
 सत्यमेव जयते	RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX KAR BHAWAN, AMBEDKAR CIRCLE, NEAR RAJASTHAN HIGH COURT JAIPUR – 302005 (RAJASTHAN)	
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ADVANCE RULING NO. RAJ/AAR/2022-23/06

Vikas Kumar Jeph Additional Commissioner	: Member (Central Tax)
M. S. Kavia Additional Commissioner	: Member (State Tax)
Name and address of the applicant	: M/s Indian Coffee Workers' Cooperative Society Limited, Indian Coffee House, NTPC, Anta, Distt-Baran-325202 (Rajasthan).
GSTIN of the applicant	: 08AAAAI0550Q1ZI
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	: (a) Classification of any Goods or Service or Both
Date of Personal Hearing	: 11.05.2022 & 25.05.2022
Present for the applicant	: Priyank Kabra, CA
Date of Ruling	: 01.06.2022

Note: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of communication of this order.

At the outset, we would like to make it clear that the provisions of both the CGST Act and the SGST 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 SGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / SGST Act would be mentioned as being under the "GST Act".

The issue raised by M/s Indian Coffee Workers' Cooperative Society Limited, Indian Coffee House, NTPC, Anta, Distt-Baran-325202, Rajasthan - (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (a) given as under:

(a) Classification of any Goods or Service or Both



As per the declaration given by the applicant in Form (ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.

A. SUBMISSION OF THE APPLICANT:(in brief)

M/s Indian Coffee Workers' Cooperative Society Limited, Indian Coffee House, NTPC, Anta, Distt-Baran-325202, Rajasthan (Applicant) is engaged in providing services relating to supply of food to the employees of NTPC Anta at the premises rented from them. The applicant seeks mainly, amongst others, the classification under which the services provided by it are to be covered for the purpose of taxation under GST.

A brief note on the nature of activity undertaken by the applicant is hereunder provided before getting into the submissions regarding applicant's understanding of the questions on which advance ruling is sought from your honour.

Nature of Activity:

- The assessee is into plant canteen services at NTPC Anta.
- The premise has been provided by NTPC on rent.
- They are running the canteen at NTPC Anta and selling articles for human consumption at pre-decided rates.

Mode of receipt of consideration

The consideration for the services rendered is received by two ways:

1. A fixed amount is paid by the NTPC for running and maintenance of canteen.
2. Balance is recovered from those procuring food from the canteen.

The details are herewith shared regarding both:

1. Amount received from NTPC:

NTPC has agreed to pay a fixed monthly amount to the assessee-applicant with the conditions as mentioned in the Service Purchase agreement.

2. Amount received from the persons procuring foods items

As per the agreement with NTPC, amount at which the assessee-applicant has to provide food items to the persons procuring them is decided among the assessee-applicant and the NTPC. The amount is then recovered from the food-procurers.

With the brief understanding, as above, of the nature of activity of the applicant and the service agreement, the service purchase order and a sample of the service circular, mentioning therein the rates decided to be charged from the procurers, which is amended from time to time, the applicant submit its understanding in relation to the questions on which advance ruling is sought as under:

Question 1. Whether the service provided by the applicant is classifiable as Restaurant Service or Outdoor Catering Service (HSN Code: 9963)?

Submission:

In the understanding of the applicant –

- i.) w.e.f 01.10.2019 it is taxable under the category of “Accommodation, food and beverages services” and is covered under Sr. No. 7 (ii) of the Table to Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended by the Notification No.20/2019-Central Tax (Rate) dated 30.09.2019 attracting GST @ 5% (CGST:2.5% + SGST: 2.5%).
- ii.) The Notification No.20/2019-Central Tax (Rate) dated 30.09.2019 substituted item (ii) in column (3) against Serial No.7:

Supply of ‘restaurant service’ other than at ‘specified premises’

Restaurant Service is defined in the aforesaid notification in the explanations as below:

(xxxii) “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.

The said notification also defines the ‘outdoor catering’ service (which is mentioned at item (iv) of serial number 7 of the table of the said notification) as below:

(xxxiii) “Outdoor catering” 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, at Exhibition Halls, Events, Conferences, Marriage Halls and other outdoor or indoor functions that are event based and occasional in nature.

