transaction in this



9-8

W

case i.e. between IRCTC and the catering contractor. The applicant raises invoice to IRCTC showing separate value of food & beverages, newspaper and services, in respect of number of passengers who actually boarded the train.

11. Similarly, the applicant has submitted a copy of agreement dated 07.08.2017 between IRCTC and the applicant for temporary licence to manage on board catering services on Duronto Express Train. The said agreement is similar to the agreement for on-board catering on Rajdhani Trains as mentioned above.

12. The applicant has also submitted a copy of Master Licence agreement dated 05.01.2015 between North Eastern Railway and the applicant for provision of pantry car/ catering services in Shiv Ganga Express Train. Under the scope of 'Catering services on Train' in the said agreement, it is mentioned that the applicant shall supply and service of fully cooked meals/ food to passengers on demand viz. breakfast, lunch, dinner, snacks tea, coffee etc. These meals/ food will be prepared, packed and transported from Railway approved/ nominated/ authorised kitchens. The food has to be prepared and supplied to passengers as per recipe framed by the Railways. The menus and rates for each item is fixed by the Railways. The applicant is also required to distribute/ serve Rail Neer/ Packaged Drinking Water at rates decided by the Railways. The food/ meals are served by staff of the applicant. The applicant shall avoid cooking food in the pantry car except snacks, tea, coffee etc. The standard tariff for each item has been fixed by Railways. The payment is made by the passengers directly to the applicant. The applicant issues invoice for each item. As per sample invoice submitted by the applicant, they supplied, Biscuits @ Rs. 20, Namkeen @ Rs. 5, Tetra Juice @ Rs. 35, Flavoured Milk @ Rs. 25, Bread Pakoda @ Rs. 24, standard veg Breakfast @ Rs. 30, Tea @ Rs. 7, Mutter Paneer @ Rs. 35 etc. No service charges were received by the applicant from the passengers over and above the fixed rates for each item.

13. It is observed that, for any supply to be covered in the said Notification No. 11/2017 –Central Tax (Rate) dated 28.06.2017 as amended vide Notification No 46/2017- Central Tax (Rate) dated 14.11.2017 and parallel Notification of IGST and Delhi GST, the activity must be a service i.e. a pure supply of goods even if intended to be used as a food is not covered in the said notification. Further, it is observed that as per Section 7(1)(d) of CGST Act, 2017 and as per Schedule II, Point 6, the following composite supplies shall be treated as a supply of services, namely:-

(a) Works contract as defined in clause (119) of Section 2; and

(b) Supply, by of or as part of any service in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink







(other than alcoholic liquor for human consumption), where such supply of service is for cash, deferred payment or other valuable consideration.

14. The applicant has claimed that their supply is a composite supply and hence should be treated as supply of services. However, In view of the nature of supply involving several types of goods and services, it is important to determine whether the said supply is a composite supply or not. It is observed that separate values of supply of good and services are available in the case of supply of food and beverages on board the trains. 'Composite supply' is defined in Section 2 (30) of the CGST Act, 2017 as follows:

"composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

15. From the above, it is observed that though a composite supply of various goods not involving services would be covered as a composite supply under Section 2(30) of the CGST Act, 2017 but still it would not be considered as a supply of services under Section 7(1) (d) of CGST Act, 2017 r/w Point 6 of Schedule II of the Said Act, because it is not covered in clause (b) of Point 6 of Schedule II. Only a composite supply containing services can be considered as supply of services.

16. The following clarifications has been issued by CBEC regarding "Composite Supply" under GST:

A composite supply would mean a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply:

A works contract and restaurant services are classic examples of composite supplies, however the GST Act identifies both as supply of services and chargeable to specific rate of tax mentioned against such services (works contract and restaurants)

In respect of composite supplies (other than the two categories mentioned above), the need to determine the supply as a composite one, will arise, so as to determine the appropriate rate of tax. It will be necessary to determine as to







whether a particular supply is naturally bundled in the ordinary course of business and what constitutes principal supply in such composite supplies.

