1 NATION TAX MARKET GST	**KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM**	KERALA GST State Goods & Services Tax

BEFORE THE AUTHORITY OF: Shri Jomy Jacob IRS &

: Shri Mansur M.I.

Legal Name of the applicant	SHUBHAN TREATS
GSTIN	32ADRFS5454J1ZL
ARN	AD321224002265S
Address	TC 4/1044/43 HEERA GRACE FLAT NO 14-C, KURAVANKONAM ROAD KOWDIAR, Thiruvananthapuram, Kerala- 695003
Advance Ruling sought for	**A. Questions on Classification** 1) Whether the supply of sweets, snacks and savouries as listed out in the statement of facts is a supply of goods or supply of services? 2) Whether the supply of various foods and beverage items (other than the sweets, snacks and savouries listed out in the statement of facts) is a supply of goods or classifiable as restaurant services? 3) What is the appropriate classification and rate of such supply of goods /services supplied by the applicant? **B. Questions on value of supplies** 1) Whether the additional charges for packing, special package boxes, delivery charges are part of value of the supply of the respective supplies of goods or services made by the applicant? **C. Question on Input Tax Credit** 1) Whether the applicant is eligible for Input Tax Credit under on

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	inward supplies for provision of the outward supplies of goods sold by the applicant? 2) Whether the applicant is eligible for Input Tax Credit as for restaurant services provided at the premises by the applicant as per Notification 11/2017-Central Tax (Rate) 3) Whether the applicant is liable to reverse ITC on common input goods being materials used for manufacture of sweet and food items as per Rule 42 in light of Explanation (iv) to Notification 11/2017-CT (R) **D. Question on liability to pay tax** 1) Whether the applicant is liable to pay tax on supply of sweets, savouries and other goods through Swiggy, Zomato and other E-Commerce operators? 2) Whether the applicant is liable to pay tax on supply of food & beverages (ie restaurant services) made through such E-Commerce operators, in light of the provisions of Section 9(5)?
Date of Personal Hearing	19-05-2025.
Authorized Representative	Unnikrishnan.M, Chartered Accountant

ADVANCE RULING No.KER/13/2025 Dated 19.05.2025

1. M/s Shubhan Treats(herein after referred to as "the applicant") is a partnership firm having GSTIN 32ADRFS5454J1ZL. The applicant is engaged in the business of manufacturing and sale of Indian sweets, specifically North Indian and Bengali sweet under the brand name "Mishti & More". The sweets are sold in assorted or standalone forms by weight or pre-set packages. The sales are made over the counter as well as through online delivery mode directly as well as through

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electronic commerce operators. The Firm has obtained applicable licenses as required for the business from the FSSAI for its manufacturing unit as well the retail premises.

The firm also prepares and serves hot food, quick eats and beverages. Other products of the firm including snacks served for consumption/ready-to-eat as well as savouries which are pre-packed and sold. The premises of the firm also provide restaurant seating area for customers to dine-in and the firm offers a food & beverages menu where the customer is offered fresh food and beverages as dine-in or for take-away.

Additionally, the firm also manufactures and sells specialized dairy products including Paneer and curds which are sold by weight.

2. In this Ruling, a reference hereinafter to the provisions of the CGST Act, Rules or the notifications issued thereunder shall include a reference to the corresponding provisions of the KSGST Act, Rules or the Notifications issued thereunder.

3. The facts of the issue:

3.1. The applicant submits that they are engaged in the business of manufacture and sale of Indian sweets, with a particular focus on North Indian and Bengali sweets, marketed under the brand name "Mishti & More." The sweets are sold both in assorted and standalone formats, available by weight or in pre-packaged quantities. Sales are conducted over-the-counter, through direct online delivery, and via electronic commerce operators (ECOs).

3.2 The applicant has obtained the requisite licenses under the Food Safety and Standards Act (FSSAI) for both the manufacturing unit and retail premises. A copy of the licenses is enclosed as Annexure 1. In addition to sweets, the applicant also:

- Prepares and serves hot food, quick bites, snacks, and beverages;
- Offers both ready-to-eat savouries and pre-packaged food items;

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- Provides a restaurant seating area for dine-in customers, with an extensive food and beverages menu available for dine-in and takeaway.

3.3 Further, the applicant manufactures and supplies specialised dairy products, including paneer and curd, which are sold by weight. The broad range of products manufactured and sold by the applicant includes Bengali sweets, North Indian sweets, Dry fruit sweets, Dairy products, Parsi dairy kulfi, Snacks, Chaats, Hot and cold beverages, Short eats, Combo menus, Savouries, Soups (Shorba), Kebabs and tikkis, Dal, Main courses, Taali meals, Comfort meals (served with green salad, papad, and pickle), Rice/Pulao/Biryani, Tandoor and tawa breads, and desserts. The entire list of products as submitted by the applicant is attached along with this ruling.

