

**Applicability of GST on Restaurant/Canteen/Out door catering**

**Let us take an example**

**Canteen/Outdoor catering Services**

1. ABC Pvt Ltd given a contract to Mr. Ram for supply of food in company's canteen for providing food to employee of company, the company charging Rs.20/- per employee at concessional rate against the food cost of Rs.40/- per employee charged by Mr.Ram. now following question arises.
  - a. What would be the tax rate charged by Mr. Ram to ABC Ltd?
  - b. Is ITC available to ABC Ltd on payment made to Mr.Ram?
  - c. Whether company has to discharge its GST liability if yes then what will be the transaction value, Rs.20/- or Rs.40/- or there is no liability on company on amount collected from employee?
  - d. If there is GST liability on Company, is it mandatory to raise a invoice to employee?

**Restaurant Services**

- e. Can Restaurant services only opt composition scheme or go for regular scheme?
- f. Is restaurant can supply exempted services/goods and if yes then restaurant has to pay GST on exempted supply also?
- g. Is sweets and bakery shop also fall under restaurant services?

**Relevant provision of the GST Act & Rules**

- a. Sec.7 (1) (a) of CGST Act: scope of supply
- b. Sec 7(1) (c) Of CGST Act: Activity under Sch-1 considered supply, made or agreed to be made without consideration.
- c. Sec 7(2) of CGST Act: activities or transactions specified in Schedule III; neither as a supply of goods nor a supply of services.
- d. Sec 2(17) of CGST Act: Definition of Business
- e. Sec 2(105) of CGST Act: Definition of Supplier
- f. Sec 2(31) of CGST Act: Definition of Consideration
- g. Sec 10 of CGST Act: Levy of tax on composition taxpayer for Restaurant
- h. Sec 15 of CGST Act: Valuation of supply provided by employer to employee as canteen services at concessional rate. Read along with rules thereunder.
- i. Press release on 10-07-2017: Supply by employer to employee is in the course of **furtherance of employment** and not in the course of furtherance of business and comes under sch-III, which is not liable to tax.
- j. Sec 16 of CGST Act: Eligibility of Input Tax Credit
- k. CGST Amendment Act 2018: Company provide canteen facility to its employees as per Factories Act, 1948. Section 46 stipulates that any factory employing more than 250 workers is required to provide canteen facility to its employees. Since this is mandatory, ITC of canteen services provided to employees should be available in view of **proviso** to section 17(5)(h) of CGST Act. This clause is inserted vide **CGST (Amendments) Act, 2018** w.e.f. 01-02-2019.
- l. Advance ruling: Caltech Polymers Pvt. Ltd 2018(4)TMI582
- m. Advance Ruling on: M/s Kundan Misthan Bhandar 09/2018-19 in Application No. 08/2018-19 dt:22.10.2018

- **There is no doubt about the services provided by Mr.Ram to ABC Ltd is supply and the same is taxable as outdoor catering services as all the element of sec 7 of CGST Act is available in this transaction under regular or composition scheme. Transaction value is Rs. 40. The rate of tax is discussed under this article separately**
- **Let's Start to analyse the canteen services provided by employer (ABC Ltd) to Employee**

### **Now we will elaborate the provisions of GST Law.**

1. Section 7(1) of CGST Supply: *the expression "supply" includes–*
  - ❖ *all forms of supply of **goods or services** or both*
  - ❖ *made or **agreed to be made***
  - ❖ *for a **consideration** (Sec,2(31) of CGST Act)*
  - ❖ *by a **person** (Section 2(84) of CGST Act)*
  - ❖ *in the course or furtherance of **business**; (Sec.2(17) of CGST Act)*

#### **Analysis**

Now will analyse the services provided by ABC Ltd to their employee

- a. Supply includes **"all the forms of supply of goods or services or both"**: So the supply of food by the employer to employee in canteen is supply of goods.
- b. **There must be Consideration**: Yes, there a consideration received by the employer for the supply of food in canteen.
- c. **supply must be in the course or furtherance of business**: Although, the word 'business' is clearly defined u/s 2(17), the phrase 'in the course or furtherance of business' has not been defined in the Act. The meaning that can be derived from this phrase is so wide that it can include every activity undertaken by a business concern, including activities in the course of employment, since employment is a subset of the activities undertaken in the course of business.
- d. **Sec 2(17) of CGST Act "business"** includes—
  - (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
  - (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
- e. The term 'business' has been defined **under the GST Laws to include**:
  - (i) a wide range of activities (being "trade, commerce, manufacture, profession, vocation, adventure, wager or any similar activity"),
  - (ii) "whether or not it is for a pecuniary benefit",
  - (iii) regardless of the "volume, frequency, continuity or regularity" of the activity.
  - (iv) and those "in connection with or incidental or ancillary to" such activities.
2. **Sec 7(1) (c) Of CGST Act**: the activities specified in Schedule-I, made or agreed to be made without a consideration is **also considered as supply**. Below relevant text is from the schedule-I
  - (1) -----
  - (2) Supply of goods or services or both **between related persons** or between distinct persons as specified in section 25, when made **in the course or furtherance of business**:

