



ODISHA AUTHORITY FOR ADVANCE RULING

GOODS AND SERVICE TAX (GST)

RAJASWARI, BHUBANESWAR-751007(ODISHA)

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULINGU/S.98 OF
THE GOODS AND SERVICE TAX ACT, 2017**

Members Present:

1. Sri Harsh Vardhan, IRS, Additional Commissioner, Office of the Chief Commissioner, GST, Central Excise & Customs, Bhubaneswar.
2. Smt Pratima Mohanty, OFS (SAG), Additional Commissioner, CT & GST Commissionerate Odisha, Banijyakar Bhawan, Cantonment Road, Cuttack-753001- Odisha.

Name and Address of the Applicant	M/s Harjit Hotel & Shopping Private Limited, Ground Floor, DI-674/2, VSS Marg, Sambalpur
GSTIN or User ID	GSTIN- 21AABCH5419C1Z9
Date of Filing of Form GST ARA-01/ Date of submission of required documents	16.04.2024
Present for the Applicant in the Personal hearing.	The applicant refused to attend personal hearing.
Date of Personal Hearing	NA



ORDER NO.08/ODISHA-AAR/2025-26

Dated: 19.../09/2025

Subject: M/s Harjit Hotel & Shopping Private Limited, (herein after referred to as the 'Applicant') having principal place of business/registered office/corresponding address at Ground Floor, DI-674/2, VSS Marg, Sambalpur, State: Odisha 768001 bearing GSTIN 21AABCH5419C1Z9 has filed an application for advance ruling under Section 97 of CGST Act, 2017 and Section 97 of the OGST Act, 2017 in FORM GST ARA-01 discharging fee of Rs. 5,000/- each under the CGST Act and the SGST Act.

1.0 The Applicant has sought ruling in respect of the following question:

(a) "Whether levying GST@ 5% (SGST @ 2.5% and CGST @ 2.5%) on the invoice amount which includes the foods as well as the packaged drinking water bottle (the rate of which more than the MRP printed on the bottle) as ordered by the customers treating the entire transaction as providing Restaurant Service is legally correct?"

1.1 At the outset, we would like to make it clear that the provisions of both the CGST Act and the OGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the OGST Act.

2.0 Submission of the Applicant:

2.1 M/s Harjit Hotel & Shopping Private Limited [here-in-after referred to as "the Company/Applicant"] is engaged in providing **Hotel & Restaurant Services** and is registered under GST Act.

2.2 That, the maximum rate of tariff at the Hotel of the applicant is less than Rs.

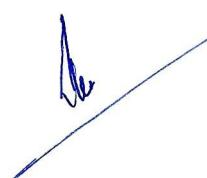
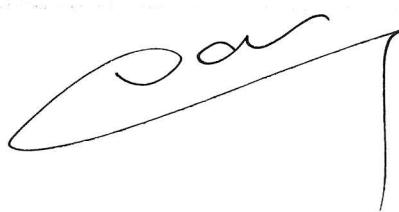


7500/- The applicant while providing its Restaurant Service both to its in-house customers as well as the outside customers who are visiting the Restaurant, charged GST @ 5% (i.e. CGST @ 2.5% & SGST @ 2.5%) as per Notification 46/2017-Central Tax (Rates) dated 14.11.2017 on the invoices of Service Charges.

- 2.3 The applicant while serving food at the Restaurant, the Server / waiter at the Restaurant while taking orders from the customers, as a ritual ask the customers about their preference about the drinking water i.e. whether they will prefer R.O. water provided free of the cost or Packaged Drinking water which is chargeable as per the rate mentioned in the Menu and as per the preference of the Customers provided the service of supplying drinking water to them.
- 2.4 The packaged drinking water has been procured by the Applicant from the market where the price is fixed at MRP and in Sambalpur the normal sale price of one liter bottle of Drinking water is fixed at the MRP of Rs. 20/- per bottle inclusive of GST. However, the applicant has been charging more than the MRP printed on the packaged drinking water as per the decision of the Hon'ble Supreme Court of India in case of Federation of Hotels and Restaurant Association of India Vrs Union of India in Civil Appeal No. 21791 of 2017 arising out of S.L.P (C) No. 27629/2015 wherein it has been held that, "**neither the standard of Weigh and Measures Act, 1976 read with the enactment of 1985, or the Legal Metrology Act, 2009, would apply so as to interdict the sale of mineral water in hotels and restaurants at prices which are above MRP.**"
- 2.5 That, as the Hotel and Restaurant of the applicant is providing a "Service" to the customers and not selling goods, levy GST @5% (SGST @2.5% & CGST @ 2.5%) on the amount of invoice for providing Restaurant service.

