

**THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560009**

Advance Ruling No. KAR ADRG 34/2019

Date : 12-09-2019

Present:

1. Sri. Harish Dharnia,
Additional Commissioner of Central Tax, Member (Central Tax)
2. Dr. Ravi Prasad M.P.
Joint Commissioner of Commercial Taxes Member (State Tax)

1	Name and address of the applicant	M/s Elior India Catering LLP, #001, 3B-Ground Floor, RMZ Ecospace, Marathhalli ORR, Belandur, Bengaluru - 560103, Karnataka
2	GSTIN or Used ID	29AAFFE7863E1Z6
3	Date of filing of Form GST ARA-01	10-05-2018
4	Represented by	Sri. B. Harish, Advocate
5	Jurisdictional Authority-Centre	The Principal Commissioner of Central Tax, Bangalore East Commissionerate
6	Jurisdictional Authority-State	LGSTO-15, Bengaluru.
7	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged Rs.5,000/- each under CGST Act & KGST Act vide CIN RBIS18052900009228 dated 04/05/2018

**ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS & SERVICES
TAX ACT, 2017 AND UNDER 98(4) OF THE KARNATAKA GOODS &
SERVICES TAX ACT, 2017**

M/s Elior India Catering LLP (hereinafter referred as 'Applicant' or 'Elior') is a Limited Liability Partnership firm registered under GSTN with its registered address at #001, 3B, RMZ Ecospace, Marthahalli Outer Ring Road, Belandur, Bangalore 5601032, Karnataka, India. Elior Group is mainly engaged in the business of providing catering services to Corporates, Educational Institutions and range of customers located in the States of Karnataka, Maharashtra and Tamil Nadu. Accordingly, Elior has obtained the registration in respective States in accordance with the provisions of Goods and Services Tax.



2. In Karnataka, the applicant largely provides outdoor catering services to its clients, wherein food is prepared at a central kitchen operated by the applicant, transported to respective client locations and served over there, in terms of the contractual arrangement with the clients. The raw materials/ inputs required for preparation of food are directly sourced and stored at central kitchen. Since the services supplied are in the nature of outdoor catering services, the applicant charges GST at the rate of 18% on the value of consideration, in accordance to Sl. No.7(v) of Notification 11/2017 – Central Tax (Rate) dated 28th June 2017.

3. In certain cases, the applicant operates its business from client premises, where it undertakes preparation and supply of food exclusively at client's premises in terms of the contractual arrangement entered with the respective clients. In such cases, infrastructure facilities like kitchen space (cooking area), kitchen equipment and utilities such as electricity and water, gas bank area with pipeline, regulator connections etc. are made available to the applicant by the client at their premises (herein after referred to as 'on-site kitchen'). The applicant sources all raw materials/ inputs required for preparation of food on regular intervals and make its own arrangement for their transportation to the on-site kitchen area.

4. In the instant case, the Applicant has entered into an agreement with M/s. CBRE South Asia Pvt. Ltd (hereinafter referred as 'CBRE'), for providing catering support services at premises of M/s Cisco Systems India Private Limited (hereinafter referred as 'Cisco'). CBRE has been appointed by Cisco for engaging service provider/s for provision of catering and other support services to Cisco.

5. As per the agreement, the Applicant provides catering support services to Cisco / its employees, from its kitchen located at Cisco premises. Here applicant providing three types of catering services to the CISCO employees.

- a. **business catering model:** The Applicant serves food to employees working on specific shifts (as identified by Cisco), wherein the Applicant receives consideration directly from Cisco on monthly basis (based on quantity of food served).
- b. **Corporate/ social events model:** The Applicant provides catering and allied banquet services at internal events held at Cisco against consideration receivable from Cisco/ Cisco employees responsible for the event, as the case maybe.

- c. **Cash & Carry model**, applicant serves the food to employees of Cisco over the counter, and consideration towards the same is received from the respective employees/ individuals who place the order, at the rates provided in the menu.