The said notification further defines the ‘Specified premises’ and ‘Hotel accommodation’ as below:

(xxxvi) “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.

(xxxiv) “Hotel accommodation” means supply, by way of accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes including the supply of time share usage rights by way of accommodation.

In the understanding of the applicant,

- a.) It is supplying the goods as aforementioned in the item (ii) read with the definition of restaurant service with the place of consumption of the same being immaterial.
- b.) The ownership/possession of the place from where the services are provided is not material in GST regime as per the said notification. This is a deviation from the condition that was there in the service tax regime. The Authority for Advance Ruling in Karnataka in

- a.) the service rendered as mentioned in the submission to question 1 as above attracts GST @ 5% (2.5% CGST and 2.5% SGST);
- b.) the service is provided by the applicant to the recipient and the fact that the meal, snacks, tea etc. are consumed by the workers/employees of the recipient, would not alter the nature of service provided by the applicant. Taxability or the charge of tax does not depend on whether and to what extent the person engaging the service himself consumes the edibles and beverages supplied, wholly or in part.

This view finds support from the judgement by the Allahabad High Court in Central Excise Appeal No. 50 of 2014 in applicant's own case of M/s Indian Coffee Workers' Co-operative Society Limited Vs Commissioner of Central Excise & Service Tax, Allahabad. The same view has also been accepted/followed by the Gujarat Authority for Advance Ruling in the ruling order no. GUJ/GAAR/R/18/2019 in the case of Gurukrupa Hospitality Services.

Question 3. Whether the rate of tax applicable, for providing such services, on consideration received in the form of sale of food items to the employees/workers/others is 5% (2.5% CGST and 2.5% SGST)?

Submission:

In the understanding of the applicant the rate of tax applicable should be 5% (2.5% CGST and 2.5% SGST) on the consideration received because the service rendered as mentioned in the submission to question 1 as above attracts GST @ 5% (2.5% CGST and 2.5% SGST).

Question 4. If any/all of the above three questions are not answered by your goodself in affirmative or are answered otherwise then please provide the correct nature of service and the rate of tax applicable.

Submission:

Without prejudice to the above understanding of the applicant, it is prayed to your honour to please be kind enough and provide the correct nature of service and the rate of tax applicable so that compliance of law in letter and spirit may be done by the applicant.

B. Question(s) on which advance ruling is sought

Question 1. Whether the service provided by the applicant is classifiable as Restaurant Service or Outdoor Catering Service (HSN Code: 9963)?

Question 2. Whether the rate of tax applicable, for providing such services, on consideration received from NTPC is 5% (2.5% CGST and 2.5% SGST)?

Question 3. Whether the rate of tax applicable, for providing such services, on consideration received in the form of sale of food items to the employees/workers/others is 5% (2.5% CGST and 2.5% SGST)?

Question 4. If any/all of the above three questions are not answered by your goodself in affirmative or are answered otherwise then please provide the correct nature of service and the rate of tax applicable.

C. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 11.05.2022 & 25.05.2022. On behalf of the applicant CA, Priyank Kabra (Authorised Representative) appeared for PH. During the PH, he reiterated the submissions already made in the application.

D. COMMENTS OF THE JURISDICTIONAL OFFICER

The Dy./Assistant commissioner, State Tax, Commercial Tax Department, Circle-Baran has submitted his comments vide letter dated 21.03.2022 which are as under :

1. Yes, the service provided by the applicant is classifiable as outdoor catering services (HSN Code 9963) according to the entry for schedule II the supply of food by way of or as a part of any services or even in any other manner what over shall be treated as supply of service.
2. The rate of tax applicable for providing such services on consideration received from NTPC should be 5% (2.5 CGST and 2.5% SGST) as per serial number 7(iv) of notification number 11/2017 – Central Tax (Rate) as amended by notification number 20/2019-Central Tax (Rate) provide that credit of Input tax charged on goods and services used in supplying the service has not been taken.
3. The rate of tax applicable , for providing such services on consideration received in the form of sale of food items to the employees/workers/others is 5% (2.5 CGST and 2.5% SGST) as per serial number 7(iv) of notification number 11/2017 – Central Tax (Rate) as amended by notification number 20/2019-Central Tax (Rate) provide that credit of Input tax charged on goods and services used in supplying the service has not been taken.