Provided that **gifts not exceeding fifty thousand rupees** in value in a financial year **by an employer to an employee** shall not be treated as supply of goods or services or both.

#### **Analysis:**

Supply of goods or service between related person when made in the course or furtherance of business is considered as supply and the explanation of sec. 15 of CGST act given the definition of the related person the relevant text is as under;

**Relevant text of the related person of GST are as under:**

*For the purpose of this act*

- (a) persons shall be deemed to be “related persons” if—
- (i) ---
  - (ii) ----
  - (iii) such persons are employer and employee;

So here we can say the supply by employer to employee covers under the definition of supply when made in the course or furtherance of business.

whereas the Sec 7(2) of CGST Act and Schedule-III talks about the “activities or transactions which shall be treated neither as a supply of goods nor a supply of services” and para-1 of schedule-III says that “Services **by an employee to the employer** in the course of or in relation to **his employment**” is treated neither as a supply of goods nor a supply of services. So schedule -III talks about the service **by employee to employer not by employer to employee** hence supply by employer to employee satisfied the basic criteria of Scope supply as per sec.7 of CGST Act.

- **As supply includes-----**
- **all the form of supply of goods/services or both,**
- **Made or agreed to be made**
- **By a person,**
- **For consideration,**
- **in the course of or furtherance of business (Said section -7 of CGST act).**

That we can also say that food supplied by employer to employee at concessional rate is **not gift** and will not fall under negative list, activity treated neither as a supply of goods nor a supply of services.

3. **Sec 2(105) of CGST Act definition of Supplier:** “supplier” in relation **to any goods or services** or both, shall mean the person supplying the **said goods or services or both** and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

**Analysis:**

Person will be considered as supplier **in relation to any goods or services** means supplier shall be the person supplying the **said goods or services**. So the supply of food by the employer to employee in canteen, the employer is a person considered **as a supplier** in relation to supply of any goods or services.

4. **Sec 2(31) of CGST Act Definition of Consideration:** “consideration” **in relation to** the supply of goods or services or both **includes—**
- (a) **any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;**

**Analysis:**

The definition of consideration starts with “**Consideration**” **“in relation to supply of goods or services”** and the definition is inclusive definition and para (a) says that “**any payment** made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, **the supply of goods or services or both, whether by the recipient or by any other person.**”

So the amount **received by the employer** in relation to food supply in canteen from employee fall under the definition of consideration. Further the concession is being provided by the employer to the employee for supply of food at concessional rate that should be part of the consideration and further a doubt comes in mind why not the provision of concessional rate of food be categorised as subsidy granted by employer to employee. This we can’t considered as subsidy as this will not fall under the definition of subsidy as given further in this article.

*Here taking into the account the definition of “consideration” we can say that subsidy is to be considered as consideration in the hand of recipient always not in the hand of subsidy granter means the person who is providing subsidy is not enjoying the benefit of subsidy, So the person who is receiving the subsidy*

*is enjoying the benefit of subsidy and the subsidy will be the part of value of supply in the hand of recipient not in the hand of subsidy granter.*

**Conclusion: The food supplied at concessional rate is not fall under the definition of subsidy. This is food supplied at concessional rate by employer to employee. See definition of subsidy in this article.**

**5. Sec 10 of CGST Act: Levy of tax on composition taxpayer for Restaurant services and Schedule-II activity or transaction to be treated as supply of goods or supply of services.**

➤ **Schedule-II of Section 7 of CGST Act: Para- 6** talks about, **“Composite supply”**

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

**Para 6 (b) Sch-II 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.**

**Section 10 of CGST Act: Composition levy**

Sec 10(1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees( **now became 1.5 Crore by CGST amendment Act 2018** ), may opt to pay, by **in lieu of tax payable him under sub-section (1) of section 9, an amount calculated at such rate** as may be prescribed, **but not exceeding**, –

**(b) two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and**

subject to such conditions and restrictions as may be prescribed:

Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding **one crore and fifty lakh rupees**, as may be recommended by the Council

Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services **(other than those referred to in clause (b) of paragraph 6 of Schedule II)**, of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.