4. Applicant's Interpretation of Law and Position on Taxability- The applicant submits that their interpretation of law is as follows.

a. Restaurant Services (Dine-in and Takeaway of Hot Food and Beverages):
The applicant submits that the supply of hot food and beverages at the premises qualifies as "restaurant services", and is accordingly taxable at the rate of 5% without eligibility for Input Tax Credit (ITC), in line with Notification No. 11/2017-Central Tax (Rate) as amended.

b. Supply of Sweets, Mithai, and Other Goods:
The applicant submits that the sale of sweets, mithai, and similar edible items constitutes supply of goods, which is taxable at the rate of 5% with eligibility for full ITC under the relevant GST tariff notifications.

c. Supply via Electronic Commerce Operators (ECOs):
The applicant submits that supplies of food and beverages made through ECOs (such as Zomato, Swiggy, etc.) are taxable in the hands of the ECO, in accordance with Section 9(5) of the CGST Act, 2017. Therefore, the applicant is not liable to pay GST on such supplies.

d. Input Tax Credit (ITC) Reversal for Restaurant Services:
The applicant submits that it is eligible to claim full Input Tax Credit on inputs, input services, and capital goods used in the course of business.

However, in respect of restaurant services which are taxed at 5% without ITC, the applicant will reverse ITC only to the extent required under Rule 42 of the CGST Rules, 2017, considering such services as "exempt" by virtue of Explanation (iv) to Notification No. 11/2017-CT(R).

e. Ancillary Charges – Packing,. Delivery, Special Boxes:

The applicant submits that any additional charges such as packing fees, delivery charges, or special box charges, when charged in conjunction with the supply of food or sweets, shall be considered as part of the composite supply. These charges form part of the value of the principal supply under Section 15 of the CGST Act, 2017, and should not be treated as separate independent supplies.

5. Personal Hearing:

The applicant was granted an opportunity for a personal hearing on 19.05.2025. Shri. Unnikrishnan.M., Chartered Accountant represented for the applicant in personal hearing. In the hearing, he explained the nature of activity undertaken by the applicant and reiterated the contentions submitted in the written application. It was further stated by the representative that when supplied through e-commerce operator, the items have to be packed as per the requirement stipulated by the operator.

6. Discussion and Findings:

6.1 On carefully reviewing the advance ruling application, the statement of facts, and the submissions made during the personal hearing, we have found that the questions for which the advance ruling is being sought fall within the scope of clause (b) & (e) of sub-section (2) of section 97 of the CGST Act, which pertain to the "applicability of a notification issued under the provisions of this Act" and the "determination of the liability to pay tax on any goods or services or both". Therefore, the application has been accepted for further consideration based on its merits.

6.2 Question on classification/ nature of supplies made by the Applicant.

6.2.1 The first issue for consideration pertains to whether the supply of sweets, snacks, and savouries, as described in the statement of facts, constitutes a supply of goods or a supply of services. The items in question include various sweets such as Bengali sweets (e.g., Rasgulla, Gulab Jamun), North Indian sweets (e.g., Ghee Jalebi, Khalkhand), and dry fruit-based sweets (e.g. Kaju Katli, Dry Fruit Burfi). The snacks category includes items like Punjabi Samosa and Aloo Bonda, while the savouries include products such as Bombay Mixture and Masala Papad. These items are sold either as assorted or standalone products, by weight or in pre-packaged form. The sales are conducted over the counter, through direct online delivery, as well as via electronic commerce operators (ECOs).

6.2.2 As per Section 2(52) of the Central Goods and Services Tax (CGST) Act, 2017, "goods" are defined as every kind of movable property, subject to certain exclusions. Likewise, Section 2(102) defines "services" as anything other than goods, money, and securities, with certain inclusions. Accordingly, the items mentioned in the application qualify as "goods" by default, since they are movable properties and are not excluded from the statutory definition. They cannot be treated as "services" unless explicitly provided for under the Act.

6.2.3 Schedule II, Entry 6 of the CGST Act provides that the composite supply of goods being food or any other article for human consumption or any drink (other than alcoholic liquor) by way of or as part of any service, or in any manner whatsoever, for cash, deferred payment, or other valuable consideration, shall be treated as a supply of service. Furthermore, Section 2(30) defines "composite supply" as a supply made by a taxable person to a recipient, consisting of two or more taxable supplies of goods or services or both, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, where one of the supplies is a principal supply. Therefore, while the items mentioned are prima facie goods, if they are supplied in a manner that involves a naturally bundled service component in the ordinary course of business, such

supply is to be treated as a supply of service in accordance with the provisions of the Act.