The concept of composite supply under GST is identical to the concept of naturally bundled services prevailing in the existing service tax regime. This concept has been explained in the Education Guide issued by CBEC in the year 2012 as under:

“Bundled service means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services. An example of ‘bundled service’ would be air transport services provided by airlines wherein an element of transportation of passenger by air is combined with an element of provision of catering service on board. Each service involves differential treatment as a manner of determination of value of two services for the purpose of charging service tax is different.”

The rule is – ‘If various elements of a bundled service are naturally bundled in the ordinary course of business, it shall be treated as provision of a single service which gives such bundle its essential character’

Illustrations :

- *A hotel provides a 4-D/3-N package with the facility of breakfast. This is a natural bundling of services in the ordinary course of business. The service of hotel accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.*

- *A 5 star hotel is booked for a conference of 100 delegates on a lump sum package with the following facilities:*
 - *Accommodation for the delegates*
 - *Breakfast for the delegates*
 - *Tea and coffee during conference*
 - *Access to fitness room for the delegates*
 - *Availability of conference room*
 - *Business centre*

As is evident, a bouquet of services is being provided, many of them chargeable to different effective rates of tax. None of the individual constituents are able to provide the essential character of the service. However, if the service is described as convention service, it is able to capture the entire essence of the package. Thus, the service may be judged as convention service

G. G.

W

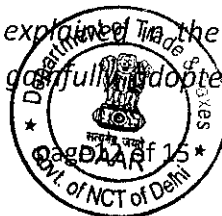
and chargeable to full rate. However, it will be fully justifiable for the hotel to charge individually for the services as long as there is no attempt to offload the value of one service on to another service that is chargeable at a concessional rate.

Whether the services are bundled in the ordinary course of business, would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators some of which are listed below :

- The perception of the consumer or the service receiver - If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.
- Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.
- The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service. For example, service of stay in a hotel is often combined with a service or laundering of 3-4 items of clothing free of cost per day. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.
- Other illustrative indicators, not determinative but indicative of bundling of services in the ordinary course of business are:
 - There is a single price or the customer pays the same amount, no matter how much package they actually receive or use
 - The elements are normally advertised as a package
 - The different elements are not available separately
 - The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected

No straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business. Each case has to be individually examined in the backdrop of several factors some of which are outlined above.

The above principles explained in the light of what constitutes a naturally bundled service can be carefully adopted to determine whether a particular



[Handwritten signature]

[Handwritten signature]

supply constitutes a composite supply under GST and if so what constitutes the principal supply so as to determine the right classification and rate of tax of such composite supply.

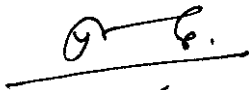
17. It is observed that the various goods and services supplied by the applicant have separate values, no supply is principal supply and various components of supply are not naturally bundled. Accordingly, the contract between IRCTC and the applicant does not appear to be a composite contract for supply of good and services. Hence, Section 7(1)(d) of the CGST Act, 2017 and Point 6 of Schedule II of the said Act are not applicable. Hence, it is not possible to classify the whole contract as supply of services.

18. The Applicant has referred to the High Court of Delhi judgement dated 19.07.2010 in the case of IRCTC V/s Government of NCT of Delhi reported in 2010 (20) STR 437 (Del) to argue that supply of food on board the trains cannot be considered as outdoor catering service. It has been held by the Hon'ble High Court that providing of food, snacks and water to passengers on board trains is different from outdoor catering service. The IRCTC or passengers have no choice of articles or quantity served as the same is supplied as per menu fixed by Railway Board. The passengers have no choice as to time and place of services of food. No refund is allowed if food provided is not accepted. No element of service is involved except heating and serving cooked food. Service element in providing food in this case is incidental and base minimum required for selling food. The impugned contract/transaction is not for providing service nor a composite contract but is one of pure sale of goods. Service component in respect of sale of food in a restaurant is much more than supply of food to a passenger in a compartment of a train.

19. The Hon'ble High Court has also held in the abovementioned case that a catering contract has been brought under fiction of "deemed sale" under Article 366(29A) of Constitution and splitting up of such contract is constitutionally permissible. A catering contract is covered in sub-clause (f) of Article 366 (29A) of Constitution.