6. In light of the aforesaid facts, the applicant has sought to obtain a ruling with regard to the following questions.

- i. Whether, in the facts and circumstances of the case, the services rendered by the applicant under cash & carry model are in the nature of **'services provided by canteen' as per Sl. No. 7(i)** or **'outdoor catering services' as per Sl. No. 7(v)** of Notification No. 11/2017 – Central Tax (Rate) [as amended vide notification No. 46/2017-CT (Rate) dated 14.11.2017]?
- ii. If the services supplied by the applicant under cash & carry model are classifiable as 'services provided by canteen', whether, CGST ('Central Goods and Services Tax') & KGST be chargeable at the rate of 2.5% in terms of entry 7(i) of the notification No. 11/2017-CT (Rate) [as amended vide notification No. 46/2017-CT (Rate) dated 14.11.2017]?

7. The applicant made the following factual and legal submissions in relation to the aforesaid questions:

7.1 The applicant submitted that the services provided by him under cash & carry model are in the nature of services provided by canteen. As per Section 9 of the KGST and CGST Act (hereinafter referred as 'GST Act'), KGST and CGST respectively is leviable on supply of goods or services at the rates notified by the Government.

7.2 Further the scope of supply is defined under Section 7 of the said GST Act to *inter alia* include:

- all forms of supply of goods or services such as sale, transfer, etc. for a consideration made in the course or furtherance of business
- activities specifically to be treated as supply of goods or services as referred to in Schedule II of the GST Act
- As per Sl. No. 6 of Schedule II of the GST Act, 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.”

7.3 The applicant submitted that above entry clearly postulates that supply of food by way of or as part of any service or even in any other manner whatsoever, shall be treated as supply of services. In view of this, services provided by the Applicant, either under the outdoor catering model, wherein food is prepared at the central kitchen of the Applicant and served at client location or under on-site kitchen model, wherein the Applicant undertakes preparation of food from the client's location, would be considered as 'supply of service'. Accordingly, tax rate applicable would be required to be determined as per Notification 11/2017 – CT (Rates), as amended from time to time. Tax Rate applicable on food and beverage services are notified under Sl. No. 7 of the above Notification which is narrated as under.

Description of Service	Rate	Condition
“(i) 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, where such supply or service is for cash, deferred payment or other valuable consideration, 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, other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent.	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)].”;

Explanation.- “declared tariff” includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.		
(v) Supply, by way of or as part of any service or in any other manner whatsoever in outdoor catering wherein goods, being food or any other article for human consumption or any drink (whether or not alcoholic liquor for human consumption), as a part of such outdoor catering and such supply or service is for cash, deferred payment or other valuable consideration	9%	-
(ix) Accommodation, food and beverage services other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) above	9%	

7.4 Applicant further submitted that he mainly provides outdoor catering services (wherein food is prepared at central kitchen and served at client location) as per the contractual arrangement with respective clients. These services are in the nature of outdoor catering services and hence chargeable to CGST & SGST at the rate of 18% as per Sl. No. 7(v) of Notification 11/2017 – Central Tax – Rate dated 28th June 2017.

7.5 Further, the applicant submitted that the services provided at on-site kitchen under business catering model and corporate/ social events model as ‘outdoor catering services’. However, in case of services supplied under **cash & carry model**, the applicant undertakes preparation as well as supply of food from the cafeteria at client’s location. Therefore, applicability of Sl. No. 7(i) of the Notification 11/2017 – Central Tax (Rate) read with Notification 46/2017 – Central Tax (Rate) (i.e. services by way of supply of food by canteen), would have to be examined in this case.

7.6 The applicant submitted that the term canteen is neither defined under GST law nor under Chapter V of Finance Act, 1994 (hereinafter

referred as 'erstwhile Service Tax law'). Therefore, the word "canteen" would have to be understood in common parlance. As per Oxford Dictionary canteen means "A restaurant provided by an organization such as a college, factory, or company for **its students or staff**." Further, as per Collins English Dictionary "A canteen is a place in a factory, shop, or college where meals are served to the people who work or study there."

7.7 Further, the applicant submitted that under the cash & carry model food is supplied to the client's employees, over the counter for which consideration is received directly from the employees through cash, vouchers, credit cards, etc. Against such supply, applicant raises invoice directly to the employees under its GSTIN. Hence, applicant reiterates that services provided under the cash and carry model are in the nature of 'supply of food by canteen', covered under Sl. No. 7(i) of Notification No. 11/2017 - CT (Rate) read with Notification No. 46/2017 - CT (Rate).