E. FINDINGS, ANALYSIS & CONCLUSION:

We have perused the records on file and gone through the facts of the case and the submissions made by the applicant as well as the department. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

1. Based on the submission of the applicant, we observe that there are different issues to be discussed in respect of which the applicant has asked questions (Reconstituted). They are as under:

Question 1. Whether the service provided by the applicant is classifiable as Restaurant Service or Outdoor Catering Service (HSN Code: 9963)?

Question 2. Whether the rate of tax applicable, for providing such services, on consideration received from NTPC is 5% (2.5% CGST and 2.5% SGST)?

Question 3. Whether the rate of tax applicable, for providing such services, on consideration received in the form of sale of food items to the employees/workers/others is 5% (2.5% CGST and 2.5% SGST)?

Question 4. If any/all of the above three questions are not answered by your goodself in affirmative or are answered otherwise, then please provide the correct nature of service and the rate of tax applicable.

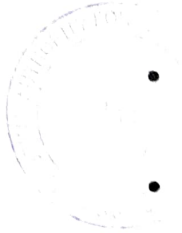
2. We will take up all the above questions for discussion one by one. The **first question** pertains to classification of supply whether the service provided by the applicant is classifiable as Restaurant Service or Outdoor Catering Service or otherwise.

Based on the submission made by the applicant, we find that M/s Indian Coffee Workers' Cooperative Society Limited, Mumbai is engaged in providing services for running and maintenance of plant canteen at NTPC, Anta, Rajasthan at the premises rented by NTPC, Anta. In this regard, the applicant entered into an agreement dated 18 October, 2021 with NTPC, Anta vide Service Purchase Order No. 4600067256-017-1013 dated 28.09.2021 for running and maintenance of plant canteen at NTPC, Anta for the period from 01.09.2022 to 30.06.2022 (Ten Months) having contract value of Rs. 68,45,452/-. As per 'Bill of Quantity', break up of contract value is as under:

S. No.	Staff	Nos.	Amount (Rs.)
1	Manager	01	
2	Counter Clerk	02	
3	Cook	02	
4	Asst. Cook	02	
5	Sr. Bearer	01	
6	Bearer	08	
7	Cleaners	03	
8	Total (A)	19	67,30,477.30
9	GST liability Plant Canteen Food Items (B)		1,14,975.00
10	Total amount (A+B)		68,45,452.30

The important Scope of Work/features of Service Purchase Order dated 28.09.2021 are as under: -

- As per S. No. 7 of the above-said P.O., the contractor shall supply the standardized items at the rates and quantities as decided.
- As per S. No. 9 of the above-said P.O., the canteen premise has been provided to the applicant by NTPC, Anta on nominal rent of Rs. 1/- per month.
- As per S. No. 10 of the above-said P.O., NTPC shall provide furniture required in dining hall (dining table with seats).
- As per S. No. 11 of the above-said P.O., NTPC will make electricity available free of cost in canteen for cooking, heating, refrigerators, lights and other fixtures.

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- As per S. No. 16 of the above-said P.O., the contractor shall maintain a register for attendance of his employees, which shall be marked daily and subject to inspection.
 - As per S. No. 21 of the above-said P.O., the contractor i.e. M/s Indian Coffee Workers' Cooperative Society Limited, Mumbai has to deploy only its members /employees/ staff for the contract work at said premises. The Manpower during contract period is envisaged as below:

1. Manager 01
2. Counter Clerk- 02
3. Cook -02
4. Asst. Cook -02
5. Sr. Bearer -01
6. Bearer -08
7. Cleaners -03
- Total -19

- As per S. No. 24 of the above-said P.O., the contractor shall recruit his own staff for the contract work. The contractor's staff shall not be treated as NTPC Staff for any purpose what so ever and facilitates/ benefits applicable to NTPC Staff will not be applicable to contractor's employee.
- As per S. No. 31 of the above-said P.O., the premises with fittings and fixtures, furniture, vessels, utensils, electrical and mechanical appliances, provided to the contractor for running of the canteen shall be the property of the NTPC management. The contractor shall have no right on any of these.
- As per S. No. 34 of the above-said P.O., it shall be the whole responsibility of the contractor to procure grocery, Ration, other items and raw materials required for preparing foodstuff.
- As per S. No. 39 of the above-said P.O., on termination of the contract, the premises, furniture, fittings, utensils, appliances etc. will be handed over to the NTPC's management in goods and working condition.

