AUTHORITY FOR ADVANCE RULING – CHHATTISGARH
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PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING
U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017

Members Present are

Smt.Yachana Tambrey Joint Commissioner O/o Commissioner, State Tax (CGGST), Raipur, Chhattisgarh.	Shri Arvind Kumar Joint Commissioner, O/o Principal Commissioner, CGST & Central Excise, Raipur (C.G)

Subject :- Chhattisgarh GST Act. 2017 – Advance Ruling U/s 98 Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 sought by M/s KANHAIYA BIKANER SWEETS having its registered officeatCircuit House Road , SADAR WARD, Jagdalpur ,Bastar, Chhattisgarh-494001(hereinafter referred to as "The Applicant") is registered under GSTIN as22ABBFK9763G1Z9, seeking advance ruling on the following questions: (a) whether the supply of pure food items such as samosa, kachori, mixture, sweets other edible items from shop primarily on takeaway basis is a transaction of supply of goods or a supply of service; (b) what is the nature and rate of tax applicable to the following items supplied from shop and whether the applicant is entitled to claim benefit of input tax credit with respect to the same: (i) Takeaway order of samosa, kachori, mixture, sweets other edible items when such products are not consumed within the premises of the applicant but are takeaway.

Read :- ARA-01 application 13.03.2026(complete application with challan submitted on 27.03.2026)fromM/s KANHAIYA BIKANER SWEETS, Circuit House Road, SADAR WARD, Jagdalpur, Bastar, Chhattisgarh- 494001 registered under GSTIN as 22ABBFK9763G1Z9.

PROCEEDINGS

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

NO/STC/AAR/01/2026 Raipur Dated 25/06/2026

1. In the present case applicant has sought advance ruling as to whether the activity of the applicant of supply of pure food items / edibles on takeaway basis, is supply of goods or supply of services, nature & rate of tax on such items and regarding eligibility of input tax credit to them.

2.Facts of the case: -. It has been informed by the applicant in their ARA-01 application that:

(i) the applicant M/s Kanhaiya Bikaner Sweets is primarily engaged in the business of supplying of food items from their shop viz. Samosa, kachori, mixture, sweets and other edible items.

(ii) present applicant is a regular tax payer.

ADVANCE RULING AUTHORITY ★ CHHATTISGARH, RAIPUR

(iii) their business model is centered on on-call orders and walk-in purchases, consequently, the applicant does not maintain any seating arrangements, tables, or service staff for patrons on the premises. Further that, as the operations are limited to the packaging and dispensing of goods for off-site consumption, the site does not fall under the category of a restaurant or sit-down eatery.

3. APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS:-

i. that, looking at the market strategy today, it can be noticed very often, that most of the shop manufactures the food item and sell the same on the takeaway basis only and there is no specification involved therein, related to Restaurant. Further that this shop is completely out of ambit of the definition of the Restaurant services. The legal framework under the Finance Act, 1994, as consistently interpreted by judicial authorities, firmly establishes that the transaction of providing food on a 'takeaway' or 'parcel' basis constitutes sale of goods, not a provision of service. Consequently, such transactions fall outside the ambit of the service tax levy.

ii. In this regard, the applicant has placed on record a detailed elaboration with citations to relevant sections and judicial findings:

I. The Statutory Framework: Definition and Exclusion: -

The foundation of this legal position lies in the specific wording of the Finance Act, 1994, particularly in the definition of "service".

• *Exclusion from the Definition of 'Service' (Section 65B(44)):-*

The definition of "service" under Section 65B(44) of the Finance Act, 1994, isdefinition of "service" under Section 65B(44) of the Finance Act, 1994, is the starting point. While it broadly defines service as any activity carried out by one person for another for consideration, it contains a crucial exclusion clause. Specifically, it states that "service" shall not include an activity which constitutes "merely... a transfer of title in goods... by way of sale". The petitioners in the AnjapparChettinad case successfully argued that the sale of packaged food is a pure trading activity that falls squarely within this exclusion, placing it outside the ambit of service tax.

• *Interpretation of 'Declared Service' (Section 66E(i)):-*

The revenue authorities' argument for taxability often stems from Section 66E(i), which classifies the "service portion in an activity wherein goods, being food... issupplied" as a "declared service". However, the judicial consensus is that in a take-away transaction, there is no discernible "service portion" to be taxed. The entire transaction is a sale, and any ancillary activities like packing are merely conditions of that sale, not independent services.

