
Updates/GST/Advance Ruling/Legal-19-02/2023
Dt. 05/01/2023

(Advance Rulings in Gujarat from 1st Dec. to 31th Dec., 2022)

Advance Ruling Branch
Gujarat State Tax Department

Rulings given by Authority of Advance Rulings (AAR)

M/s. Palsana Enviro Protection Ltd.

Sl. No.	Advance Ruling sought for	Ruling
1.	Whether <u>'Treated Water' obtained from CETP</u> (classifiable under Chapter 2201) will be <u>eligible for exemption from GST</u> by virtue of Sl. No. 99 of the Exemption Notification No. 02/2017- Integrated Tax (Rate), dated 28-6-2017 (as amended) as 'Water (other than aerated, mineral, purified, distilled, medical, ionic, battery, demineralized and water sold in sealed container)'? Or	➤ 'Treated Water' obtained from CETP (classifiable under Chapter 2201) <u>is not eligible for exemption</u> from payment of Tax by virtue of Sl. No. 99 of the Exemption Notification No. 02/2017- CT (Rate) dated 28-6-2017 (as amended) and Sl. No. 99 of the Exemption Notification No. 02/2017- Integrated Tax (Rate), dated 28-6-2017 (as amended).
2	<u>Whether</u> 'Treated Water' obtained from CETP (classifiable under Chapter 2201) <u>is taxable at 18 per cent by virtue of Sl. No. 24 of Schedule - III of Notification No. 01/2017-</u> Integrated Tax (Rate), dated 28-6-2017 (as amended) as 'Waters, including natural or artificial mineral waters, and aerated waters, not containing added sugar or other sweetening matter nor flavoured (other than Drinking water packed in 20 liters bottles)'	➤ 'Treated Water' obtained from CETP (classifiable under Chapter 2201) <u>is taxable at 18 per cent by virtue of Sl. No. 24 of Schedule - III of Notification No. 01/2017- CT (Rate)</u> (as amended) and Sl. No. 24 of Schedule - III of Notification No. 01/2017- Integrated Tax (Rate), dated 28-6-2017 (as amended).

M/s. Hojiwala Infrastructure Limited

Sl. No.	Advance Ruling sought for	Ruling
1.	<p><u>Whether 'Treated Water' obtained from CETP</u> (classifiable under Chapter 2201) will be <u>eligible for exemption from GST</u> by virtue of Sl. No. 99 of the Exemption Notification No. 02/2017- Integrated Tax (Rate), dated 28-06-2017 (as amended) as 'Water (other than aerated, mineral, purified, distilled, medical, ionic, battery, demineralized and water sold in sealed container)'? Or</p>	<p>➤ 'Treated Water' obtained from CETP (classifiable under Chapter 2201) <u>is not eligible for exemption</u> from payment of Tax by virtue of Sl. No. 99 of the Exemption Notification No. 02/2017- CT (Rate) dated 28-6-2017 (as amended) and Sl. No. 99 of the Exemption Notification No. 02/2017- Integrated Tax (Rate), dated 28-6-2017 (as amended).</p>
2	<p><u>Whether 'Treated Water' obtained from CETP</u> (classifiable under Chapter 2201) <u>is taxable at 18 per cent by virtue of Sl. No. 24 of Schedule - III of Notification No. 01/2017- Integrated Tax (Rate)</u>, dated 28-6-2017 (as amended) as 'Waters, including natural or artificial mineral waters, and aerated waters, not containing added sugar or other sweetening matter nor flavoured (other than Drinking water packed in 20 liters bottles)'</p>	<p>➤ 'Treated Water' obtained from CETP (classifiable under Chapter 2201) <u>is taxable at 18 per cent by virtue of Sl. No. 24 of Schedule - III of Notification No. 01/2017- CT (Rate)</u> (as amended) and Sl. No. 24 of Schedule - III of Notification No. 01/2017- Integrated Tax (Rate), dated 28-6-2017 (as amended).</p>

