

Selling eatables eligible for ITC under GST regime

However, credit can't be availed if eatables are sold and served, rules AAR

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Selling sweets and eatables is one thing and providing facility to consume them within the shop is a different thing from the point of view of the Goods & Services Tax (GST). While former situation will enable the shopkeeper to get benefit of Input Tax Credit (ITC), the latter will not.

West Bengal's Authority for Advance Ruling (AAR) gave a ruling on March 22 differentiating between the supply of the foods items, and supply and

serving the food items by the same business. Though AAR ruling are applicable on applicant and the tax official concerned only, it can have a persuasive effect in a similar matter.

Applicant's scenario

The applicant, Manoj Mittal runs an eatables business in Darjeeling, which has two sections. In one counter, sweetmeats, namkeens and bakery items are sold off the counter in the form of takeaways. In the other section, fast food snacks and beverage items are prepared and served, which can either be consumed at the premises or allowed as takeaways. The applicant also provides catering services to an educational institution.

The applicant approached



The ruling was given by the West Bengal AAR

AAR with questions. The first question was whether sale from the portion of the sweetmeats and bakery shop should be categorised as supply of goods and if this will be eligible for ITC. The second question was if the second segment would be treated as restaurant service. The third was whether the catering services provided to the

educational institution will be exempt from GST based on the agreement.

AAR's response

Responding to the first question on March 22, the ruling said that the sale "shall be categorised as supply of goods" and that "the applicant is eligible to avail ITC".

Further, the supply of food items and beverages by the applicant which offers the facility of eating in the same premises, along with takeaway of the same, shall be treated as restaurant services and will attract tax at 5 per cent rate but without ITC.

For the third question, AAR held that the supply of the catering services to the educational institution, based on the

agreement, will be exempted from payment of GST. However, the supply of food and beverages to the auditor, guests/ parents on programme days, as it appears from the agreement, will be treated as 'outdoor catering' and attract GST at the rate of 5 per cent but without ITC. It also held that the applicant will follow the principle of apportionment of credit as laid down in law in respect of the common ITC in the form of inputs, input services and capital good.

According to said Harpreet Singh, Partner in KPMG, this ruling has rightly distinguished pure supply of foods from supply of food along with services. "The distinction though blurred, would be critical for determining the appropriate GST rate," he said.