

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, NO.1275/3,
ELEPHANT GATE BRIDGE ROAD, CHENNAI - 3**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Ms. Manasa Gangotri Kata, I.R.S., Additional Commissioner/Member,
Office of the Commissioner of GST & Central Excise, Chennai
2. Thiru Kurinji Selvaan V.S., M.Sc., (Agri.), M.B.A., Joint Commissioner (CT) /Member
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6.

ORDER No. 28/ARA/2020 Dated 12.05.2020

GSTIN Number, if any / User id		33AABCM9267F1ZF
Legal Name of Applicant		MFAR HOTELS & RESORTS PRIVATE LIMITED
Trade Name of the Applicant		THE WESTIN (CHENNAI)
Registered Address / Address provided while obtaining user id		154/6, Velachery Main Road, Velachery, Chennai-600042
Details of Application		Form GST ARA – 001 Application SI.No. 28 Dated: 26.07.2019
Concerned Officer		State: Assistant Commissioner (ST) Adyar Assessment Circle, RA Puram. Centre: Chennai South Commissionerate Division: Guindy
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provision
B	Description (in brief)	The applicant owns and manages hotel, resorts and offers variety of services to the customers.
Issue/s on which advance ruling required		1.Admissibility of Input Tax Credit of tax paid 2.Determination of liability to pay tax on any goods or services

Question(s) on which advance ruling is required	<p>1. What is the rate of tax applicable on the supply of Soft Beverages (Aerated Water) and Tobacco(Smokes) when these items are supplied independently and not as composite supply in the restaurant? In other words what is the rate of GST if these items alone are supplied and not along with food as Composite supply to the guest?</p> <p>2. Whether supply of liquor is deemed to be the “exempt supply” under GST Act as per Section 2(47) of CGST Act for the purpose of proportionate reversal of ITC as per Rule 42 of CGST Rules 2017?</p> <p>3. It is obligatory on the part of employer to supply free food to the employees. Whether such free supply of food is liable to reverse ITC on inputs as per Rule 42 of CGST Rules 2017?</p>
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Note : Any appeal against the advance ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

MFAR HOTELS & RESORTS PRIVATE LIMITED, 154/6, Velachery Main Road, Velachery, Chennai-600042.(hereinafter referred to as ‘Applicant’) is registered under the GST Act 2017 vide GSTIN No. 33AABCM9267F1ZF. The Applicant owns and manages hotel and resorts. The applicant has preferred an application seeking Advance Ruling on the following questions:

1. What is the rate of tax applicable on the supply of Soft Beverages (Aerated Water) and Tobacco (Smokes) when these items are supplied independently and not as composite supply in the restaurant? In other words what is the rate of GST if these items alone are supplied and not along with food as Composite supply to the guest?

2. Whether supply of liquor is deemed to be the “exempt supply” under GST Act as per Section 2(47) of CGST Act for the purpose of proportionate reversal of ITC as per Rule 42 of CGST rules 2017?

3. It is obligatory on the part of employer to supply free food to the employees. Whether such free supply of food is liable to reverse ITC on inputs as per Rule 42 of CGST Rules 2017?

The Applicant has submitted the copy of application in Form GST ARA – 01 and submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under Sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that they own and manage the Hotel and resorts. They offer variety of services to their customers such as rooms and suites, banquet, dining, spa, etc. Their hotels are located in the prime urban cities of Chennai and Ernakulum. They sell Tobacco (Cigarettes), soft beverages to the guest. They supply Non-GST item of liquor to the guest and provide free supply of food to their employees.

2.2 The applicant has submitted that the Tamilnadu Hotel offers variety of services such as rooms and suits, banquets, dining, spa etc.; on certain occasions at the request of guests they supply the goods of Aerated Water and Cigarette as a separate item and not as part of food in the buffet or composite supply and the billing of these items are separate.; they normally provide two types of supply in restaurant:

- i. Supply of aerated water or cigarette along with supply of food and showing these items separately in the bill
- ii. Supply only the aerated water or cigarette.