3.0 APPLICANT'S INTERPRETATION

As per the applicant's understanding,



3.1 They are treating supply of Packaged Drinking Water along with Food served in their Restaurant as supply of Restaurant Service. Relying upon the Judgment of Hon'ble Supreme Court of India in case of Federation of Hotel and Restaurant Association of India Vrs Union of India in Civil Appeal No. 21791 of 2017 arising out of S.L.P. © No. 27629/2025, on charging price more than MRP of the packaged drinking water served in their Restaurant, the applicant is charging/levying GST@5% (CGST @2.5% & SGST @ 2.5%) on the amount charged in the invoices providing Restaurant Service.

5.0 **Personal Hearing:**

The personal hearing was fixed on 19.08.2025 under due intimation to the applicant, the jurisdictional officer of State & Central GST (intimated through their respective Commissionerates along with a copy of the application and the written submission of the Applicant). The Applicant through E-mail intimated not to attend the persona hearing and requested to decide their application on merit. The representative from Revenue was not present on the date of personal hearing. The applicant has also submitted additional submission vide letter dated 10.09.2025.

Discussion & findings

6.0 We have gone through the advance ruling application, question on which advance ruling has been sought and the Applicant's interpretation of law and/or facts, as the case may be, in respect of the question asked.

6.1 On going through advance ruling application, it is observed that, applicant sought advance ruling on classification on the following question:

"Whether levying GST@ 5% (SGST @ 2.5% and CGST @ 2.5%) on the invoice amount which includes the foods as well as the packaged drinking water bottle (the rate of which more than the MRP printed on the bottle) as



ordered by the customers treating the entire transaction as providing Restaurant Service is legally correct?

6.2 We find that applicant is a registered person under GST Act bearing GSTN: 21AABCH5419C1Z9 and involved in supply of "Hotel & Restaurant Service". The maximum rate of tariff per room at their Hotel is less than Rs. 7500/- per night. The Applicant offers Restaurant Service to both in-house customers as well as outside customers.

6.2 We have gone through the above question raised in the application and observed that, the applicant sought clarification on applicable GST on Mineral Water when it supplies in their restaurant along with other food items and having price more than that of price mentioned as MRP.

6.3 Before going into the details of the discussion we must clarify certain issues and concepts related to the matters of this application for Advance Ruling. In Restaurant the supplier provides foods along with services to customers. Considering the nature of supply of the applicant, we are of the view that activity of sale of goods in question along with services thereof performed by the applicant in respect of supply of Restaurant Service is covered under 'supply' as per section 7 of the CGST Act, 2017 and liable to tax as per section 9 of the CGST Act, 2017. Further Composite Supply under Section 2(30) of CGST Act, 2017 is defined as:

(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;

Section 8 of CGST Act, 2017 provides:



8. The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

From the above definition, it is evident that, the supply in question qualifies as a composite supply as it comprises of two or more supply. As far as nature of supply in the present case is concerned, reference is also invited to clause (b) of entry 6 of the Schedule II to the section 7 of the CGST Act, 2017 which is as under: -

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

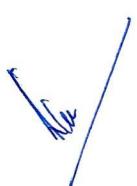
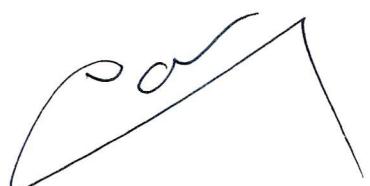
a)-----

(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.

The above Schedule, the CGST Act, 2017 put the composite supply of Restaurant Service in the category of Service even though it is a composite supply based on its nature of supply. Hence, it can be said that, the Restaurant Service shall be treated as supply of service for the purpose of levying GST.

Coming to definition of Restaurant Service, It has been defined in Notification No. 20/2019-Central Tax (Rate) dated 30.09.2019 which reads as:

"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."

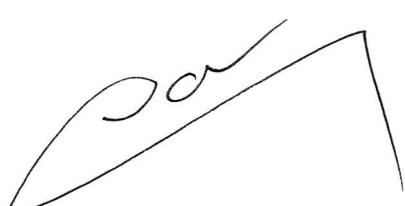
From the above definition of Restaurant Service, we are of the view that, any drink that has been provided by the Restaurant along with other items i.e. food or any other article for human consumption, find a place in the above inclusive definition. Hence, supply of "**Packaged Drinking water**" in a Restaurant will be treated as Restaurant Service and all the relevant provisions of law and rules made there under shall be applicable as per the provision of GST Act, 2017.