M/s. Shivam Developers

Sl. No.	Advance Ruling sought for	Ruling
1.	<u>Whether item no. (i), (ia) & (ib) of Point no. (ii)(a) Of the notification no. 03/2019-Central Tax Rate dated 29/03/2019 is applicable project wise or apartment wise?</u> Meaning hereby is that when a project consists of construction of some of the units which satisfies the definition of “Affordable residential apartment” & the construction of some of the units which does not satisfy the definition of “Affordable residential apartment” in that case whether the supplier can apply the GST rate as specified in item no. (i) on units which satisfies the definition of “affordable residential apartments” & GST rate as specified in item no. (ia) & (ib), as the case may be, on the units	➤ The <u>applicant have not submitted sufficient documents to decide the Ruling on the question sought for</u> , therefore authority is not inclined to pronounce the Ruling in absence of proper documents. The ruling can be pronounced on the basis of proper documents in support of the questions and not on simple facts and assumptions. Hence <u>application is not maintainable</u> .
2	<u>Which are non-affordable residential units in the same residential real estate project?</u> With respect of our case, promoter is constructing affordable residential units as well as non-affordable residential units in “Residential Real Estate Project (RREP)”. In such case can the promoter apply separate GST rates in respect of construction of affordable residential apartments & non-affordable residential apartments in the same project (RREP)?	

M/s. Vikas Centre For Development

Sl. No.	Advance Ruling sought for	Ruling
1.	<p><u>Whether the activity of Afforestation, which includes the plantation of mangroves is exempted</u> from GST under Sr. No.1 of Notification No.12/2017-CT (Rate)?</p>	<p>➤ The activity of Afforestation carried out by the applicant <u>as charitable organization is exempted from GST</u> under Sr. No.1 of Notification No.12/2017-CT (Rate) dated 28-6-2017 <u>if organization is registered under (i) Section 12AA of Income Tax Act (ii) Public Charitable Trust under Bombay Public Trusts Act, 1950</u> (iii) Charity Commissioner :Trust Registration no. E3183, Ahmedabad dated 04/01/1978</p>
2	<p><u>Whether the applicant is required to be get registered</u> under GST?</p>	<p>➤ The applicant is <u>not required to be get registered</u> under GST <u>if fulfills all the conditions as mentioned above</u> of the Ruling.</p>

M/s. Ridhi Enterprise

Sl. No.	Advance Ruling sought for	Ruling
1.	Whether the <u>food and beverages prepared and supplied</u> by the Applicant <u>to its customers whether consumed in the restaurant or by way of takeaway</u> qualifies as <u>‘restaurant services’</u> and is classifiable under SAC <i>‘996331: Services provided by restaurants, cafes and similar eating facilities including takeaway services, room services and door delivery of food’</i> leviable to GST @ 5% with no input tax credit as per Sr. No. 7(ii) of Notification No.11/2017 - Central Tax (Rate) dated June 28, 2017, read with Sr. No. 7(ii) of Notification No.11/2017 – State Tax (Rate) dated June 30, 2017?	➤ The food and beverages <u>prepared and supplied</u> by the Applicant to its customers whether consumed in the restaurant or by way of takeaway <u>qualifies as ‘restaurant services’ and is classifiable under SAC ‘996331: Services provided by restaurants, cafes and similar eating facilities including takeaway services, room services and door delivery of food’</u> leviable to GST @ 5% with no input tax credit as per Sr. No. 7(ii) of Notification No.11/2017 - Central Tax (Rate) dated June 28, 2017, read with Sr. No. 7(ii) of Notification No.11/2017 – State Tax (Rate) dated June 30, 2017?
2	Whether the <u>readily available food and beverages (not prepared in the restaurant) sold over the counter</u> by the Applicant <u>to the customer whether consumed in the restaurant or by way of takeaway</u> qualifies as <u>‘restaurant services’</u> classifiable under SAC <i>‘996331: Services provided by restaurants, cafes and similar eating facilities including takeaway services, room services and door delivery of food’</i> leviable to GST @ 5% with no input tax credit as per Sr. No. 7(ii) of Notification No.11/2017 - Central Tax (Rate) dated June 28, 2017, read with Sr. No. 7(ii) of Notification No.11/2017 – State Tax (Rate) dated June 30, 2017?	➤ The <u>readily available food and beverages (not prepared in the restaurant) sold over the counter</u> by the Applicant is supply of goods which is liable to applicable rate of GST Tax and <u>does not qualify as ‘restaurant services’</u> .