Further, as per written submission made by the applicant, the consideration for the services rendered is being received by two ways:

1) A fixed amount is paid by the NTPC for running and maintenance of canteen.

NTPC has agreed to pay a fixed monthly amount to the applicant with the conditions as mentioned in Service Purchase agreement.

2) Balance is recovered from those procuring food from the canteen.

As per the agreement with NTPC, amount at which the applicant has to provide food items to the persons procuring them is decided among the applicant and the NTPC. The amount is then recovered from the food-procurers.

From the above facts, we observe that on the behalf of M/s Indian Coffee Workers' Cooperative Society Limited, Mumbai, Shri K. B. Sanjayan, Manager, M/s Indian Coffee House, NTPC, Anta, Rajasthan has acknowledged the aforesaid Service Purchase Order by making signature as Authorised Signatory over it in token of acceptance of the same. Further, on perusal of 'Bill of Quantity' and S. No. 16, 21 & 24 of the Service Purchase Order dated 28.09.2021, it is find that applicant has provided manpower i.e. Manager, clerk, cook, cleaner, helper etc. for running & maintenance of the canteen at NTPC, Anta for a consideration amounting to Rs. 68,45,452/- for a period of 10 months. The activity undertaken by the applicant is covered under 'Supply' as defined under Section 7 (1) of the GST Act, 2017 which is as under-

(1) For the purposes of this Act, the expression "supply" includes— (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

Here, we are of the view that activity of supply of manpower service for running & maintenance of the canteen for consideration in the course of business 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, this service is classified at heading No. 998514 "Temporary staffing service". The explanatory notes of this heading is as under: -

998514 Temporary staffing services

This service code includes supplying personnel for temporary work assignments.

Note: The temporary staffing firm hires its own employees and assigns/supplies them to clients to support or supplement the client's workforce in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects. The employees are on the payroll of the temporary staffing firm which is legally responsible for their actions, but when working they are under the direct supervision of the client. The temporary staffing firm specifies the pay, benefits, etc. of the employee.

Keeping in view above explanatory notes and S. No. 16, 21 & 24 of the Service Purchase Order dated 28.09.2021 and 'Bill of Quantity', we are of the view that applicant is being supplied manpower service to NTPC, Anta for special assignments i.e. running & maintenance of the canteen. All the employees are on the payroll of the applicant which is legally responsible for their actions, but when working they are under the direct supervision of the client i.e. NTPC, Anta. The temporary staffing firm i.e. applicant specifies the pay, benefits, etc. of the employee.

In continuation to above, we can visit the Notification No. 11/2017-CT (Rate) dated 28.06.2017 (as amended). The same is reproduced as under:

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (%)	Condition
23	Heading 9985 (Support services)	(i) Supply of tour operators services. Explanation.- “tour operator” means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours.	2.5	1. 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)] 2. The bill issued for supply of this service indicates that it is inclusive of charges of accommodation and transportation required for such a tour and the amount charged in the bill is the gross amount charged for such a tour including the charges of accommodation and transportation required for such a tour.
		“(ii) Services by way of house-keeping, such as plumbing, carpentering, etc. where the person supplying such service through electronic commerce operator is not liable for registration under sub-section (1) of section 22 of the Central Goods and Services Tax Act, 2017.	2.5	Provided that credit of input tax charged on goods and services has not been taken [Please refer to Explanation no. (iv)].
		(iii) Support services other than (i) and (ii) above.	9	-

Thus, we concluded that the service provided by the applicant is neither classifiable as ‘Restaurant Service’ nor ‘Outdoor Catering Service’, rather it is classifiable as ‘Temporary staffing services’ under heading No. 998514 and attracts GST @ 18% (9% CGST+9% SGST) as per S. No. 23 (iii) of the Notification No. 11/2017-CT (Rate) dated 28.06.2017 (as amended).