7.8 The applicant also drew reference to Circular 28/02/2018 dated 8th January 2018 read with corrigendum issued thereto on 18th January 2018, wherein clarification was provided on applicability of tax rate on food supplied at canteens of educational institutions.

The relevant extract of the circular is reproduced below:

*"2.2 If the **catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, then it is a supply of service at entry 7(i) of notification No. 11/2017-CT (Rate)** [as amended vide notification No. 46/2017-CT (Rate) dated 14.11.2017] to the concerned educational institution and attracts GST of 5% provided that credit of input tax charged on goods and services used in supplying the service has not been taken, effective from 15.11.2017."*

7.9 The applicant highlighted the clarification in the above circular has been provided in light of the Entry 7(i) of Notification 11/2017 - Central Tax (Rate) (as amended), which is applicable to all service providers/ recipients and is not limited to services received by educational institutions. Therefore, the clarification as per the circular is equally applicable to cases where canteen operations have been outsourced by any entity.

7.10 The applicant further submitted that under the cash & carry model are not in the nature of outdoor catering services. He drew reference from relevant provisions under the Chapter V of the Finance Act, 1994 (erstwhile Service Tax law) as follows:

Caterer is defined Section 65 (24) of the Service Tax Law as *"any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic liquor or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion"*

Section 65(76a) defines "Outdoor Caterer" as *"a caterer engaged in providing services in connection with **catering at a place other than his own** but including a place provided by way of tenancy or otherwise by the person receiving such services."*

Section 65(105)(zzt) defines "Outdoor Catering Service" as *"any service provided to any person, by an outdoor caterer."*

7.11 The applicant submitted that in terms of the above provisions of the erstwhile Finance Act, the following could be inferred:

- (a) The person providing outdoor catering services should be engaged in supply of food, edibles, beverages or crockery and similar articles or accoutrements.
- (b) Supply to be for any purpose or occasion.
- (c) The supply may be directly by the person himself or indirectly through another
- (d) A caterer would be an outdoor caterer if services in connection with catering were provided at a place other than his own. The inclusive part of the definition includes a place which may be provided to the caterer by the person receiving the service either by an agreement of tenancy or otherwise.

7.12 The applicant submitted that the applicant provides services in canteen premise belonging to Cisco, where food is prepared and served. Food is supplied over the counter to individual employees or customers against the consideration in accordance with the rates stipulated in the menu cards. Although the applicant is engaged by CBRE, the employees of Cisco are the ultimate consumers of food and liable to pay for the food supplied in the premise belonging to Cisco, where food is prepared and served. Therefore, employees are the ultimate recipient of service, not the CBRE or Cisco who facilitate service at Cisco premise by engaging the applicant. Further, cash and carry model doesn't involve an element of personalised service being provided to employees similar to outdoor catering service arrangement. Thus, the service provided by the applicant under the

cash and carry service model would not fall under the ambit of outdoor catering service. Appropriately, it is merely in the nature of sale of food or drinks in a canteen provided by Cisco.

7.13 Further, in case of cash & carry model, the applicant undertakes a range of activities at client's premise such as procurement of raw materials/ ingredients, storage of goods, preparation of food as per requirement and agreed methodology, serving of food, etc. The applicant has also deployed adequate manpower who are stationed at the client's premise, to undertake assigned/ required activities. Thus the applicant has sufficient degree of permanence at client's premise, where the employees are sufficiently stationed and goods are sourced / stored at the client's premise to prepare and supplies the food to employees. Accordingly, the client's location should be construed as fixed establishment and place of business of the applicant. In view of the above, the applicant argues that the services provided by him under cash & carry model are not in the nature of outdoor catering services and hence, not taxable under Sl. No. 7(v) to Notification 11/2017 – Central Tax (Rate).