M/s. Doms Industries Pvt. Ltd.

Sl. No.	Advance Ruling sought for	Ruling
1.	Whether the <u>supply of Pencils Sharpener along with Pencils</u> being the Principal supply <u>will be considered as the “Composite Supply” or “Mixed Supply”</u> .	➤ The <u>supply of Pencils Sharpener along with Pencils</u> is covered under the category of <u>“Mixed Supply”</u> .
2.	<u>What will be the HSN code</u> to be used by us in above case.	➤ Applicant is required to <u>use the HSN code of the particular supply which attracts higher rate of tax</u> among all the taxable supplies containing in a pack/box.
3.	Whether <u>supply of Sharpener along with the kit having a nominal value will have an impact on rate of tax</u> . If yes, what will be rate of tax and HSN code to be used by us.	➤ <u>Yes</u> , the supply of Sharpener along with the kit having a nominal value will have an impact on rate of tax.

M/s. Universal Industrial Park

Sl. No.	Advance Ruling sought for	Ruling
1.	Whether the applicant is <u>liable to pay GST on the sale of Land / Industrial Plot?</u>	<p>➤ <u>In absence of specific activities proposed to be carried out by the applicant and lack of sufficient documents, the application does not have any <i>locus standii</i>.</u> Thus, authority not in a position to pronounce the Ruling on the application filed by the applicant. Therefore, <u>the application filed for Advance Ruling is not maintainable.</u></p>
2.	If the activity is not liable to GST, what is the legal basis of non applicability?	
3.	If taxable it will be classified under which Service & what will be the Service Accounting Code?	
4.	What will be the value on which GST will be payable? Whether any abatement available?	
5.	What will be the rate of tax on which GST will be payable?	
6.	Whether Input Tax Credit will be available or not?	

M/s. Prajapati Keval Dineshbhai,

Sl. No.	Advance Ruling sought for	Ruling Classification	Ruling Rate
1.	Rate and Classification of <u>Salted and flavored Potato Chips.</u>	21069099	12%
2.	Rate and Classification of <u>Potato Sev (Aloo Sev)</u>	21069099	12%
3.	Rate and Classification of <u>Potato Chivda</u>	21069099	12%
4.	Rate and Classification of <u>Potato Sing Bhujiya</u>	21069099	12%
5	Rate and Classification of <u>Sev Mamara (Roasted Puffed Rice mixed with Nylon Sev)</u>	21069099	12%
6.	Rate and Classification of <u>Chana Daal (Fried Split Bengal Gram)</u>	21069099	12%
7.	Rate and Classification of <u>Gathiya</u>	21069099	12%
8.	Rate and Classification of <u>Khatta Mitha Chevda Mixture</u>	21069099	12%
9.	Rate and Classification of <u>Potato starch</u>	11081300	12%

Rulings given by Appellate Authority of Advance
Rulings (AAAR)

M/s Tata Motors Limited

Sl. No.	Advance Ruling sought for	Ruling
1.	<u>Whether input tax credit (ITC) available to applicant on GST charged by service provider on canteen facility provided to employees working in factory?</u>	➤ Input Tax Credit <u>(ITC) will be available to the appellant</u> on GST charged by the service provider in respect of canteen facility provided to its direct employees working in their factory, <u>in view of the provisions of Section 17(5)(b)</u> as amended effective from 01.02.2019 and clarification issued by CBIC vide Circular No. 172/04/2022-GST dated 06.07.2022, <u>read with provisions of Section 46 of the Factories Act, 1948, and read with provisions of the Gujarat Factory Rules, 1963</u> and clause (ii) below;
2.	<u>If ITC is available as per question no. (1) above, whether it will be restricted to the extent of cost borne by the Applicant (employer)?</u>	➤ ITC on the above is <u>restricted to the extent of the cost borne by appellant for providing canteen services to its direct employees</u> , but disallowing proportionate credit to the extent embedded in the cost of food recovered from such employees

Thanks

Note:

- a) The above rulings are available on the department's website for reference.**
- b) Please contact the Advance Ruling Branch in case of any ambiguity in the above rulings.**