II. Judicial Consensus and Interpretation:-

The judiciary has consistently upheld the distinction between a restaurant service and a take-away sale, providing a strong and binding precedent.

Madras High Court in AnjapparChettinad: The High Court provided a "categoric view that the provision of food and drink to be taken-away in parcels by restaurants tantamount to the sale of

RULING AUTHORITY CHHATTISGARH, RAIPUR

food and drink and does not attract service tax under the Act". The court reasoned that the essential attributes of a restaurant service—such as organized seating, airconditioning, service at the table by liveried waiters, use of fine crockery, and on-premises consumption—are "conspicuous by their absence" in a takeaway transaction.

- *CESTAT Principal Bench in HaldiramMarketing:-*

Following the Madras High Court's precedent, the Tribunal held that no service tax can be levied on the activity of take-away food items as it amounts to a sale and does not involve any element of service. The Tribunal found that the activities ofpreparing and packing the food are merely "conditions of sale" where the customer's intent is simply to buy a product, not to avail any restaurant services.

III. The Government's Own Clarifications:-

The government's own circulars have consistently supported the position that take-away transactions are not taxable services, which reinforces the legislative intent.

- *Circular No. 334/3/2011-TRU (dated 28.02.2011):-*

This foundational circular, issued at the time of introducing the levy on restaurant services, is of paramount importance. It explicitly clarified that the levy was directed at high-end restaurants where service assumes predominance. Most significantly, it stated that the levy "shall not cover... mere sale of food by way of pick-up or home delivery". This circular has been heavily relied upon by the courts to quash demands for service tax on take-away sales. In summary, the combined effect of the statutory exclusion under Section 65B(44), the judicial interpretation of Section 66E(i) by the Madras High Court and CESTAT, and the explicit legislative intent clarified in Circular No. 334/3/2011-TRU creates a firm and conclusive legal position that take-away food transactions are non-taxable sales.

IV. The core legal principle differentiating the two is that a "restaurant service" is a composite activity involving both the supply of goods (food) and a significant element of service, making it a taxable "declared service". In contrast, a "take-away" transaction is legally construed as a "mere sale" of goods, where any service rendered is incidental to the sale and not a distinct, taxable component.

V. The Fundamental Nature of the Transaction: A Sale, Not a Service:-

The primary distinction is rooted in the statutory definition of "service" and its explicit exclusions.

o Statutory Exclusion. Section 65B(44) of the Finance Act, 1994, defines"service" but carves out a specific exclusion for any activity that constitutes "merely... a transfer of title in goods... by way of sale". The courts have held that take-away transactions fall squarely within this exclusion. The Madras High Court in AnjapparChettinad found that the provision of food in parcels "tantamount the sale of food and drink".

o Dominant Nature Test:-

ADVANCE RULING AUTHORITY CHHATTISGARH, RAIPUR

The CESTAT in Haldiram Marketing and a departmental clarification it cited emphasize that the "dominant nature of the transaction is that of sale and not service". The customer's clearintention is to purchase a food product, not to avail themselves of the restaurant's hospitality or amenities.

o Pure Trading Activity:- The petitioners in the AnjapparChettinad case successfully argued that the sale of packaged food is a "pure trading activity" with no discernible service component, thus placing it outside the ambit of service tax. The preparation and packing of the food are not services in themselves but are considered necessary conditions for the sale to occur.

VI. The Conspicuous Absence of Restaurant Service Attributes:-

Service tax on restaurants is levied not on the food itself. but on the bundle of services provided in conjunction with the food. These services are entirely absent in a take-away scenario.

>>>What Constitutes Taxable Restaurant Service: -

The Finance Ministry's Circular No. 334 of 2011 explains that taxable restaurant services include a combination of elements provided for a consolidated charge. The Madras High Court further described this as a "gamut of services," which includes:-

Ambience and Facilities:-

Use of restaurant space, organized seating, furniture, air-conditioning, décor, and music (live or otherwise).

Personalized Hospitality:-

Service by "well-trained waiters," Maître D'Or, hostesses, and the ability for a customer to indicate personal preferences for ingredients.