- Now, we are required to discuss the **second question** of the applicant which is related to applicable tax rate on the supply made by the applicant. In this regard, we are of the view that in the instant case supply made by the applicant is classifiable under Chapter, Section or Heading 998514 under Sl. No. 23(iii) of

Notification No. 11/2017-CT (Rate) dated 28.06.2017 as amended time to time and is taxable at the rate of @ 18% (9% CGST+9% SGST).

4. Now, we are required to discuss the **Third question** of the applicant which is related to rate of tax applicable, for providing services, on consideration received in the form of sale of food items to the employees/workers/others.

As per the agreement with NTPC, amount at which the applicant has to provide food items to the persons procuring them is decided among the applicant and the NTPC. The amount is then recovered from the food-procurers.

In this regard, we can visit the 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: —

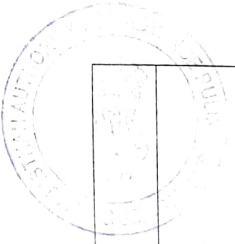
a) ----

(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.

As per explanatory notes to the scheme of classification under heading 9963: Accommodation, Food and Beverage service, we find that activity being undertaken by the applicant will be classified under heading 996333 as *services provided in canteen and other similar establishments*”.

Further, the GST rates on services have been notified by the Government vide Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 as amended vide Notification No. 20/2019-CT(R) dated 30.09.2019 and the relevant extract of the said notification (as amended) for the present issue is reproduced as under:

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (%)	Condition
7	Heading 9963 (Accommodation, food and beverage services)	(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>(iv) Supply of 'outdoor catering', at premises other than 'specified premises' provided by any person other than—</p> <p>(a) suppliers providing 'hotel accommodation' at 'specified premises', or</p> <p>(b) suppliers located in 'specified premises'.</p>	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 (iv)]
		<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 organising a function) at premises other than 'specified premises' provided by any person other than—</p> <p>(a) suppliers providing 'hotel accommodation' at "specified premises", or</p> <p>(b) suppliers located in 'specified premises'.</p>	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 (iv)]
		<p>(vi) Accommodation, food and beverage services other than (i) to (v) above</p> <p>Explanation.—</p> <p>(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>	9	-

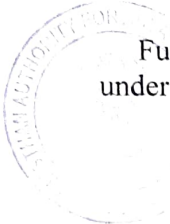
	<p>(b) This entry covers supply of 'restaurant service' at 'specified premises'.</p> <p>(c) This entry covers supply of 'hotel accommodation' having value of supply of a unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.</p> <p>(d) This entry covers supply 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>	
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As evident from the tariff above, there is a specific entry for Supply of 'restaurant service' other than at specified premises in Entry 7(ii) and for the purpose of the said Notification, 'restaurant service' has been defined in the notification itself as under:

(xxxii) "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.

The only exclusion from the entry 7(ii) is supply of such service at 'specified premises'. In the notification No. 11/2017-CT(R) dated 28.06.2017 at explanation No. (xxxvi) the "specified premises" defined as under:

(xxxvi) "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.



Further, at explanation No. (xxxiv) the “Hotel accommodation” defined as under:

(xxxiv) *‘Hotel accommodation’ means supply, by way of accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes including the supply of time share usage rights by way of accommodation.*

The said notification also defines the ‘outdoor catering’ service (which is mentioned at item (iv) of serial number 7 of the table of the said notification) as below:

(xxxiii) “Outdoor catering” 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, at Exhibition Halls, Events, Conferences, Marriage Halls and other outdoor or indoor functions that are event based and occasional in nature.

In view of above legal position, in the present case the canteen is not located in any premises having ‘hotel accommodation’ services. Rather is it situated at premises of NTPC on a contractual agreement on rent. Hence the case of the applicant is not covered in exclusion in respect of item (ii) of serial number 7 of the table of the said notification No. 11/2017-CT(R) dated 28.06.2017. As far as relevancy of “Outdoor catering” in respect of applicant’s services is concerned, it crystal clear that the supply being undertaken by the applicant is not event based or occasional in nature which is evident from the agreement which provides for the operation of the agreement for a period of 10 months.