7.14 The applicant also submitted additional submissions in support of his claim that the taxability of each service provided under a contract should be determined independently. In support of his argument, the applicant stated that he is mainly engaged in providing outdoor catering services and in certain cases, the applicant has entered into contractual arrangements with clients for providing services under different models. Even though services provided by the applicant under different models emanate from the same contract, all of them have to be examined independently and taxability of such services should be determined based on the nature of each service and not the whole contract. In support of his contention, the applicant has placed reliance on the decision of the Hon'ble CESTAT, Mumbai in the case of M/s Greenwich Meridian Logistics India Pvt. Ltd v. Commissioner of Service Tax, Mumbai [2016 (43) STR 215 (Tri-Mumbai)] wherein it was held that –

“7. Each source of income must be looked at independently. A service provider is not necessarily a specialist in rendering one service; the earnings of a service entity may accrue from one or more services – some of which may be taxable. Finance Act, 1994 does not envisage determination of taxability from accounting entries. The manner or mode of booking the profit in the accounts of a commercial organisation has no bearing on the application of section 65(105) to a taxable activity. The nomenclature in the

accounts that appears to have weighed heavily with the original authority is not material to classification of the service when the taxable entry specified the legislative intent."

7.15 Hence, the applicant submitted that the taxability of service or rate of tax cannot be determined only on the basis of accounting, consolidated transactions under an agreement or contract entered into, etc. and the same cannot be conclusive to arrive at the taxability. A service provider could be providing a range of services based on the business requirements and hence nature of each transaction and intent of contract between the parties should be considered independently even though forms part of the same contract and applicable rate of tax should be levied based on the nature of respective service rendered in accordance to the intent of contracting parties. Therefore, GST should be levied on the services rendered by the applicant based on the nature of services provided under each model and all services rendered by the applicant under the contract cannot be blatantly construed as outdoor catering services without examining the nature of services rendered under each business arrangement under the contract.

7.16 The applicant also argued that the maintenance and operation of the canteen by person other than the employer would not change the nature of supply i.e. supply of food by canteen. In the present case, the employer in order to ensure welfare of its employees, have outsourced the canteen operations to the applicant and hence the applicant is running and maintaining the canteen at the client's premises. He argued that whether the canteen is operated by the employer or by third party vendor, this should not have bearing on the nature of supply and should not change the character of supply i.e. "supply of food by canteen". Hence the applicant argues that his activities of operating and maintenance of the canteen at client premises, the supply of food from canteen to employees under cash and carry model should be chargeable to GST at the rate of 5% vis-à-vis considering and classifying such transactions as outdoor catering.

7.17 The applicant also argued that the supplies undertaken by the applicant under cash and carry model are on par with supplies undertaken by any other canteen, eating joint or restaurant in that the applicant undertakes to prepare and service the food at the client's location, the raw materials or inputs are directly procured and stored in the kitchen area and the required manpower are employed to manage the entire operations at such premises. In addition, the applicant maintains its own menu card offering variety of foods to the customers or the employees of CISCO and

accordingly, the mode of consideration whether paid through the employees or employer will not be relevant to determine the classification of services. In view of the above, the applicant maintains that the arrangement by the applicant at the client's premises partakes the character of a "canteen/cafeteria".

PERSONAL HEARING / PROCEEDINGS HELD ON 23/04/2018

8. Sri. Harish B, Advocate and duly authorised representative of the applicant appeared for personal hearing proceedings held on 23.04.2018, reiterated the facts narrated in their application and submitted written arguments inter alia stating as under:

8.1 The applicant submitted that recent amendment was made by CBIC by way of Notification No.13/2018- Central Tax (Rate) dated 26th July 2018, making further amendment to Sl.No. 7(i) and Sl. No. 7(v) of the Notification No. 11/2017- Central Tax (Rate) dated 28th June 2017, read with Notification No. 46/2017 -Central Tax (Rate) dated 14th November 2017. As per the Notification, explanation has been inserted under Sl.No.7(i) of the Notification No.11/2017 - Central Tax (Rate) dated 28th June 2017 and this reads as under:

"Explanation 1: This item includes such supply at a canteen, mess, cafeteria or dining space of an institution such as a school, college, hospital, industrial unit, office, by such institution or by any other person based on a contractual arrangement with such institution for such supply, provided that such supply is not event based or occasional."