6.2.4 The classification of a supply as either a supply of goods or a supply of service depends significantly on how the supply is made and the presence of any accompanying service element. The same item for instance, a sweet or savoury can be supplied either as a standalone item (in packaged or loose form) or as part of a broader offering involving preparation, presentation, and delivery for immediate consumption. Where the supply is made over the counter without any value added element such as serving, reheating, or preparation for consumption on the premises or through home delivery, it retains its character as a supply of goods. However, if the same item is supplied in a manner that involves preparation for immediate consumption, presentation, packaging for service, or delivery, particularly in the course of a dine-in, takeaway, or similar setup, it assumes the character of a restaurant service, which is classifiable as a supply of service under Schedule II of the CGST Act. This principle is equally applicable when the items are sold through electronic commerce operators (ECOs). In such cases, if the food items are prepared fresh, packed, and delivered as part of a service-oriented offering resembling how a restaurant would operate- the supply may be treated as a composite supply of service, with the service component (i.e., restaurant service) being the principal supply. On the other hand, if the sale is limited to packaged food items, without any element of cooking, reheating, or service by the supplier, it continues to be treated as a supply of goods. Hence, the determination of whether the transaction is a supply of goods or a supply of service depends entirely on the factual matrix and how the transaction is executed.

6.2.5 This position finds support in various advance rulings and is consistent with the GST Council's intent behind distinguishing between restaurant services and trading in food products. Judicial and quasi-judicial authorities, such as the Appellate Authority for Advance Ruling, Uttarakhand in Kundan Misthan Bhandar (2018), and later rulings such as Re: Amaron Foods (Gujarat AAR, 2022)

and Re: Gangaur Sweets (Chhattisgarh AAR, 2022), have clarified this distinction. These rulings emphasize that items prepared and served for immediate consumption in a restaurant-like setting (whether on premises or for delivery) are to be classified as restaurant services and taxed accordingly. However, the same items, when sold as pre-packaged goods without any accompanying service, continue to be treated as supply of goods, subject to applicable GST rates based on their HSN classification. Therefore, the correct classification in any given case depends on the actual nature of the supply, and the taxpayer must carefully examine the manner in which each supply is made. Based on this self-assessment, the taxpayer must ensure proper invoicing and tax treatment under the GST law. To avoid ambiguity or misclassification, it is also recommended that the applicant maintain separate accounts for goods and restaurant service segments.

6.2.6 Accordingly, our opinion is as follows:

- The supply of sweets, snacks, and savouries over the counter, when sold in packaged or loose form without any bundled service element, ordinarily constitutes a supply of goods.
- However, in cases where such items are supplied as part of a restaurant operation such as dine-in, take away, or delivery including via electronic commerce operators (ECOs), the supply may assume the character of a restaurant service and be treated as a supply of service.
- It is clarified that the classification of any given transaction ultimately depends on the facts and manner of supply. This Authority cannot issue a blanket ruling for all transactions. It is the responsibility of the applicant to assess whether the specific supply is in the nature of goods or constitutes restaurant service, based on how the food items are prepared, presented, and supplied.
- The legal principle applicable here is that where the supply involves a naturally bundled service element, such as preparation, serving, or delivery by the applicant in a manner akin to restaurant operations, the transaction may qualify as a composite supply with restaurant service as the principal

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supply. Conversely, mere sale of pre-packaged or off-the-shelf food items, not involving such service components, remains a supply of goods under the CGST Act.

- Accordingly, the applicant is advised to maintain separate records and accounts for supplies that qualify as goods and those that qualify as services to ensure proper classification and compliance under the CGST law.

6.2.7 The second sub-question pertains to whether the supply of various food and beverage items (excluding the sweets, snacks, and savouries listed in the statement of facts) constitutes a supply of goods or a supply of services. It is reiterated that the classification depends on the manner and context in which such items are supplied. If the supply involves an element of service such as preparation and provision for immediate consumption in a restaurant setting, or delivery of freshly prepared items through online orders or e-commerce operators, then the transaction takes on the character of a composite supply with the principal supply being a service, and is thus classifiable as "restaurant service." Conversely, if the same items are supplied in packaged form over the counter without any such service component, they retain their character as goods. The legal reasoning and analytical framework discussed in detail under Paragraphs 6.2.4 to 6.2.6, especially concerning the treatment of similar items when supplied via e-commerce platforms, applies equally here. Accordingly, a blanket classification cannot be provided under advance ruling. It is for the applicant to assess, based on the facts and nature of each supply, whether the transaction is to be classified as a supply of goods or as restaurant service.