Ancillaries:-

Use of fine linen, crockery, and cutlery

>>> What is Missing in a Take-Away: In the case of take-away or food parcels, the Madras High Court noted that these attributes are "conspicuous by their absence". The typical take-away process involves:

• Separate Counters: Orders are often placed and collected at a separate counter, frequently positioned away from the main dining area.

• No On-Premises Consumption: The food is consumed entirely outside the restaurant premises, meaning the customer does not use any of the restaurant's dining facilities or ambience.

•No Service Staff Interaction:-

There is no service at the table, clearing of plates, or other forms of personalized hospitality associated with a dine-in experience.

Accordingly, the applicant is of the firm opinion that:

ADVANCE RULING AUTHORITY CHHATTISGARH, RAIPUR

(i) as per the applicant interpretation of law sale of pure food items such as samosa, kachori, mixture, sweets other edible items from shop primarily on takeaway basis is a transaction of supply of goods.

(ii) sale of pure food items such as samosa, kachori, mixture, sweets other edible items from shop counter can be treated as supply of goods with applicable GST rates of the items being sold & input credit can be allowed on such supply.

3.1 The applicant also furnished additional written submissionsin the matter inter-alia containing the photographs of their shop premises and certain case laws, to bring home their point of view in the matter, which has also been taken on record.

4. Personal Hearing: -

Shri Vivek Saraswat, advocate andauthorized person of the applicant M/s KANHAIYA BIKANER SWEETS GSTIN- 22ABBFK9763G1Z9, attended the online personal hearing in the matter on 24.6.2026 and reiterated their point of view in the matter as made in their ARA-01 and thus requested for a ruling in the matter.

5. The legal position, analysis, and discussion: -

At the very outset, we would like to make it clear that the provisions for implementing the CGST Act and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CGGST Act"] are similar and thus, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the CGGST Act, 2017. Now we sequentially proceed to discuss the issues involved in the ruling so sought by the applicant and the law as applicable in the present case.

5.1 Section 96 of CGST Act, 2017, Authority for advance ruling, stipulates as under: -

Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

Section 97(2) of CGST Act, 2017 stipulates that: -

The question, on which the advance ruling is sought under this Act, shall be in respect of–
–

(a) classification of any goods or services or both;
(b) applicability of a notification issued under the provisions of this Act;
(c) determination of time and value of supply of goods or services or both;

ADVANCE RULING AUTHORITY ★ CHHATTISGARH, RAIPUR ★

(d) admissibility of input tax credit of tax paid or deemed to have been paid;

(e) determination of the liability to pay tax on any goods or services or both;

(f) whether applicant is required to be registered;

(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

Further 103 of CGST Act, 2017 stipulates about the ruling pronounced as under: – The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only –

a. On the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;
b. On the concerned officer or the jurisdictional officer in respect of the applicant.

Thus, in view of the above section 103 of CGST Act, 2017, the ruling so sought by the Applicant would be binding only on the Applicant and on the concerned officer or the jurisdictional officer as stipulated above.

5.2 We have gone through the submissions made by the applicant and have examined the views expressed by them in this regard. At the outset, we find that the issue raised under Question no. 1 in the ARA-01 application filed by the applicant gets squarely covered under Section 97(2) (d), 97(2) (e)and 97(2) (g) of the CGST Act 2017 being a matter relating to,admissibility of input tax credit of tax paid or deemed to have been paid; determination of the liability to pay tax on any goods or services or both; and whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term. We, therefore, admit the issues raised by the applicant in their ARA-01 for consideration on merits.

5.3 The comments on the issues raised by the Applicant in their ARA-01 application for Advance Ruling was sought for from the jurisdictional Central and State formations. In the aforesaid context, the Jurisdictional Assistant Commissioner, SGST, Jagdalpurvide letter Acst/jdp/gst/advance ruling/2026-27/01 dated 21.4.2026 opined as under:

"Upon review of the applicant's business model at the Jagdalpur premises, the following observations are made:

ADVANCE RULING AUTHORITY ★ CHHATTISGARH, RAIPUR ★

- • *The dealer is engaged in the manufacturing and retail sale of sweets, namkeens, and freshly prepared items like Samosas, Kachoris, and Jalebis.*
- • *The applicant claims to operate exclusively on a 'takeaway' and 'on-call' basis without seating or waiter services.*
- • *However, the operational reality involves live preparation of snacks and the provision of essential serving facilities (disposable plates, spoons, tissues, and condiments like chutney) which are characteristic of a food joint.*

Legal Analysis of the Questions Raised

Q1. Whether the supply of food items such as samosas, kachoris, mixtures, sweets, and other edible items from the shop, primarily on a takeaway basis, is legally classified as a supplyof goods or a supply of service?