8.2 In view of the above amendment to Sl.No.7(v) of Notification No.11/2017- Central Tax (Rate) dated 28th June 2017, the scope of outdoor catering service for the purpose of levy of GST is limited to supply of food, drinks or any other article at exhibition halls, events, conferences, marriage halls and other outdoor or indoor functions that are event based and occasional in nature and be chargeable to GST at the rate of 18%.

8.3 The applicant stated that since his transactions in the "cash and carry model" is not event based or occasional in nature, they would not be called as "outdoor catering service" and hence would be covered under entry no. 7(i) of the Notification No.11/ 2017 - Central Tax (Rate) dated 28th June, 2017 and hence chargeable to tax at the rate of 5% (i.e. CGST 2.5% + SGST 2.5%).

9. FINDINGS & DISCUSSION:

9.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri Harish B, Advocate and duly authorised representative of the applicant during the personal hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

9.2 At the outset, we would like to state that the provisions of both the CGST Act and the KGST 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 provisions under the KGST Act.

9.3 The contentions and the arguments of the applicant are examined and found that the applicant has entered into a contract which envisages three types of supplies and the same are as under:

- (a) Business Catering Model – wherein the applicant serves the food to employees working on specific shifts and the consideration is received from the employer directly on monthly basis.
- (b) Corporate/ Social Event catering model – wherein the applicant provides catering and allied banquet services at internal events held at the employer's place against a consideration received from the employer or the employee responsible for the event, as the case may be.

Both these models are not a part of the question raised in the present application and hence not discussed.

- (c) Cash and Carry Model: Under this model, the food is served to employees over the counter and consideration towards the same is received from the respective employees or individuals who place the order, at the rates provided in the menu. Though the menu is decided in agreement with the employer, invoices are issued under the GSTIN of the applicant to individual employees.

Only the cash and carry model is the issue under the application and hence this is examined.

9.4 Under the cash and carry model, it is seen that the materials offered to the employees on the menu card are displayed and there is no binding on the part of the employee to purchase the same. Though the



menu is decided in consultation with the employer, it has no bearing on the contract between the supplier (applicant) and the person receiving the service (employee). Since the employee is the person who pays the consideration, he becomes the recipient of the service and the service is rendered by the applicant to the employee. The recipient is not bound to purchase the items and only on his decision to purchase the food items available for sale, the contract of supply is entered and the consideration is as shown in the menu card. Hence it is a contract of supply between the applicant and the employee.

9.5 Further, on question whether the supply of food items is a supply covered under entry no. 7(i) of the Notification No.11/ 2017 –Central Tax – (Rate) dated 28th June 2017 or entry no. 7(v) of the Notification No.11/ 2017 –Central Tax – (Rate) dated 28th June 2017, the following facts are observed:

- (a) The applicant has entered into contract with the employers through an intermediary indirectly that the food items needs to be prepared and sold.
- (b) The applicant is provided with necessary infrastructure by the employer to prepare the food items and the applicant is engaged in the preparation of food items there itself using his own raw materials, etc.
- (c) The applicant offers the goods for order by way of a menu card about the availability of certain foods for that day and the orders for such foods are taken by the applicant.
- (d) The applicant prepares the food items and then supplies the same to the employee for the consideration shown in the menu card.

All the above point to the fact that the items of food supplied are prepared and supplied.

9.6 The entry 7(i) of the Notification after amendment reads as under:

“(i) 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, other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having

declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent.

Explanation 1. – This item includes such supply at a canteen, mess, cafeteria or dining space of an institution such as school, college, hospital, industrial unit, office, by such institution or any other person based on a contractual arrangement with such institution for such supply, provided that such supply is not event based or occasional.”

The careful perusal of this entry states that a supply of food or any other article of human consumption or drink to be covered under this entry should not be provided in a premises of a place where the declared tariff is more than Rs.7500/- per day which is satisfied. But the issue is whether the applicant is a restaurant or eating joint including mess or canteen. The Explanation 1 states that the even the supply made by a person other than the institution based on a contractual arrangement with such institution for such supply is also included. Hence, it can be concluded that the supply of services by the applicant in the cash and carry model would be covered under entry 7(i) of the Notification, if it satisfies the following two conditions:

(a) That the supply of service made in the canteen belonging to an institution is based on the contractual arrangement with such institution, and

(b) That the such supply is not event based or occasional.