6.2.8 The third sub-question concerns the appropriate classification and applicable rate of tax on the supply of goods and/or services made by the applicant. All the items listed by the applicant fall under the broad category of food and beverages. As per Notification No. 11/2017 – Central Tax (Rate) dated 27.06.2017, the 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 drink is classifiable under SAC 9963. However, the applicant has not furnished sufficient details to allow classification of the individual items as goods under the GST law. The list submitted contains approximately 196 items, but only the brand names under which these products are sold have been mentioned. Under the GST framework, the classification of goods is governed by the Customs Tariff Act, and mere reference to brand names is not sufficient for proper classification. For accurate classification under the GST regime, the applicant must provide a detailed description of each item. This should include the following information:

- Common or commercial name of the item;
- Composition (ingredients along with their percentages);
- Form (e.g., raw, cooked, preserved, frozen, powdered, etc.);
- Type of packaging (retail or bulk);
- Whether the item is fresh, dried, smoked, boiled, preserved, frozen, roasted, processed (e.g., cooked, sweetened, spiced), or fermented;
- Presence of any additives such as salt, sugar, oil, vinegar, alcohol, spices, etc.

In the absence of this critical information, it is not feasible to issue a definitive ruling on the classification and applicable tax rate for the items listed by the applicant.

6.3. Questions on value of supplies

6.3.1 Under this, the first sub-question pertains to whether additional charges for packing, special packaging boxes, and delivery are to be included in the value of the supply of goods or services made by the applicant. As per Section 15 of the Central Goods and Services Tax (CGST) Act, 2017, Sub-section (1) provides that 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, provided the supplier and the recipient are not related and the price is the sole consideration for the supply. Further, Section 15(2)(c) stipulates that the value of supply shall include incidental expenses, including commission and packing, charged by the

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supplier to the recipient. It also includes any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before, delivery of goods or supply of services. Accordingly, it is evident that any additional charges such as those for packing, special packaging boxes, and delivery, if incurred by the supplier in connection with the supply and forming part of the price actually paid or payable, are required to be included in the value of the supply in accordance with Section 15(2)(c) of the CGST Act, 2017.

6.4 Question on Input Tax Credit

6.4.1 The third question relates to the eligibility for Input Tax Credit (ITC) on supplies made by the applicant. This question is divided into three sub-parts, discussed as follows:

6.4.2 The first sub-question concerns whether the applicant is eligible for ITC on inward supplies used for providing the outward supply of goods sold by the applicant. As per Section 16(1) of the CGST Act, 2017, a registered person is entitled to avail input tax credit (ITC) on inputs and input services used in the course or furtherance of business, subject to the conditions and restrictions laid down in the Act. Section 17(2) stipulates that where inputs are used partly for taxable supplies and partly for exempt supplies, the ITC must be apportioned accordingly, and only the portion attributable to taxable supplies is eligible. In the present case, the applicant's sweet and snack items, when sold as goods, are taxable supplies and are not covered under any exemption. Hence, inputs used exclusively for such taxable goods qualify for full ITC. Further, the applicant is not covered under the composition scheme under Section 10, and there are no specific restrictions under Section 17(5) applicable to the nature of inputs used in the manufacture of sweets and snacks. Therefore, ITC on such inputs is admissible, subject to compliance with the general provisions under Sections 16 and 17. However, there is no eligibility for ITC where the supply attains the character of service owing to admixture of service element in the supply of goods being food or any other article for human consumption or any drink (other than alcoholic liquor) as envisaged under Schedule II of the CGST Act.

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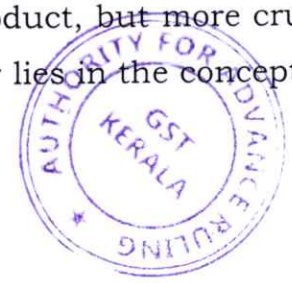
6.4.3 The second sub-question pertains to the applicant's eligibility for ITC on restaurant services provided at their premises, in accordance with Notification No. 11/2017-Central Tax (Rate). Unlike the first sub-question, this applies only to services supplied by the applicant. With respect to the restaurant service segment, Notification No. 46/2017-Central Tax (Rate) dated 14.11.2017 amended the original entry under Notification No. 11/2017-Central Tax (Rate) to prescribe a concessional rate of 5% GST (2.5% CGST + 2.5% SGST) for restaurant services, subject to the condition that the supplier shall not avail input tax credit (ITC) on goods and services used in supplying such service. This condition is not optional but mandatory where the concessional rate is availed. Furthermore, Explanation (iv) inserted in Notification No. 11/2017-CT(R) clarified that the restriction on ITC includes: (a) a complete bar on availing credit for inputs and input services used exclusively in such supplies; and (b) a requirement to reverse proportionate ITC under Rule 42 of the CGST Rules for common inputs and input services used for both restaurant service and other taxable supplies. Accordingly, in cases where the applicant is paying GST at the 5% rate for restaurant services, as is applicable to non-specified premises (i.e., establishments not operating from hotels with room tariff exceeding ₹7,500 per unit per day), ITC cannot be availed on any goods or services used for such restaurant activities. ITC is permitted only where the restaurant is located in a specified premise and the applicable GST rate is 18% (9% CGST + 9% SGST) without the ITC restriction. Since the applicant does not fall under the category of specified premises and is liable to discharge GST at the concessional rate of 5%, the condition of no ITC squarely applies.