20. A restaurant, in addition to sale of food, provide services like an elegant decor, uniformed waiters, good linen, crockery, cutlery and could even provide music and dance floor. Further, in outdoor catering, service element is much more as compared to service element in case of service provided by the Restaurant.

21. Hence, taxing authorities in each case have to ascertain whether a transaction is pure supply of goods or the same is a composite contract involving sale of goods and services and whether the said composite contract can be split into goods and







services. They are also required to determine whether services are incidental to the supply of goods or whether services component is predominant in the contract.

22. The contention of the applicant that a train is covered under entry (i) of S.No. 7 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 being a restaurant, eating joint including mess, canteen is not acceptable as a train is a mode of transport and passenger travel in a train to go to various far away places they do not visit trains for the purpose of having food. The fact that food is consumed by them during their travel does not mean that a train should be considered as a restaurant or an eating joint.

RULING

23. In the case of supply of food and beverages (cooked/ MRP/ packed), at defined menu and tariff, by the applicant to IRCTC/ passengers on behalf of IRCTC, on board the Rajdhani/ Duronto Express trains, the service charges are covered under Service Code (Tariff) 996335 in Group 99633 of heading 9963 of Annexure/ Scheme of Classification of Services as "catering services in train". The same are covered under S. No. 7 (ix) of Notification No. 11/2017 – Central Tax (Rate) dated 28.06.2017 as amended vide Notification No. 46/2017 – Central Tax (Rate) dated 14.11.17 and parallel Notifications of IGST and Delhi GST. A train is a mode of transport and hence cannot be called as a restaurant, eating joint, mess or canteen etc. and hence catering services provided on-board a train are not covered under S. No. 7 (i) of the said Notifications as claimed by the applicant. The supply of goods i.e. food, bottled water etc. shall be charged to GST on value of goods (excluding the service charges) at applicable rates as pure supply of goods, as the same have no element of service. The supply of newspaper is separately invoiced and hence it shall be at 'Nil' GST under S. No. 120 of Notification No. 2/2017- Central Tax (Rate) dated 28.06.2017 and parallel Notifications of IGST and Delhi GST.

24. In the case of supply of food and beverages (cooked/ MRP/ packed) on board the Mail/ express trains by the applicant directly to the passengers as per the menu/ rates fixed by IRCTC/ Railways does not have any element of service and hence the same shall be considered as pure supply of goods and GST shall be charged on individual items at their respective applicable rates. The benefit of S. No. 7 of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 vide Notification No. 46/2017 – Central Tax (Rate) dated 14.11.2017; amendment made in Notification No. 8/2017- Integrated Tax (Rate) dated 28.06.2017 vide Notification No. 48/2017 – Central Tax (Rate) dated 14.11.17 amendment made in Notification No. 11/2017 –



[Handwritten signature]

[Handwritten mark]

State Tax (Rate) dated 30.06.2017 vide Notification No. 46/2017 – State Tax (Rate) dated 28.11.17 are not admissible to the applicant.

25. The supply of food and beverages (cooked/ MRP/ packed) by the applicant to the passengers/ general public at the rates fixed by the Indian Railways/ IRCTC at food stalls at Railway platforms does not have any element of service and hence the same shall be considered as pure supply of goods and GST shall be charged on individual items at their respective applicable rates. The mere heating/ cooling of beverages or similar other services are incidental and minimal required to supply of goods and such supply cannot be called composite supply. The benefit of S. No. 7 of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 vide Notification No. 46/2017 – Central Tax (Rate) dated 14.11.2017; amendment made in Notification No. 8/2017- Integrated Tax (Rate) dated 28.06.2017 vide Notification No. 48/2017 – Central Tax (Rate) dated 14.11.17; amendment made in Notification No. 11/2017 – State Tax (Rate) dated 30.06.2017 vide Notification No. 46/2017 – State Tax (Rate) dated 28.11.17 are not admissible to the applicant.

26. For the supply of food (Cooked/ MRP/ Packed) in food plaza, the relevant document pertaining to details of items supplied, pricing details, extent of services provided are not submitted. Hence, no ruling can be given in respect of supply from Food Plaza on the Railway Platform



Pankaj Jain
Member (Centre)



Vinay Kumar
Member (State)