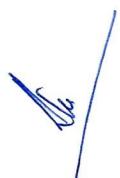
As far as taxability of the supply of Restaurant Service is concerned, we find that, presently the Rate of GST for Restaurant Service has been charged differently under two category vide Notification No. 20/2019-Central Tax -(Rate) wherein GST@ 5% (CGST: Rs. 2.5% & SGST Rs. 2.5%) has been levied without availing Input Tax Credit and GST@ 18% with availing Input Tax Credit under two different circumstances. The relevant extract of the Notification No. 20/2019-Central Tax - (Rate) is as under:

(3)	(4)	(5)
"(i) Supply of "hotel accommodation" having value of supply of a unit of accommodation above one thousand rupees but less than or equal to seven thousand five hundred rupees per unit per day or equivalent.	6	-
(ii) Supply of "restaurant service" other than at 'specified premises'	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)]



<p>(iii) Supply of goods, being food or any other article for human consumption or any drink, by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms.</p>	2.5	<p>Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]</p>
<p>(iv) Supply of "outdoor catering", at premises other than "specified premises" provided by any person other than-</p> <ul style="list-style-type: none"> (a) suppliers providing "hotel accommodation" at "specified premises", or (b) suppliers located in "specified premises" 	2.5	<p>Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> (iv)]</p>
<p>(v) Composite supply of "outdoor catering" together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organizing a function) at premises other than "specified premises" provided by any person other than-</p> <ul style="list-style-type: none"> (a) Suppliers providing hotel accommodation at "specified premises" or (b) Suppliers located in "specified premises". 	2.5	<p>Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> (iv)]</p>
<p>(vi) Accommodation, food and beverage services other than (i) to (v) above</p> <p>Explanation: (a) For the removal of doubt, it is hereby clarified that supplies covered by items (ii), (iii), (iv) and (v) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5), which is a mandatory rate and shall not be levied at the rate as specified under this entry.</p> <p>(b) This entry covers supply of "restaurant service" at "specified premises"</p> <p>(c) This entry covers supply of "hotel accommodation" having value of supply of a unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.</p> <p>(d) This entry covers supply of "outdoor catering", provided by suppliers providing "hotel accommodation" at "specified premises", or suppliers located in "specified premises".</p> <p>(e) This entry covers composite supply of "outdoor catering" together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) provided by suppliers providing "hotel accommodation" at "specified premises", or suppliers located in "specified premises".</p>	9	-";





From the above provision, it is apparent that, Supply of Restaurant Service at "Specified Premises" attracts GST @ 18% and other than at Specified premises attract GST @ 5%.

The terms Specified Premises has been defined as

Specified premises" means premises providing "hotel accommodation" services having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.

6.4 Recent changes in the GST Act in respect of accommodation service given by the hotels: Notification No. 05/2025 Central Tax (Rate) Dated 16.01.2025 has brought certain significant changes with effect from 01.04.2025 by amending Notification No. 11/2017 Central Tax (Rate) Dated 28.06.2017 in respect of hotel accommodation service. The above notification amends the definition of "Specified Premises" which has been reproduced below:

In the said notification [Notification No. 11/2017 Central Tax (Rate) Dated 28.06.2017],

- (i) in paragraph 4 relating to Explanation, with effect from the 1st day of April, 2025,-*
 - (a) clause (xxxv) shall be omitted;*
 - (b) for clause (xxxvi), the following clause shall be substituted, namely:-*
 - "(xxxvi) "Specified premises", for a financial year, means,-*
 - (a) a premises from where the supplier has provided in the preceding financial year, "hotel accommodation" service having the value of supply of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent; or*
 - (b) a premises for which a registered person supplying "hotel accommodation" service has filed a declaration, on or after the 1st of January and not later than 31st of March of the preceding financial year, declaring the said premises to be a specified premises; or*



(c) a premises for which a persona applying for registration has filed a declaration, within fifteen days of obtaining acknowledgement for the registration application, declaring the said premises to be a specified premises;"

This amendment has brought the following changes in respect of accommodation services provided by hotels.

6.5 The concept of declared Tariff has been done away with from 01.04.2025 onwards. The definition of specified premises has been changed. For the period prior to 01.04.2025, "specified premises" meant premises providing "hotel accommodation" services having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent. From 01.04.2025, the definition of "specified premises" for a financial year includes any of the following.

- A. Price-based criteria: Any premises where hotel accommodation services were provided in the previous financial year, with price exceeding seven thousand five hundred rupees per unit per day for any unit of accommodation.
- B. Voluntary declaration by the existing suppliers: Any premises for which a registered hotel service provider declares his premises as "specified premises" between 1st January and 31st March of the preceding financial year.
- C. Declaration by new applicants: Any premises which has been declared as "specified premises" by a person applying for registration within 15 days of receiving the acknowledgement for his application of registration. In short, a premises automatically qualifies as "specified premises" for the current financial year if it meets the price criteria for the preceding financial year. Additionally, both existing and new hotel service providers have the option to voluntarily declare their premises as "specified premises" for a financial year. For the existing suppliers, the declaration has to be furnished by the specified date



during the current financial year for being considered as "specified premises" in the next financial year.