**Analysis:**

- Clause (b) of para 6 of Schedule-II of section 7 Categorised the restaurant, canteen and outdoor catering services as composite supply.
- Section 10 of CGST Act also talks about the threshold limit of **CGST Rates** on restaurant, canteen and outdoor catering services if they opt to pay tax being a **composition taxpayer**. As per sec 10(1)(b) of CGST Act that **“two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II.”** is applicable.
- As Notification no 11/2017 dt: 28.06.2017 further substituted by Notification no 20/2019 Dated 30.09.2019 which deals with GST tax rate of **REGULAR** taxpayer who provides service of restaurant, canteen and outdoor catering services.
- **A restaurant can opt both scheme “composition as well as regular” its up-to him, I did a detail discussion in this article itself.**

**6. Sec 15 of CGST Act: Valuation of Taxable supply provided by employer to employee as canteen services at concessional rate.****Sec 15 of CGST Act:**

- 1) The value of a supply of goods or services or both shall be the transaction value, which is the **price actually paid or payable** for the said supply of goods or services or both **where the supplier and the recipient of the supply are not related** and **the price is the sole consideration for the supply.**
- 2) The value of supply shall include—
  - (a)----- (d)
  - (e) **subsidies directly linked to the price** excluding subsidies provided by the Central Government and State Governments.

*Explanation of section 15 – For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the **supplier who receives the subsidy.***

*Explanation of section 15 -For the purpose of this act*

*(b) persons shall be deemed to be “related persons” if—*

*(iii) such persons are employer and employee;*

**Analysis:**

The value of taxable services is to be decided as per section 15 and below is the deciding criteria for calculation of transaction value.

- The price actually paid or payable for supply of goods or services
  - Where the supplier and the recipient of supply are not related
  - The price is the sole consideration
- Further the transaction value includes---
- ❖ Subsidies directly linked to the price
  - ❖ The amount of subsidy shall be included in the value of supply of the supplier **who receives the subsidy**
- ✓ So in our example Rs 20 Paid by the employee to the employer is the **price between related person**, as per explanation of section 15. So for determination of value of supply we need to refer the rules 28 and 30 of CGST Rule.
  - ✓ Whether the concessional rate can be considered as subsidy or not, this we need to analyse with the definition of subsidy at various platform.
  - ✓ A subsidy is a benefit given to an individual, business or institution, **usually by the government**. It is usually in the form of a cash payment or a tax-reduction or interest benefit or any other forms also. The subsidy is typically given to remove some type of burden, and **it is often considered to be in the overall interest of the public, given to promote a social good or an economic policy.**
  - ✓ Thus, it gets amply clear from the above that the subsidy is related with State welfare of the public or it is provided to a person or a business by various Government, non-government agencies, to rationalise the cost impact directly/indirectly **on the public**. On the other hand, the incentive is provided to a specific person or business for recognition of noble work or to provide motivation for a specific work. **So here the food supply at concessional rate by employer to employee can't be categorised under subsidy.**
  - ✓ **Rule 28 of CGST Rule 2017** of determination of Value of supply of goods or services or both between distinct or **related persons**, other than through an agent.-The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall-

(a) be the open market value of such supply; ( Author comment: There is no open market value for the supply of food by employer to employee)

(b) if the open market value is not available, be the value of supply of goods or services of like kind and quality; (Author comment: This is also not applicable in our example)

(c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 or rule 31, in that order: ( Author comment: Here we can go with rule-30 which is more nearer to the determination of value of supply of food by employer to employee)

Provided that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person: (Author Comment: as the employee is not further supply as such so this part of rule is not applicable in the case of the supply of food by employer to employee)

Provided further that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. (Author Comment: as the employee is not eligible for full input tax credit so this para is also not applicable in our example)

- ✓ **Rule 30 of CGST Act. Value of supply of goods or services or both based on cost.**-Where the value of a supply of goods or services or both is not determinable by any of the preceding rules of this Chapter, the value shall be **one hundred and ten percent of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.**
- ✓ Conclusion: Here in our case the value of supply of goods or services will be 40 plus 10% of Rs.40 so the taxable value will be Rs 44.