As per DEFINITION:

As per Schedule II, Entry 6(b) of the Central Goods and Services Tax Act, 2017, the following composite supplies shall be treated as a supply of services: (b) 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 any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

Under this provision, the classification is broken down as follows:

1. Sale of Sweets and Namkeen is a part of Service:

The sale of these items falls as a part of service when it includes takeaway service (applicable in most instances), immediate consumption on the premises, and serving facilities (plates or spoons for items like Rasmalai, Gulab Jamun etc.).

2. Sale of Samosas, Kachoris, Jalebis, etc. by Way of Service:

The sale of these items is treated as being provided by way of service through immediate consumption, serving facilities (plates, spoons, tissues, extra chutney), consumption facilities (access to drinking water and designated standing space), live preparation after receiving an order, and takeaway service (preparation and packaging).

3. Application to the Dealer:

Since the dealer provides a COMPOSITE SUPPLY, compliance with the 5% GST rate without the benefit of ITC should be applicable.

As per EXPLANATORY NOTE:

Circular No. 164/20/2021-GST (Points 3.2 and 3.3) provides further clarification on the scope of 'Restaurant Service':

1. Definition of 'Restaurant Service': *As per Notification No. 11/2017 - CTR, 'Restaurant service' means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint, including mess, canteen, whether for consumption on or away from the premises where*

ADVANCE RULING AUTHORITY CHHATTISGARH, RAIPUR

such food or any other article for human consumption or drink is supplied.

2. Scope of Takeaway and Delivery Services: *The explanatory notes clarify that 'restaurant service' includes services provided by restaurants, cafes, takeaway services, and door delivery. Therefore, any service involving the cooking and supply of food—even if conducted exclusively via takeaway or door delivery—is covered under restaurant service.*

3. Application to the Dealer: *Since the dealer provides restaurant-like facilities (serving, consumption, takeaway, live preparation), the activities fall squarely within 'Restaurant Service', necessitating a 5% GST rate without ITC.*

Based on Doctrine of 'Indistinguishable Identity'

1. Separate billing
2. Separate invoices
3. Separate accounts/records
4. Separate identification of restaurant supplies and sweet shop supplies
5. The restaurant and sweet shop should function from distinctly demarcated parts of the premises
6. There must be separate counters for sales of goods and supply of service.

Since none of the above criteria is being fulfilled by the dealer, the said sales of goods must be treated as a composite supply under restaurant service, making them ineligible for ITC at the 5% tax rate.

Q.2 Nature and Rate of Tax: What the specific nature and applicable rate of tax are for these items?
The activities of the applicant fall under 'Restaurant Service' as per Notification No. 11/2017-Central Tax (Rate). The applicable rate is 5% GST (2.5% CGST + 2.5% SGST) without ITC benefit, or 18% GST (9% CGST + 9% SGST) with ITC benefit. This rate is mandatory for standalone eating joints, regardless of whether the food is consumed on-site or taken away.

Q.3 Whether the applicant is entitled to claim the benefit of Input Tax Credit for takeaway orders of these food products when they are not consumed within the premises?
The notification contains a specific condition: 'Provided that credit of input tax charged on goods and services used in supplying the service has not been taken.' Since the applicant provides integrated services without satisfying the 'Separation Mandates,' they are ineligible for ITC.

3. Jurisdictional Recommendation
Based on the failure to fulfill the criteria for separate business verticals, the entire turnover of the dealer must be treated as a Composite Supply under the umbrella of

ADVANCE RULING AUTHORITY ★ CHHATTISGARH, RAIPUR ★

'Restaurant Service'. The dealer fails the criteria for separate identification as they do not maintain separate billing, distinct demarcated areas, or separate inventory records.

4. Final Conclusion

It is recommended that the Authority rule the applicant's sales of goods like sweets, namkeens, etc. as a composite supply to restaurant services, taxed @ 5%, with no eligibility for Input Tax Credit, unless the dealer implements a complete physical and administrative separation of their retail and service counters as per the established guidelines.