However, on certain occasions some of the guest will take only Aerated Water or Cigarette as walk in guest and they will not consume food. The applicant has submitted that supply of goods or services to be treated as composite supply should fulfill the following criteria

- i. Supply of 2 or more goods or services together and
- ii. it is a natural bundle i.e goods or services are usually provided together in the normal course of business and they cannot be separated.

The tax rate of principal supply will apply on the entire supply.

2.3 Further, in respect of supply of liquor to the guest they have made reference to Rule 42 of CGST Rules 2017 which prescribes principles or formulas for computation of ineligible credit or for pro rata reversal when the common taxable inputs and/ or services are used for making both taxable and non taxable exempt supplies.

2.4 The applicant has stated that it is obligatory on part of the employer to supply free food to the employees as per terms of employment. They have also stated that they are not maintaining a separate account for purchase of food items for canteen purposes and a single account is being maintained both for restaurant and canteen. The ITC on the inward supply of food items is taken by the applicant.

2.5 In view of the above facts, the applicant has sought the authority of Advance Ruling on the questions raised in Para 1 supra.

3.1 The applicant was given an opportunity to be personally heard on 30.08.2019. The applicant appeared before the authority for Advance Ruling and stated that they supply soft beverages, filter cigarettes exceeding 75mm (HSN 2402 2090) in restaurant and in room service. This is mentioned in their menu for restaurant/bar room service. They stated that they will submit copies of menu and sample bills for each. They stated that they are charging 28% +cess whereas the clients demand to tax @18%. They are charging @ 18% on other room & restaurant service. In respect of the 2nd and 3rd question they stated that they wish to rephrase the question regarding taxability of liquor and Supply of free food to employees. They stated that they will submit copies of menu, invoices for restaurant/bar and room service. They further stated that they serve food to their employees in a separate canteen and separate food from their business. The canteen is run in-house, though procurements are common. They also stated that they will submit copies of a sample employee contract and all other documents mentioned within 2 weeks.

3.2 The applicant was extended another Personal hearing on 07.11.2019. They appeared and submitted the invoices for serving tobacco, liquor, soft beverages at restaurant/bar and as room-service. They stated that the Guests can also come to restaurant/bar and order these items and they are billed as Non –Resident at the Restaurant. The menu is common for room service & restaurant. Currently they are charging only VAT for alcohol being served in Restaurant/bar. The applicant stated that they want clarification whether supply of alcohol only at restaurant/bar is

exempt. They also serve tobacco, soft beverages in both restaurant and room service. They stated that in respect of alcohol under service tax they were including alcohol and on that abatement was taken along with VAT. In respect of employees there is separate canteen Café @154, which is part of contract with the employee. The applicant submitted that they wanted to know about whether such a supply is exempt and so, input tax credit reversal is available. The common inputs are electricity, security, food items etc.

3.3 In furtherance to the aforementioned Personal Hearing the applicant submitted the following documents on 27.11.2019

- i. Bill copies resident/non resident
- ii. Menu card details of MKC
- iii. Employee contract (Ms. Namitha T Ajai dated 21st January 2019)

4. The applicant is under the administrative control of State Tax. The said jurisdictional authority was addressed to report if there are any pending proceedings in the applicant's case on the issues raised by the applicant in the ARA application and for comments on the issues raised. The said authority did not furnish any report and also has not furnished any comments. Also, the Central Tax authorities were addressed to report if there are any pending proceedings but no reply has been received from the said authority also. Hence, it is construed that there is no proceedings pending in the case of the applicant on the questions seeking Advance ruling before us.