## 7. Sec 16 and 17 of CGST Act:

### Section 16 of CGST Act:

**Sec. 16. (1) Every registered person** shall,

- subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49,
- be entitled to take credit of input tax **charged on any supply of goods or services or both to him**
- which are **used or intended to be used**
- **in the course or furtherance of his business** and
- the said amount **shall be credited** to the electronic credit ledger of such person.

Sec 16 (2) **Notwithstanding anything contained in this section,** no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

- (a) **he is in possession of a tax invoice or debit note issued by a supplier registered under this Act,** or such other tax paying documents as may be prescribed;
- (b) he has **received the goods or services** or both.

(c) subject to the provisions of section 41, the **tax charged in respect of such supply has been actually paid to the Government,** either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

- (d) he has **furnished the return** under section 39:

**Sec 17 (b) of CGST Act the Input tax credit shall not be available in the following supply of goods or services or both—**

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

~~(ii) membership of a club, health and fitness centre; and~~

~~(iii) travel benefits extended to employees on vacation such as leave or home travel concession;~~

*Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”.*

**Analysis:**

- ✓ Here we can say that input credit is available on the supply of food by Mr.Ram to the employer ABC Ltd subject to fulfilment of conditions of section 16 of CGST Act.

**8. Press Release dated 10-07-2017**

**The relevant text of the press release is as under**

- **It is pertinent to point out here that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services).**
- It follows therefrom that supply by the employer to the employee **in terms of contractual agreement entered into between the employer and the employee, will not be** subjected to GST.
- if such services are provided **free of charge to all the employees by the employer** then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer.
- The same would hold true **for free housing to the employees**, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to-company (C2C)

**Analysis:**

The press release is clarificatory in the nature more rather than legal validity in the eyes of law, but the company can do planning by doing contractual agreement with the employee. In our example as the company is charging Rs.20 for supply of food so we can say this is not free of charge as clarification given in the press release hence GST is chargeable on the supply made by the employer to employee.

9. **A recent order of the Authority for Advance Ruling** – Kerala has ruled in Caltech Polymers Pvt. Ltd 2018(4)TM1582, Order No. CT/531/18-C3 dated 26.03.2018., in a matter involving recovery of food expenses from employees for the canteen facility provided by a Company, that such recovery falls within the definition of ‘outward supply’ and are therefore taxable outward supplies under the GST law. In paragraph 9 of the order, the AAR-Kerala has concluded that the supply of food by the applicant (Company) to its employees would definitely come under clause (b) of Section 2(17) as a transaction incidental or ancillary to the main business and thereby the test of ‘in the course or furtherance of business’ is met by the applicant. – Order No. CT/531/18-C3 dated 26.03.2018.

10. Q: If there is GST liability on Company, is it mandatory to raise a invoice to employee?

**Sec 31(3)(b) of CGST Act:** A registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;

**Provisions of Rule 46 of CGST Rule is as under:**

Provided also that a registered person[, other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens,]( Inserted vide Notf no. 33/2019-CT dt. 18.07.2019 with effect from 01.09.2019) **may not issue a tax invoice in accordance with the provisions of clause (b) of sub-section (3) of section 31 subject to the following conditions,** namely,-

- (a) the recipient is not a registered person; and
- (b) the recipient does not require such invoice, and

shall issue **a consolidated tax invoice** for such supplies at the close of **each day** in respect of all such supplies.