6.4.4 The third sub-question concerns whether the applicant is liable to reverse ITC on common input goods such as materials used in manufacturing sweets and food items. As per Explanation (iv) to Notification No. 11/2017-Central Tax (Rate), wherever a concessional rate of GST is prescribed subject to the condition that input tax credit shall not be availed, it is deemed that: (a) no credit is taken on goods or services used exclusively for such supply, and (b) where goods or services are used partly for such no-ITC supply and partly for other taxable

supplies, credit must be reversed as if the supply in question were an exempt supply under Section 17(2) of the CGST Act, 2017. Rule 42 of the CGST Rules, 2017 lays down the methodology for such proportionate reversal in cases where common inputs or input services are used for both exempt and taxable outputs. Though restaurant services taxed at 5% are not exempt in the strict sense, the law treats them as exempt for the specific purpose of input tax apportionment and reversal when availed at the concessional rate without ITC. In the present case, M/s Shubhan Treats is engaged in supplying both taxable goods (such as sweets and snacks) and restaurant services taxed at 5% without ITC. Where inputs such as raw materials, utilities (like electricity or water), or common expenses (such as rent, packaging material, or staff salaries) are used for both segments, a proportionate reversal of ITC is required. Only the portion of input tax attributable exclusively to the taxable supply of goods can be retained. Inputs used solely for the restaurant service must be excluded from credit altogether. The applicant must therefore maintain proper cost allocation and documentation mechanisms to accurately identify the use of inputs and perform monthly ITC reversals as per Rule 42.

6.5 Question on liability to pay tax**.** The final question concerns the liability to pay tax, which is divided into two sub-questions as follows:

6.5.1 The first sub-question is whether the applicant is liable to pay tax on the supply of sweets, savouries, and other goods through e-commerce operators such as Swiggy, Zomato, and others. It has been submitted by the applicant that the sweets, savouries, and snacks offered by the applicant are prepared in-house, i.e., manufactured or cooked by the applicant within its own premises. However, the mere fact that these items are prepared by the applicant does not, by itself, determine the classification of the supply under the GST law. Under the CGST Act, 2017, the classification of supply as either a supply of goods or a supply of service, particularly restaurant service, is based not only on the identity of the supplier or the origin of the product, but more crucially on the nature and mode of supply. The key differentiator lies in the concept of "restaurant service," which,



as per Notification No. 11/2017-Central Tax (Rate) (as amended), covers the supply of food or any other article for human consumption or drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises. This definition clearly implies that a restaurant service involves not only the provision of food but also a degree of service element including the preparation and packaging of freshly made food for immediate consumption, whether dine-in, takeaway, or delivered.

6.5.2 In this context, it is important to distinguish between:

Supply of goods: Items that are manufactured or prepared by the applicant and sold in pre-packaged or shelf-stable form (e.g., boxes of sweets, packaged namkeen), particularly those that can be stored and consumed later, without any element of immediate service.

Restaurant service: Food items that are freshly prepared and supplied (either for dine-in or delivery) with an element of service intended for immediate consumption.

6.5.3 Therefore, while the applicant may prepare all such items in-house, their supply through an e-commerce operator like Swiggy or Zomato would qualify as restaurant service only if the supply is in the nature of food service i.e., prepared-to-order, packaged for immediate consumption, and supplied as a meal or snack, as typically understood in the restaurant industry. This distinction has also been acknowledged in various rulings, including the AAAR ruling in Re: Kundan Misthan Bhandar (Uttarakhand), where it was held that over-the-counter sweet sales are goods, while dine-in or takeaway services with food constitute restaurant services. Furthermore, Circular No. 167/23/2021-GST dated 17.12.2021 and Notification No. 17/2021-CT(R) dated 18.11.2021 clarify that from 01.01.2022, supplies classified as restaurant service and made through e-commerce operators (except from specified premises like high-end hotels) are to be taxed under Section 9(5) of the CGST Act, i.e., the ECO (e.g., Swiggy, Zomato)

is liable to discharge GST at 5%, and not the restaurant. Accordingly, the classification of the applicant's supply of sweets, snacks, and savouries through ECOs will depend on the specific nature of the supply. If the items are sold in ready-to-eat form as part of the restaurant kitchen's operations, prepared and packed for delivery, they may be considered "restaurant service," in which case the ECO is liable to pay tax under Section 9(5). If the items are sold in pre-packaged form similar to merchandise, with no service component and no intention of immediate consumption (e.g., a box of laddoos or sealed packet of mixture), the supply will be treated as that of goods, and the applicant will remain liable to pay GST.