Hence, we find that activities of selling articles for human consumption at pre-decided rates to the employees of the recipient at canteen of NTPC, Anta by the applicant would be fall under the ‘restaurant service’ and are classifiable under HSN 9963 under Sl. No. 7(ii) of Notification No. 11/2017-CT (Rate) dated 28.06.2017 as amended time to time and attract 5% GST (2.5% CGST + 2.5% SGST) provided that credit of input tax charged on goods and services used in supplying the service has not been taken.

5. Now, we are required to discuss the **fourth question** of the applicant which is related to the correct nature of service and the rate of tax applicable.

In this regard, as discussed in foregoing paras, we find that the services of supplying of staff/employee/labor by the applicant to the NTPC, Anta is neither classifiable as ‘Restaurant Service’ nor ‘Outdoor Catering Service’, rather it is classifiable as ‘Temporary staffing services’ under Heading No. 998514 and attracts GST @ 18% (9% CGST+9% SGST) as per S. No. 23 (iii) of the Notification No. 11/2017-CT (Rate) dated 28.06.2017 (as amended). Further, activities of selling articles for human consumption at pre-decided rates to the employees of the recipient at canteen of NTPC, Anta by the applicant would be fall under the ‘Restaurant Service’ and are classifiable under Heading No. 996333 under Sl. No. 7(ii) of Notification No. 11/2017-CT (Rate) dated 28.06.2017 as amended time to time and would attract 5% GST (2.5% CGST + 2.5% SGST).

6. In view of the foregoing, we rule as follows: -

RULING

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Rajasthan Goods and Services Tax Act, 2017)

For reasons as discussed in the body of the order, the questions are answered thus:

Question 1. Whether the service provided by the applicant is classifiable as Restaurant Service or Outdoor Catering Service (HSN Code: 9963)?

Answer 1: NO. The service provided by the applicant is classifiable as 'Temporary staffing services' under heading No. 998514. and attracts GST @ 18% (9% CGST+9% SGST) as per S. No. 23 (iii) of the Notification No. 11/2017-CT (Rate) dated 28.06.2017.

Question 2. Whether the rate of tax applicable, for providing such services, on consideration received from NTPC is 5% (2.5% CGST and 2.5% SGST)?

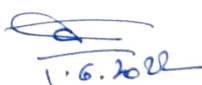
Answer 2: NO. GST @ 18% (9% CGST+9% SGST) as per S. No. 23 (iii) of the Notification No. 11/2017-CT (Rate) dated 28.06.2017 is applicable.

Question 3. Whether the rate of tax applicable, for providing such services, on consideration received in the form of sale of food items to the employees/workers/others is 5% (2.5% CGST and 2.5% SGST)?

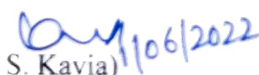
Answer 3: Activities of selling articles for human consumption at pre-decided rates to the employees of the recipient at canteen of NTPC, Anta by the applicant would be fall under the 'restaurant service' and are classifiable under Heading No. 996333 under Sl. No. 7(ii) of Notification No. 11/2017-CT (Rate) dated 28.06.2017 as amended time to time and would attract GST @ 5% (2.5% CGST + 2.5% SGST).

Question 4. If any/all of the above three questions are not answered by your goodself in affirmative or are answered otherwise, then please provide the correct nature of service and the rate of tax applicable.

Answer 4: As mentioned in Answer No. 1, 2 & 3 above.


1.6.2022
(Vikas Kumar Jeph)
MEMBER
CENTRAL TAX




11/06/2022
(M. S. Kavia)
MEMBER
STATE TAX

SPEED POST

M/s Indian Coffee Workers' Cooperative Society Limited,
Indian Coffee House,
NTPC, Anta, Distt-Baran-325202 (Rajasthan).

F.No. AAR/ICWCSL/2022-23/91-94

Date: 01/06/2022

Copy to:-

1. The Chief Commissioner, CGST and Central Excise, Jaipur Zone, NCRB, Statue Circle, Jaipur-302005 (Raj.).
2. The Chief Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
3. The Dy./Assistant commissioner, State Tax, Commercial Tax Department, Circle-Baran (Rajasthan).

o/c