NOTE: THE DEALER HAS EARLIER ACCEPTED THE SALE OF SWEETS AND NAMKEENS AS COMPOSITE SUPPLY OF RESTAURANT SERVICE AND PAID TAX AND INTEREST OF Rs. 7,55,464 (SGST & CGST). LATER FILED A REFUND APPLICATION WHICH WAS REJECTED BY THE COMPETENT AUTHORITY ON 20/04/2026."

The above opinion expressed by the field formations, on the issues raised by the applicant, have been taken on record.

5.4 Now we move on to address the issues raised by the applicant in the instant ARA-01. The applicant primarily engaged in the business of preparation /manufacturing and subsequent sale / supply of food items,hassought advance ruling on the following points as under: -

(a) *whether the supply of pure food items such as samosa, kachori, mixture, sweets other edible items from shop primarily on takeaway basis is a transaction of supply of goods or a supply of service;*

(b) *what is the nature and rate of tax applicable to the following items supplied from shop and whether the applicant is entitled to claim benefit of input tax credit with respect to the same:*

(i) Takeaway order of samosa, kachori, mixture, sweets other edible items when such products are not consumed within the premises of the applicant but are takeaway.

5.5 On going through the activities as disclosed by the applicant in their application it is seen that they are primarily engaged in the business of supplying goods & services both i.e. they are engaged in the business of supplying of food items viz. Samosa, kachori, mixture, sweets and other edible items from their shop / establishment. Further it has been informed by the applicant that, their business model is centered on on-call orders and walk-in purchases, consequently, the applicant does not maintain any seating arrangements, tables, or service staff for patrons on the

ADVANCE RULING AUTHORITY ★ CHHATTISGARH, RAIPUR premises. Furthermore, it has further been informed that, as their operations are limited to the packaging and dispensing of goods for off-site consumption, the site does not fall under the category of a restaurant or sit-down eatery.

6. In order to arrive at a definitive conclusion as regards the issues involved we would also like to go through the relevant provisions of law and the same are covered under section 2 of the Act ibid. The relevant portion reads as under:

(30) "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;

(52) "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

(74) "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply;

(90) "principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

(102) "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

6.1 In a case where two or more goods or a combination of goods and services are involved or supplied together earlier under the Service Tax regime this mechanism was called bundled service which is rendering of a service or services with another element of service of services, wherein service tax law dealt with pure services and not with goods per se.

ADVANCE RULING AUTHORITY ★ CHHATTISGARH, RAIPUR ★

In the changed regime of GST, the concept introduced. dealt with goods as well and is linked with the concept of Principal Supply. Under GST law, supplies which are bundled with two or more supplies of goods or services or combination of goods and services are classified, with distinct characteristics, as (i) Composite Supply (ii) Mixed Supply. Composite supply is one where two or more goods or services or both are together, in a natural bundle and in a normal course of business, provided one of which is a principal supply. However, principal supply will be that supply which is predominant over other supplies. This means that the goods and services are bundled owing to natural necessities. The composite supply is taxed at the rate applicable to the principal supply whereas a mixed supply means two or more individual supplies of goods or service, or any combination thereof: made in conjunction with each other by taxable person for a single price where such supply does not constitute a composite supply. It means each of these items can be supplied separately and is not dependent on any other. In Mixed Supply, the combination of goods. and/or services is not bundled due to natural necessities, and they can be supplied individually in the ordinary course of business. Thus, in order to identify if the particular supply is a Mixed Supply, the first requisite is to rule out that the supply is a composite supply. A supply can be a mixed supply only if it is not a composite supply. As a corollary it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business, then it would be a mixed Supply. Once the amenability of the transaction as a composite supply is ruled out, it would be a mixed supply, classified in terms of a supply of goods or services attracting highest rate of tax.

6.2 For the supplies made from shop/establishment /restaurant there being preparation and supply/saleoffooditems.its immediate consumption at the premises and serving facilities, there exist

(i) Supply of two or more goods or services or both together

(ii) Goods or services or both are usually provided together in the normal course of business, having all the ingredients of a composite supply.

6.3 In this regard Schedule II of the CGST Act.2017 and the relevant portion of the same reads as under:

ADVANCE RULING AUTHORITY * CHHATTISGARH, RAIPUR *

SCHEDULE II
[See Section 7]

ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

6. Composite supply

The following composite supplies shall be treated as a supply of services, namely: -

(a) ……………………………….