6.5.4 Therefore, the applicant must evaluate the nature of each supply through ECOs and maintain appropriate classification and records. Merely preparing the items in-house is not sufficient to classify the supply as restaurant service; it must also include the service element and intention of immediate consumption, as envisaged under the GST framework.

6.5.5 The second sub-question is whether the applicant is liable to pay tax on the supply of food and beverages (i.e., restaurant services) made through such e-commerce operators, in light of the provisions of Section 9(5) of the CGST Act, 2017. Regarding the second sub-question, the supply of food and beverages prepared and served by the applicant qualifies as "restaurant service." Vide Notification No. 17/2021-Central Tax (Rate) dated 18.11.2021, effective from 01.01.2022, the Government notified "restaurant service (other than services supplied by restaurant located at specified premises)" as a category of service for which the tax shall be paid by the ECO under Section 9(5) of the CGST Act, 2017. "Specified premises" refers to restaurants located in hotels with a declared room tariff exceeding ₹7,500 per unit per day. The applicant, being a stand-alone restaurant not operating from such specified premises, falls within the scope of this notification. Accordingly, in the case of restaurant services supplied through ECOs like Swiggy or Zomato, the liability to pay GST at the applicable rate (currently 5% without ITC) lies with the ECO and not with the applicant. The

applicant should not charge GST on invoices raised to ECOs for such restaurant services. This position is in line with Circular No. 167/23/2021-GST dated 17.12.2021, which further clarifies that ECOs shall discharge the tax liability on restaurant services supplied through them and that such supplies are excluded from TCS obligations under Section 52. The applicant is, however, required to maintain proper records and report the turnover from such ECO-supplied restaurant services in its returns, even though the tax is paid by the ECO.

7. In the light of the facts and legal position as stated above, the following ruling are issued:

RULING

A. Questions on Classification

Question 1 Whether the supply of sweets, snacks and savouries as listed out in the statement of facts is a supply of goods or supply of services?

Ruling The classification of the supply of sweets, snacks, and savouries as goods or services depends on the manner of their supply. Where such items are sold over the counter without service elements, they constitute a supply of goods; where supplied in a restaurant setting or through online delivery with service components, they may constitute restaurant service.

Question 2 Whether the supply of various foods and beverage items (other than the sweets, snacks and savouries listed out in the statement of facts) is a supply of goods or classifiable as restaurant services?

Ruling The classification of various food and beverage items (other than the listed sweets, snacks, and savouries) depends on how they are supplied. They will be treated as goods if sold over the counter without any service component, and as restaurant service if supplied in a dine-in setting or through delivery with accompanying service elements.

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Question 3 What is the appropriate classification and rate of such supply of goods/services supplied by the applicant?

Ruling- Owing to paucity of sufficient information, no classification can be provided with regard to these items when supplied as goods. However, when supplied as service, they are classifiable under SAC 9963.

B. Questions on value of supplies

Question 1 Whether the additional charges for packing, special package boxes, delivery charges are part of value of the supply of the respective supplies of goods or services made by the applicant?

Ruling Yes, the additional charges for packing, special package boxes, delivery charges etc., are part of value of the supply of the respective supplies of goods or services made by the applicant, provided they form part of the price actually paid or payable for the transaction.

C. Question on Input Tax Credit

Question 1 Whether the applicant is eligible for Input Tax Credit under on inward supplies for provision of the outward supplies of goods sold by the applicant?

Ruling Yes, the applicant is eligible for Input Tax Credit under on inward supplies for provision of the outward supplies of goods sold by the applicant. However, this eligibility is subject to the provisions of Section 16 and 17 of the CGST Act, read with Rule 42 of the Act.

Question 2 Whether the applicant is eligible for Input Tax Credit as for restaurant services provided at the premises by the applicant as per Notification 11/2017-Central Tax (Rate).

Ruling The applicant is eligible for ITC where CGST is discharged at the rate of 6% GST or 9% GST as the case may be, under Notification No 11/2017 CT (Rate) dated 28-07-2017. However, this eligibility is subject to the provisions of Section 16 and 17 of the CGST Act, read with Rule 42 of the Act. If the supply is made at 2.5% GST under Notification No. 46/2017-Central Tax (Rate) dated 14-11-2017, they are not eligible for Input Tax Credit as for restaurant services provided at the premises.

Question 3 Whether the applicant is liable to reverse ITC on common input goods being materials used for manufacture of sweet and food items as per Rule 42 in light of Explanation (iv) to Notification 11/2017-CT (R).

Ruling Yes the applicant is liable to reverse ITC on common input goods being materials used for manufacture of sweet and food items as per Rule 42 in light of Explanation (iv) to Notification 11/2017-CT (R).

D. Question on liability to pay tax

Question 1 Whether the applicant is liable to pay tax on supply of sweets, savouries and other goods through Swiggy, Zomato and other E-Commerce operators?