5. We have carefully examined the oral and written submissions of the applicant. We find that the applicant has stated that they are a 5 star hotel offering variety of services such as rooms and suites, banquets, dining, spa, etc. They supply soft beverages (Aerated water), Tobacco (smoke) on certain occasions and not as composite supply. They supply Non-GST item liquor to guest in the restaurant. They supply free food to employees as per the terms of the contract with the employees. The applicant in their application has sought ruling on the following questions:

1. What is the rate of tax applicable on the supply of Soft Beverages (Aerated Water) and Tobacco (Smokes) when these items are supplied independently and not as composite supply in the restaurant? In other words what is the

rate of GST if these items alone are supplied and not along with food as Composite supply to the guest?

2. Whether supply of liquor is deemed to be the “exempt supply” under GST Act as per Section 2(47) of CGST Act for the purpose of proportionate reversal of ITC as per Rule 42 of CGST rules 2017?

3. It is obligatory on the part of employer to supply free food to the employees. Whether such free supply of food is liable to reverse ITC on inputs as per Rule 42 of CGST Rules 2017?

During Personal Hearing held on 30.08.2019, the applicant stated that in respect of 2nd and 3rd question, they wish to rephrase the questions and accordingly required ruling on

1. Taxability on Supply of Liquor in restaurant/bar and room service; and
3. Taxability on Supply of free food to their employees

6.1 The first question raised by the applicant is:

What is the rate of tax applicable on the supply of soft beverages (Aerated Water) and Tobacco (Smokes) when these items are supplied independently and not as composite supply in the restaurant? In other words what is the rate of GST if these items alone are supplied and not along with food as Composite supply to the guest?

The applicant claims that the supply is not a composite supply and has been charging the rate applicable to such supply of tobacco and soft Beverages as per Notification no. 01/2017-C.T. (Rate) dated 28.06.2017 as amended along with the applicable compensation cess. The same is considered as under.

6.2 From the submissions, it is seen that the applicant supply Soft Beverages, Filter Cigarettes exceeding 75mm(2402 2090)in restaurant and in room service. The applicant has furnished Menu of ‘Madras Kitchen Company-MKC’ which Lists

- Food items under headings ‘Small Plates’; ‘Dumplings, Baos, Wraps’; ‘Large Plates’; ‘Sides’;; ‘Dessert’;

- “Better For You’ Beverages’ wherein items such as Panner Soda/Orange Soda; Masala Bovonto(Cola); Cold Pressed Juicery; Tea-Tisanes; Coffee-Kaapi and ‘SSLC-Shake-Smoothie-Local Flavours and Classics’ are listed.

They had also furnished a menu of ‘TOBACCO’, listing the varieties of Cigarette. The applicant had furnished ‘Tax Invoice-Room Service’ for supply of food items in the Room. These invoices are marked as ‘Resident’ and Room No. mentioned. Also, it is seen that the applicant is charging GST @18% on the Food items and the beverage supplied is charged @ 28% along with compensation cess. In case of customers who are not boarding in the hotel, they raise Tax Invoice marked as ‘Non-Resident’ for supply of food which is charged @ 18%; Tobacco charged @ 28% along with applicable compensation cess and Alcoholic drinks without any GST but applicable VAT is charged. It is further seen that the applicant supplies Soft Beverages (Aerated Water) and/or Cigarette in the restaurant along with supply of food/as a separate item and not as part of food in the buffet and bills these items separately in the bill from the restaurant. The menu is common for room service & restaurant. The applicant claim that supply of Soft Beverages and/or Cigarette alone in the restaurant is not a composite supply and that they are billing such supply @ 28% GST & applicable compensation cess.

6.3 Supply is defined under Section 7 of the CGST Act 2017 and the same is reproduced below for reference:

7. (1) For the purposes of this Act, the expression “supply” includes—

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

(b) import of services for a consideration whether or not in the course or furtherance of business; and

(c) the activities specified in Schedule I, made or agreed to be made without a consideration;

(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.;

Schedule-II of the GST Act at Sl.No. 6, states as under:-

6. Composite supply

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

(a) works contract as defined in clause (119) of section 2; and

(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.