9.7 On verification of the cash and carry model, since the supply is not based on any event or is regular, the second condition gets satisfied. Regarding the first condition, the copies of the contracts provided the applicant are examined and found the following

(a) The contract entered by the applicant with Motorola Mobility India Pvt Ltd is verified and the contract is just an outsourcing contract for running a canteen and hence this would squarely get covered under entry no. 7(i) of the Notification.

(b) The other contract copy submitted is entered between the Megabite Food Services and CBRE South Asia Pvt Ltd for supply of food and items of human consumption in the CISCO's work place resources. In this it is mentioned that Megabite Food Services has entered into a Business Transfer Agreement (BTA) with the applicant and the entire business is sold to the applicant. Hence the agreement is between the CBRE South Asia Pvt Ltd with the Elior India Catering LLP for providing catering support at Cisco Systems (India) Pvt Ltd and Cisco



Video technologies (India) Pvt Ltd facilities in India. It is seen that there is no direct agreement between the institution in which the supply is made and the supplier. CBRE is a Facility Management Company appointed by Cisco Systems India Pvt Ltd and CBRE is entering into a contract with the applicant. Hence the supply of service made in the canteen belonging to an institution is not based on the contractual arrangement with such institution and hence does not get covered under the Explanation 1 of the entry 7(i) of the Notification No.11/ 2017 – Central Tax (Rate) dated 28.06.2017.

9.8 Entry No. 7(v) of the amended Notification is verified and found that the entry reads as under:

“(v) Supply, by way of or as a 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 transactions relating to cash and carry model are examined and found that since the supply is neither event based nor occasional nature, the same does not get covered under the entry 7(v).

Going back to the entry no. 7(i), the explanation 1 only says the transactions which are included in the said entry. It doesnot limit the operation of entry no. 7(i) and hence the entry no. 7(i) is again considered:

“(i) 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”.

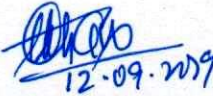
Whether the applicant is a restaurant or eating joint for the purposes of this entry is the moot question. Here it is seen that the applicant is preparing the food items at the place and is selling the goods to the purchasers. Hence this amounts to sale of food items for consumption either in the premises or away from the premises. There is no condition in the entry that the premises should be own. It only mentions that the premises must be place where the services are supplied. The supply of services is happening in the premises of CISCO and the goods are prepared in the same premises and the services are provided there itself. Hence it would qualify as an eating joint (including mess, canteen) wherein the service is supplied. Explanation 1 is only clarificatory in nature and the applicant's activity of cash and carry does not fit in the transactions narrated in Explanation 1,

but still gets covered under the main entry 7(i) of the Notification. There is no condition as to the ownership of the premises in the said main entry and hence there is no need of going into the ownership of the premises or the contract.

10. In view of the foregoing, we pass the following

R U L I N G

1. *The supply of goods being food or any other article for human consumption or any drink provided by the applicant under cash and carry model where in the items are prepared in the same premises from where it is supplied is covered under amended entry No. 7(i) of the Notification No. 11/2017 – Central Tax dated 28.06.2017 as amended by Notification No. 13 /2018 – Central Tax (Rate) dated 26-07-2018.*
2. *The rate of tax applicable on the above transaction is 2.5% CGST and 2.5% SGST subject to the proviso that credit of input tax charged on goods and services used in supplying the service has not been taken.*


12.09.2019
(Harish Dharnia)
Member


(Dr. Ravi Prasad.M.P.)
Member

Place : Bengaluru,

Date : 12-09-2019

To,

The Applicant

Copy to :

The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.

The Commissioner of Commercial Taxes, Karnataka, Bengaluru.

The Principal Commissioner of Central Tax, Bangalore East Commissionerate, Bengaluru.

The Asst. Commissioner, LGSTO-15 , Bengaluru.

Office Folder



Elion