Ruling- It is for the applicant to determine, based on the nature of each supply, whether the items sold through e-commerce operators are to be classified as goods or as restaurant service. If classified as goods, the applicant is liable to pay GST; if classified as restaurant service, the liability to pay tax rests with the e-commerce operator under Section 9(5) of the CGST Act, 2017.

Question 2 Whether the applicant is liable to pay tax on supply of food & beverages (ie restaurant services) made through such E-Commerce operators, in light of the provisions of Section 9(5)?

Ruling No, the applicant is not liable to pay GST on the supply of food and

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beverages (i.e., restaurant service) made through e-commerce operators, as such supplies fall under Section 9(5) of the CGST Act, 2017, making the e-commerce operator liable to discharge the tax.

Jomy Jacob IRS
Additional Commissioner of Central Tax
Member

Mansur M.I.
Joint Commissioner of State Tax
Member

To

M/s SHUBHAN TREATS
TC 4/1044/43
HEERA GRACE FLAT NO 14-C,
KURAVANKONAM ROAD
KOWDIAR, Thiruvananthapuram 695003

Copy submitted to:

1. The Chief Commissioner of Central Tax and Central Excise, Thiruvananthapuram Zone, C.R.Building, I.S.Press Road, Cochin- 682018. [E-mail ID: cccochin@nic.in; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram – 695002.
3. The Commissioner of Central Tax and Central Excise, Thiruvananthapuram Commissionerate, GST Bhavan, Statue, Thiruvananthapuram. (E-mail id: commr-tvmhqrs@gov.in)

Copy to :

1. The Additional Commissioner, TPS, HQ, Thiruvananthapuram.
2. The Deputy Commissioner, ITMD, Thiruvananthapuram.
3. The Superintendent, Central Tax, Pattom Range, GST Bhavan, Thiruvananthapuram.
4. The Assistant Commissioner/State Tax Officer, Tax payer services Circle, Pattom, Thiruvananthapuram.

IN-STORE MENU SUBMITTED BY THE APPLICANT

Category	Item Name
Bengali Sweets	Rasgulla
	Gulab Jamun
	Kala Jamun
	Sondesh (Plain)
	Sondesh (Kaju)
	Raj Bhog
	Shahi Tukda
	Kheer Kodom
	Malai Chum Chum
	Malai Roll
	Cream Toast
	Abar Khabo
	Shahi Chum Chum
	Rasbhara
	Malai Sandwich
	Cream Lady Kenny
	Nikuti
	Rasmalai
	Malpua Rabdi
	Chanar Payesh
	Paneer Jalebi with Rabdi
	Rabdi
	Angoori Jamun
	Angoori Rasgulla
	Ghee Jalebi

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North Indian Sweets	Ghee Jalebi Kalakand Rajasthani Milk Cake Gajar Ka Halwa Moongdal Halwa Gujia (Mewa & Dry Fruits) Soan Papdi Motichoor Laddoo Besan Laddoo (Dry Fruits) Punjabi Dry Fruit Laddoo Moti Pak Mathura Peda Amritsari Peda Kesar Peda Milk Peda Chocolate Burfi Mewa Dry Fruit Burfi Mewa Besan Burfi Gulkand Burfi Balushahi
Dry Fruit Sweets	Kaju Katli, Kaju Kesar Katli Kaju Kesar Roll, Kaju Pista Roll Rose Ball (Dry Fruits) Kaju Cassata Strawberry Tart Nut Tacos Fruit & Nut Tart Anjeer Ball Anjeer Slice (Sugar Free) Dry Fruits Special Burfi (Sugar Free)

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Dairy Products	**Premium Paneer (1 Kg)** **Premium Paneer (500 Gms)** **Premium Paneer (200 Gms)** **Premium Curd (400 Gms)** **Mishti Dahi (200 Gms)**
Parsi Dairy Kulfi	**Malai Kulfi 100 gm** **Mango Kulfi 100 gm** **Sitaphal Kulfi 100 gm** **Chocolate Kulfi 100 gm** **Kesar Pista Kulfi 100 gm** **M & M... Kulfi Bahaar (Malai kulfi, Gajar ka halwa. Rabdi. Nuts)**
Snacks	**Punjabi Samosa, Aloo Bonda** **Vegetable Cutlet, Kachori-Onion** **Kachori-Dal, Paneer Bread Pakoda** **Paneer & Cheese Finger** **Aloo Tikki, Dhokla, Khandvi**
Chaats	**Pani Puri, Sev Puri** **Aloo Papdi Chaat** **Bhel Puri** **Samosa Chaat** **Kachori Chaat** **Dahi Puri** **Dahi Bhalla Chaat** **Aloo Tikki Chaat** **Bhalla Papdi Chaat** **Raj Kachori Chaat** **Chaat Platter - For 2 (2 pani puri, 2 sev puri. 2 dahi puri, bhel puri, bhalla papdi chaat)**