Composite supply is defined under Section 2 (30) of CGST Act 2017 as:

“composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply

Section 8 of CGST/TNGST ACT states:

8. The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:— (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

6.4.1 The applicant runs a hotel offering various services such as accommodation, dining, etc. In the situation at hand, the question involves the supply of **Soft beverages/aerated water** as a separate supply by the restaurant to a casual guest who do not avail of any other services offered by the applicant other than buying Soft beverages/aerated water at the restaurant. The applicant in the menu for restaurant has ‘aerated water’ and ‘soft Beverages’ i.e., any guest who comes to the restaurant can have aerated/ soft beverages alone also as these are in the menu of the restaurant. When a guest (resident or nonresident) comes to the restaurant and orders from the menu either soft beverages or aerated water, it involves supply of goods (soft beverages/aerated waters) and supply of services by the restaurant. In this case both the supplies are taxable. The serving of any items on the menu involves the supply of the items along with the use of the facilities/ staff of the restaurant. These two are naturally bundled and supplied in conjunction each other and hence is a composite supply as per Section 2(30) of the Act.

6.4.2 Further, as per para. 6(b) of Schedule II to the CGST /TNGST Act, the composite supply 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 is a Supply of Service. In this instance, supply of soft beverages/aerated waters being drinks (other than alcoholic liquor for human consumption) and articles for human consumption in as a part of any service is a composite supply of service. The payment in this case can be immediate or billed to the room for residents. The relevant **Explanatory notes for the Classification of Services** states:

99633 Food, edible preparations, alcoholic& non-alcoholic beverages serving services

996331 Services provided by Restaurants, Cafes and similar eating facilities including takeaway services, Room services and door delivery of food.

996332 Services provided by Hotels, INN, Guest House, Clubs etc. including Room services, takeaway services and door delivery of food.

It is seen that supply of soft beverage/ aerated waters by the restaurant whether to resident or nonresident guests, whether in person or room services, is a composite supply of service classifiable under SAC 996331.

6.4.3 The applicable CGST on such service is provided vide Sl.No.7 (iii) of Notification No. 11/2017-C.T. (Rate) dated 28.06.2017 which is as follows:

S.No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Rate (percent)	Condition
(1)	(2)	(3)	(4)	(5)
7	Heading 9963 (Accommodation, food and beverage services)	(iii) 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, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, having licence or permit or by whatever name called to serve alcoholic liquor for human consumption.	9	

The above entry has been amended vide Notification No. 46/2017 CT(Rate) dated 14.11.2017 as follows:

S.No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Rate (percent)	Condition
(1)	(2)	(3)	(4)	(5)
7	Heading 9963 (Accommodation, food and beverage services)	(iii) 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, 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, 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.- "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.	9	

The said entry has been amended vide Notification No. 20/2019-C.T.(Rate) dated 30th September 2019 as follows:

S.No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Rate (percent)	Condition
(1)	(2)	(3)	(4)	(5)

7	Heading 9963 (Accommodation, food and beverage services)	(vi) Accommodation, food and beverage services other than (i) to (v) above Explanation: (a) For the removal of doubt, it is hereby clarified that, supplies covered by items (ii), (iii), (iv) and (v) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5), which is a mandatory rate and shall not be levied at the rate as specified under this entry. (b) This entry covers supply of “restaurant service” at specified premises	9	
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Explanation to this notification states:

“(xxxii) **“Restaurant service”** means 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.

(xxxv) **“Declared tariff”** means 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.

(xxxvi) **“Specified premises”** means premises providing „hotel accommodation” services having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.”.

In the instant case, the hotel being a 5 star hotel has a declared tariff of above seven thousand and the restaurant in question has license to serve alcohol (relevant for the notification before amendment. From the above notification and

amendments, it is seen that supply of soft beverages/aerated water, whether in person or room service, by the restaurant located in the premises of the hotel is taxable to CGST at the rate of 9% as per sl.No. 7 of Notification No. 11/2017-C.T. (Rate) dated 28.06.2017 and SGST @ 9% as per Notification No. as per Sl.No. 7 of Notification No. II (2)/ CTR/ 532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.