11. Q: Restaurant can only opt composition scheme or can also go for regular scheme also?

**Yes**, a restaurant being a taxable person can opt both the scheme its optional and choice of taxable person.

**Below is the relevant text of GST ACT**

<b><u>Particulars</u></b>	<b><u>Composition Scheme</u></b>	<b><u>Regular scheme</u></b>
Whether restaurant services are supply of goods or services	<ul style="list-style-type: none"> <li>▪ <b><u>clause (b) of paragraph 6 of Schedule II this is considered as composite supply:</u></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.</li> <li>▪ <b><u>This is composite supply of service</u></b></li> </ul>	<ul style="list-style-type: none"> <li>▪ <b><u>clause (b) of paragraph 6 of Schedule II this is considered as composite supply:</u></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.</li> <li>▪ <b><u>This is composite supply of service</u></b></li> </ul>
Levy and collection of tax	<ul style="list-style-type: none"> <li>▪ Sec 10(1)(b)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Section 9</li> </ul>
Rate	<ul style="list-style-type: none"> <li>▪ Sec 10(1)(b) of CGST Act: Two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and</li> </ul>	<ul style="list-style-type: none"> <li>▪ Notification no 11/2017 dt: 28.06.2017 further substituted by Notification no 20/2019 Dated 30.09.2019</li> <li>▪ In general rate is 2.5% CGST without ITC</li> <li>▪ Some case 9% with ITC this is for “hotel accommodation” services having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent</li> </ul>
Difference	<ul style="list-style-type: none"> <li>▪ Composition dealer can't collect tax from recipient.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Regular Taxpayer can collect tax from recipient</li> </ul>
2.5% CGST rate is <b>Binding</b> on regular tax payer to follow if supplies covered by items (ii), (iii), (iv) and (v) of sr.no-7 of notification no.20/2019	<ul style="list-style-type: none"> <li>▪ NA</li> </ul>	<ul style="list-style-type: none"> <li>▪ Item no 7(ii): Supply of ‘restaurant service’ other than at ‘specified premises’.</li> <li>▪ Explanation: Nofi.no 20/2019 said as below that rate 2.5% CGST rate is binging on regular tax payer, the relevant text of the notification are as under. <ul style="list-style-type: none"> <li>(a) For the removal of doubt, it is hereby clarified that, supplies covered by items (ii), (iii), (iv) and (v) in column (3) of notif. no 20/2019 shall attract central tax prescribed against them in column (4) of notification no 20/2019 subject to conditions specified against them in column (5), <b>which is a mandatory rate</b> and shall not be levied at the rate as specified under this entry.</li> </ul> </li> <li>▪ Definition of specified premises of notif. No 20/2019: (xxxvi) “Specified premises” means premises providing “hotel accommodation” services having declared tariff of any unit of</li> </ul>



		accommodation above seven thousand five hundred rupees per unit per day or equivalent”.
<ul style="list-style-type: none"> <li>▪ Is restaurant can supply exempted services/goods and if yes then restaurant has to pay GST on exempted supply also?</li> </ul>	<ul style="list-style-type: none"> <li>▪ Section 10 (1) (a),(b) &amp; (c) r.w Rule-7 which talks about the rate of tax</li> <li>▪ 2.5 % of the T.O (<i>T.O means taxable plus exempted</i>) in the State or Union territory</li> </ul>	<ul style="list-style-type: none"> <li>▪ As this is not clarified in the notification whereas the 2.5% CGST is consolidated rate as the restaurant supplies is considered as the composite supply and 2.5% CGST is chargeable on taxable as well as exempted supply of goods and services or both.</li> </ul>
<ul style="list-style-type: none"> <li>▪ Is sweets and bakery shop also fall under restaurant services</li> </ul>	<ul style="list-style-type: none"> <li>▪ AAR Sought in “M/s Kundan Mishthan Bhandar” vide AAR Ruling No. 09/2018-19 in Application No. 08/2018-19 dt:22.10.2018. and following question answered which are as under.</li> <li>▪ (a) whether supply of pure food items such as sweetmeats, namkeens, cold drink and other edible items from sweetshop which also runs a restaurant is a transaction of supply of goods or a supply of service;</li> <li>(b) what is the nature and rate of tax applicable to the following items supplied from ground floor of a sweetshop in which restaurant is also located on the first floor and whether the applicant is entitled to claim benefit of input tax credit with respect to the same: <ul style="list-style-type: none"> <li>(i) Sweetmeats, namkeens, Dhokla etc commonly known as snacks, cold drinks, ice creams and other edible items;</li> <li>(ii) Ready to eat (partially or fully pre-cooked/ packed) items supplied from live counters such as jalebi, chola bhatura and other edible items;</li> <li>(iii) Takeaway order of sweetmeats or namkeens by a person sitting in the restaurant of a sweetshop when such products are not consumed within the premises of the applicant but are takeaway.</li> </ul> </li> <li>▪ The AAR ruling said in the Kundan Mishtan Bhandar’s case that above supply is considered as composite supply and hence the tax rate 5% of GST( 2.5% CGST+ 2.5% SGST) on the restaurant service should apply.</li> <li>▪ The ruling may have created complications not just for the tax department but also for future disputes.</li> <li>▪ My view there is scope of tax planning and decision can be taken on case to case basis whether this is composite supply or taxed separately for goods supplied in sweet and bakery shop at their individual rates.</li> <li>▪ It is suggested the AAR is applicable on the applicant sought the AAR not in general.</li> </ul>	

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