In view of the above changes vide Notification No. 05/2025 Central Tax (Rate) Dated 16.01.2025, we have to discuss the issues under this application for Advance Ruling.

The applicant has a restaurant in their hotel premises that serves both walk-in customers and in-house customers with food other eatables along with water as discussed above. The applicant charges GST @5% on such supply of foods along with Packaged drinking water to both in-house and outside customers on the guise that his hotel premises does not fall under the definition of "specified premises". As such, the supply will qualify either for serial no. (ii) of the table inserted in Sl. No. (i) of Notification No. 20/ 2019- Central Tax (Rate) Dated 30.09.2019 the description being "restaurant service" other than at "specified premises" or for serial no. (vi) of the notification description being accommodation, food and beverage services other than (i) to (v). i.e. "restaurant service" at "specified premises".

However In the light of this Notification No. 05/2025 Central Tax (Rate) Dated 16.01.2025 we have to decide whether the applicant's premises will qualify for "specified premises". In view of the above discussion we are of the considered view that the hotel premises of the applicant will qualify for "specified premises" for financial year 2025-26 if the value of supply of any room exceeds Rupees Seven thousand five hundred in financial year 2024-25. If the said value of supply of any room does not exceed Rupees Seven thousand five hundred in financial year 2024-25, the premises of the applicant will not be considered as "specified premises". The applicant has submitted the declared Tariff of the Hotel along with their application wherein the tariff so declared is less than Rs. 7500/-. In lieu of the recent changes of the definition, "declared premises", the



applicant has been informed to submit the details of value of the unit accommodation during the previous Financial Year. The applicant vide letter dated 10.9.2025 submitted their clarification wherein it is evident that, the unit accommodation of the applicant's hotel during the previous Financial Year was less than Rs. 7500/-.

In view of the above, the applicant premises would not fall under the category of Specified premises as the tariff is below Rs. 7500/-. Hence, the applicant is liable to discharge GST @ 5% (CGST: Rs. 2.5% & SGST Rs. 2.5%) for the supply of Restaurant Service Provided that credit of input tax charged on goods and services used in supplying the service has not been taken. Since, the term "**any drink supplied**" finds the place in the inclusive definition of Restaurant Service as discussed above and the value of the "**Packaged Drinking water**" form part of the transaction value of Restaurant Service as per above definition of "Restaurant Service", we have already arrived at the considered conclusion that,, GST on supply of "Packaged Drinking water" along with other food items at the applicant's Restaurant shall be levied @ 5% (CGST: Rs. 2.5% & SGST Rs. 2.5%) provided that credit of Input Tax charged on goods and services used in supplying the service has not been taken.

7.0 In view of the above, we pass the following order:

RULING

Q. "Whether levying GST@ 5% (SGST @ 2.5% and CGST @ 2.5%) on the invoice amount which includes the foods as well as the packaged drinking water bottle (the rate of which more than the MRP printed on the bottle) as ordered by the customers treating the entire transaction as providing Restaurant Service is legally correct?"

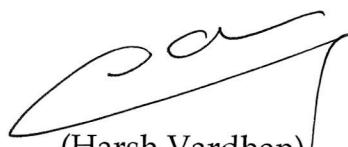
Ans: The supply of any drink along with foods or any other article for human consumption by the applicant in their Restaurant shall be considered as supply



of restaurant service and as such GST @ 5% (SGST @ 2.5% and CGST @ 2.5%) shall be levied on the total transaction for supply of such service as the applicant premises is not covered under definition of "specified premises for the time being in force.

Provided for any time in future, if the applicant hotel falls under the definition of "Specified Premises" as discussed above, subsequent levy of GST on supply Restaurant Service shall be dealt with differently as per the provision of law.

8.0 The Applicant or jurisdictional officer, if aggrieved by the ruling, may appeal to the Odisha State Appellate Authority for advance ruling under Section 100 of the CGST/OGST Act, 2017 within 30 days from the date of receipt of the advance ruling.



(Harsh Vardhan)
Member, CGST



(Pratima Mohanty)
Member, SGST

C. No. V (30)03/ARA/ODISHA/BBSR/2025-26/01

Dated: 13/09/2025

To

16968-70A

M/s Harjit Hotel & Shopping Private Limited,
Ground Floor, DI-674/2,
VSS Marg, Sambalpur

Copy forwarded to:

1. The Pr. Commissioner, CGST & Central Excise, Bhubaneswar Commissionerate, Bhubaneswar.
2. The Chief Commissioner, SGST Odisha, Banijyakar Bhawan, Old Secretariat Compound, Cuttack-753001, Odisha.
3. Office copy.