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

6.4 Thus from the facts as emanating from the submissions of the applicant and from the above stated legal provisions, it gets amply clear that the applicant is engaged in supply of services and not in supply of goods

6.5 Having come to the considered view that the applicant is engaged in providing composite supply of services, we find that the effective rates of GST for such food and beverage services are governed by Notification No.11/2017-Central Tax (Rate) Dated-28/06/2017 read with Notification No.46/2017-Central Tax (Rate) Dated-14/11/2017 and Notification no. 20/2019-Central Tax (Rate) Dated-30/09/2019.

Thus, on the basis of evidences as forthcoming from the applicant it is quite evident that the activity of the applicant from their establishment comes under the purview of "restaurant services", falling under Heading 9963 leviable to GST rates on services as stipulated under Notification No. 11/2017-Central Rate (Tax) dated 28.06.2017 (as amended from time to time) and the relevant portion of the same is reproduced here as under:

Sl.No.	Chapter, Section, heading	Description of service	Rate (in%)	Condition
1	2	3	4	5
	Heading 9963 (Accommodation, food and beverage services)	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	2.5%	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken

ADVANCE RULING AUTHORITY ★ CHHATTISGARH, RAIPUR ★

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.

Thus, having regard to the facts and circumstances as put forth by the applicant, we come to the considered conclusion that the rate of GST on aforesaid activities undertaken by the applicant shall be 5%. As regard to the issue of admissibility of ITC credit, we find that the applicant cannot avail credit on the GST paid on the goods and services used in their said activity in terms of aforesaid notification.

We would also like to mention here that the applicant has referred to the erstwhile provisions of Service tax law, to bring home their point of view in the matter, which we find is not relevant to the issue in hand.

7. In arriving at our aforesaid conclusion, we would also like to cite reference to **CBICcircular no. 164/20/2021-GST dated 6.10.2021,** wherein clarifications have been issued regarding services by cloud kitchens/central kitchens, as under:

> *3.1 Representations have been received requesting for clarification regarding the classification and rate of GST on services rendered by Cloud kitchen or Central Kitchen.*
>
> *3.2 The word "restaurant service" is defined in Notification No. 11/2017 –CTR as below: -"Restaurant service" means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, 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."*

ADVANCE RULING AUTHORITY ★ CHHATTISGARH, RAIPUR ★

*3.3 The explanatory notes to the classification of service state that **"restaurant service" includes services provided by Restaurants, Cafes and similar eating facilities including takeaway services, roomservices anddoor deliveryof food. Therefore, it isclear thattakeaway services and door delivery services for consumption of food are also considered as restaurant service and, accordingly, service by an entity, by way of cooking and supply of food, even if it is exclusively by wayof takeawayordoordeliveryorthrough orfrom anyrestaurant wouldbe covered by restaurant service.** This would thus cover services provided by cloud kitchens/central kitchens.*

3.4 Accordingly, as recommended by the Council, it is clarified that service providedby way of cooking and supply of food, by cloud kitchens/central kitchens are covered under „restaurant service", asdefined innotification No. 11/2017-Central Tax (Rate) andattract 5% GST [without ITC].

8. Having regard to the facts and circumstances of the case and discussions as above, we pass the following order: -

ORDER

(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)

NO/STC/AAR/01/2026 Raipur Dated 25/06/2026

The ruling so sought by M/s KANHAIYA BIKANER SWEETS having its registered office at Circuit House Road, SADAR WARD, Jagdalpur,Bastar, Chhattisgarh- 494001 [GSTIN 22ABBFK9763G1Z9], the applicant is answered as under:

(a) The supply of pure food items such as samosa, kachori, mixture, sweets and other edible items from applicant's shop / establishment primarily on takeaway basis, being a composite supply is a transaction of supply of service.

(b) The above said services rendered by the applicant is "restaurant service", attracting GST @5% [2.5 % CGST + 2.5% SGST].

(c) The applicant is not entitled to claim benefit of input tax credit on the above said supplies rendered by them.

Sd/-
Yachana Tambrey
MEMBER

Sd/-
Arvind Kumar
MEMBER

ADVANCE RULING AUTHORITY ★ CHHATTISGARH, RAIPUR

Place: Raipur
Date: 25/06/2026
Seal:

TRUE COPY
25/06/26
MEMBER
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