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Hot Beverages	**Tea - Masala** **Hot Saffron Badam Milk**
Cold Beverages	**punjabi Lassi** **Mango Lassi** **Strawberry Lassi** **Shikanji** **Masala Chaas** **Thandai** **Badam Milk, Rose milk**
Short Eats	**Vada Pav, Samosa Pav,** **Cheese Vada Pav, Masala Papad,** **Loaded Masala Cheese Fries,** **Samosa Chole, Aloo Paratha,** **Pav Bhaji, Cheese Pav Bhaji,** **Paneer & Vegetable Kathi Roll,** **Dum Aloo & Puri, Chole Bhatura** **Laccha Paratha & Kadai Paneer**
Combo Menu	**Punjabi Samosa + Rose Milk + Rasgulla** **Vada Pav Badam Milk + Ghee Jalebi (3 pcs)** **Kachori Dal/Onion + Punjabi Lassi + Ghee Jalebi (3 pcs)** **Paneer Bread Pakoda + Mango Lassi + Gulab Jamun** **Pav Bhaji Punjabi Lassi + Gulab Jamun** **Aloo Paratha + Gajar ka Halwa + Punjabi Lassi** **Chole Bhatura + Gulab Jamun Punjabi Lassi**

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	Dum Aloo Puri + Rasmalai
Savouries	**Nimki Plain** **Nimki Masala** **Dry Fruit & Nut Mixture** **Bombay Mixture** **Masala Fried Peanuts** **Savouries** **Methi Matri** **Bikaner Kachori** **Masala Papdi** **Kakhra - Plain/Methi/Chorafali** **Boondi** **Kakhra Mini - Plain/Methi/Chorafali** **Nylon Sev**
Shorba- Soup	**Tamatar Shorba** **Palak Makai Shorba** **Khumb Malai Shorba**
Kebabs&Tikkis	**Hara Bhara Kebab** **Makai ki Tikki** **Dahi Kebab** **Achari Paneer Tikka** **Malai Paneer Tikka** **Gobi Tikka** **Subz Seekh Kebab** **Naram Dil Kebab** **Bharwan Aloo** **Rajma Galouti**

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Mains	Paneer Butter Masala Paneer Tikka Masala Palak Paneer Kadai Paneer Malai Kofta Aloo Gobi Adraki Aloo Punjabi Aloo Bhindi Aloo Mutter Bhindi Jalpuri Bhindi Do Pyaza Rajasthani Kadi Pakodi Subz Kolhapuri Subz Miloni Kadai Subzi Baingan Bharta, Khumb Do Pyaz
Dal	Dal Tadka Dal Makhni
Thaali Meals	Premium North Indian Thaali Meals Snack 1 (1 Nos) + Snack 2 (1 Nos) + Chaat (1 Nos) + Lachha Paratha (1 Nos) + Roti (1 Nos) + Rice (1 Bowl) + Dal (1 Bowl) + Paneer (1 Bowl) + Subzi (1 Bowl)+ Sweet (1 nos)+ Special Dessert (1 Nos) + Papad + Green Salad + Pickle Fried Green Chilli+ Raita + Chaas
	Deluxe North Indian Thaali Meals. Snack 1 (1 Nos) + Roti (1 Nos) + Rice (1 Bowl) + Dal (1 Bowl) + Paneer (1

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	Bowl) + Subzi (1 Bowl)+ Sweet (1 no) Papad + Green Salad + Pickle+Fried Green Chilli + Raita
Comfort Meals (with green salad, papad & pickle)	Dal Khichdi Chole Chawal Rajma Chawal Kadi Chawal
Dinner	Gharelu Khana Subzi (1 Bowl) + Dal (1 Bowl) + Rice (1 Bowl) + Phulka (2 pcs) + Papad + Laccha Pyaz + Pickle
Rice/Pulao/Biryani (with raita, papad & pickle)	Basmati Rice Jeera Pulao Makai Mattar Pulao Paneer Pulao Subz Tawa Pulao Zafrani Pulao Nawabi Subz Biryani
Tandoor/Tawa Breads	Roti Butter Roti Bajra Roti Missi Roti Nan Butter Nan Garlic Nan Cheese Garlic Nan Laccha Paratha Gobi/Pyaz/Paneer/Aloo Paratha Phulka - 2 pcs Chappathi, Kulcha

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	Amritsari Kulcha **Aloo Kulcha, Cheese Kulcha**
Dessert	**Kulfi Bahaar (malai kulfi, gajar halwa, rabdi. nuts)** **Ghewar Malai (ghewar, malai, nuts, gulkand)** **Mishti Puri (puri, moti, chenna, badam milk, nuts)**