6.5.1 The applicant also supplies of **cigarettes** as a separate supply in the restaurant to a casual guest who do not avail of any other services offered by the applicant other than buying cigarettes at the restaurant. The applicant in the menu for restaurant has various cigarette products i.e., any guest who comes to the restaurant can have cigarettes alone also as these are in the menu of the restaurant. When a guest (resident or nonresident) comes to the restaurant and orders from the menu tobacco products, it involves supply of goods (cigarettes) and supply of services by the restaurant. In this case both the supplies are taxable. The serving of any items by a restaurant involves the supply of the items along with the use of the facilities/ staff of the restaurant. However, in this case the sale of cigarettes products are not naturally bundled together with the restaurant services as the services of the restaurant involves serving of food and beverages alone in the normal course. Hence is not a composite supply as per Section 2(30) of the Act. However, when such cigarettes products are supplied by the restaurant, a single price is charged as seen in the invoices submitted by the applicant.

Section 2(74) of CGST/TNGST ACT states:

(74) "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

In the instant case, supply of tobacco products by the restaurant is not a composite supply but involves supply of two individual supplies of goods (tobacco products) and supply of services of serving by the restaurant. Such a supply is a mixed supply.

6.5.2 As per Section 8(b) of the Act, the tax liability on a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax. In the instant case, the applicable rate of tax for cigarettes classifiable as CTH 2402 is 14% CGST and 14% SGST as per Sl.no 14 of

Schedule IV of Notification No. 1/2017-C.T. (Rate) dated 28.06.2017 and Notification No. II (2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended. Apart from this GST Compensation Cess is applicable at specified rates for different kinds of cigarette product as per Notification No.1/2017-Compensation Cess (Rate) DT 28.6.2017 as amended. Hence, in the case of the mixed supply of cigarettes by the restaurant, in person or room service, the applicable rate is the rate applicable to supply of cigarettes which 14% CGST and 14% SGST as per Sl.no 14 of Schedule IV of Notification No. 1/2017-C.T.(Rate) dated 28.06.2017 and Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended and the applicable GST Compensation Cess is applicable at specified rates for different kinds of cigarette product as per Notification No.1/2017-Compensation Cess (Rate) dt 28.6.2017 as amended.

7.1 In respect of Q.No.2, the applicant on rephrasing the original question has sought clarification on the taxability of **alcoholic liquor for human consumption** under GST when supplied in the restaurant. It is stated that they serve liquor in restaurants and room service. From the invoice furnished, it is seen that the applicant is charging only VAT when the supply of the same is made in the Restaurant.

7.2 Section 9(1) of CGST Act which is the charging section states that

Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

Section 2(78) of CGST/TNGST ACT states:

(78) "non-taxable supply" means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

Thus, as per Section 9(1) of CGST/TNGST Act, the supply of alcoholic liquor for human consumption, is a non-taxable supply. Hence, supply of alcoholic liquor for human consumption by a restaurant will not be taxable under CGST/TNGST Act.

8.1 In respect of Q.No.3, the applicant on rephrasing the original question has sought clarification on the taxability of **supply of free food to employees**. It is stated that in respect of employees, there is a separate canteen Café @154 and supply of free food to employees is as per the contract with the employees. The applicant has furnished a copy of appointment letter issued to Ms. Namitha T Ajai dated 21st January 2019. On perusal, it is seen that as per Sl.No. 17 of the Annexure-II to the said letter, it is stated that

‘Duty Meals will be provided in Café @154-Associate Dining Room....’

From the said document, it is evident that as part of Terms & Conditions to the appointment, the applicant extends food to their employees for which no separate consideration is charged from the employees.

8.2 The activities even without consideration but specified at Schedule-I of the Act is within the scope of supply as per Section 7(1) (c) of the GST Act.

Schedule I of the Act. para 2 states

Activities or Transactions to Be Treated As Supply Even If Made Without Consideration

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:.

As per the Explanation to Section 15 of the Act,

—For the purposes of this Act,— (a) persons shall be deemed to be “related persons” if—

(iii) such persons are employer and employee;

In the case at hand, the applicant provides food through a separate canteen to their employees, who are related persons as a part of the employment contract, i.e., in the course or furtherance of business. Therefore, as per Para 2 to Schedule I of the CGST/TNGST Act, supply of free food to the employees is a supply of service

under the Act. Supply of food in a specified place, such as canteen as in the present case is a supply of service with SAC 996333 as given in the Annexure to Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 which provides the Scheme of Classification of services

80	Group 99633		Food, edible preparations, alcoholic and non-alcoholic beverages serving services
81		996331	Services provided by restaurants, cafes and similar eating facilities including takeaway services, room services and door delivery of food
82		996332	Services provided by Hotels, Inn, Guest House, Club and the like including room services, takeaway services and door delivery of food
83		996333	Services provided in canteen and other similar establishments

Therefore, supply of food in the specified canteen by the applicant to their employees without consideration is 'supply' under GST and taxable on the value of such supply as determined by Rule 28 of CGST Rules, 2017. The rate applicable is CGST @ of 9% as per sl.No. 7 of Notification No. 11/2017-C.T. (Rate) dated 28.06.2017 and SGST @ 9% as per Notification No. as per Sl.No. 7 of Notification No. II (2)/ CTR/ 532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.

9. In view of the above, we rule as under

RULING

1. The supply of soft beverages/aerated water, whether in person or room service, by the restaurant located in the premises of the hotel of the applicant is taxable to CGST at the rate of 9% as per sl.No. 7 of Notification No. 11/2017-C.T. (Rate) dated 28.06.2017 and SGST @ 9% as per Notification No. as per Sl.No. 7 of Notification No. II (2)/ CTR/ 532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.
2. The supply of cigarettes by the restaurant, in person or room service, is taxable at 14% CGST and 14% SGST as per Sl.no 14 of Schedule IV of Notification No. 1/2017-C.T.(Rate) dated 28.06.2017 and Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended along with the applicable GST Compensation Cess at specified rates for different kinds of cigarette products as per Notification No.1/2017-Compensation Cess (Rate) dt 28.6.2017 as amended.
3. The Supply of alcoholic liquor for human consumption by a restaurant will not be taxable under CGST/TNGST Act 2017.

4. The supply of free meals to the employees at a canteen located in the premises of the hotel of the applicant is a supply under CGST / TNGST Act 2017 and liable to CGST @ of 9% as per sl.No. 7 of Notification No. 11/2017-C.T. (Rate) dated 28.06.2017 and SGST @ 9% as per Notification No. as per Sl.No. 7 of Notification No. II (2)/ CTR/ 532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended on the value determined by Rule 28 of CGST Rules 2017.

f. Manasa *12/5/20*

Ms. Manasa Gangotri Kata, IRS
Member, CGST

Shri Kurinji Selvaan.V.S. *12/5/2020*

Shri Kurinji Selvaan.V.S.,
Member, TNGST

To

MFAR HOTELS & RESORTS PRIVATE LIMITED
154/6, Velachery Main Road, Velachery,
Chennai-600042 . // By SPAD//



Copy submitted to :-

1. The Additional Chief Secretary / Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.
2. The Principal Chief Commissioner of CGST & Central Excise,
No. 26/1, Uthamar Mahatma Gandhi Road, Nungambakkam, Ch – 600 034.

Copy to:

3. The Commissioner of GST & Central Excise,
Chennai South Commissionerate
4. The Assistant Commissioner (ST)
5. Master/ Spare.