



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri V. Srinivas, IRS, Additional Commissioner (Central Tax)

Sri J. Laxminarayana, Additional Commissioner (State Tax)

A.R.Com/16/2018

Date.26-09-2018

TSAAR Order No. 12/2018

Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order.

M/s. Prism Hospitality Services (P) Ltd , 22/A, Mini Industrial estate, Hafeezpet, Miyapur, Hyderabad-500049 registered under GSTIN No. 36AADCP6610K1ZC has filed an application in Form GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 103 of CGST/TGST Rules, seeking Advance Ruling on the issues raised in their application.

2. The applicant has stated that they are registered under the Companies Act 1956 and carries on business of Cleaning Services, maintenance of canteens in Industries, Educational establishments, providing food to student mess/s, training institutes and so on since the year 2005.

3. The applicant is registered under GST w.e.f., 1st July, 2017, previously they are registered with Service Tax as well as State VAT in the Governments of Telangana & Andhra Pradesh.

4. They made the following submissions:

1. The applicant provides canteen services in organizations like Infosys etc., wherein the food is cooked in the premises of Infosys and “Sold” to the employees of the said organization at a price mutually agreed upon, it is done on a regular daily basis.
2. The applicant provides its services of serving food - Breakfast + lunch & Dinner and any other food requirements from a Mess/Dining Hall to the trainees of the Training institution of banking such as SBIRD, Andhra Bank Staff College etc., Even here the food is prepared and sold/served to the trainees in the premises, where the trainees attend a residential programme and there are rooms for stay in the premises for the trainees.

3. The applicant operates student mess for students in Engineering Colleges(Higher Education) such as CVR College, and so on. The food is prepared and served in the hostel premises.
4.
 - a) In the Educational Institutions the applicant in some institutions also operate the canteen for the day scholar students and staff wherein food is prepared in the canteen and sold for consumption by the students/staff.
 - b) In the so called student/staff canteen, certain bought out items like Ice Creams/Soft Drinks/Biscuit packets etc wherein the Maximum Retail price is printed on the item is also sold for consumption by the students/staff.
5. The applicant also has a kitchen in Miyapur, where food is prepared and transported to some software companies where it is again “sold” to the company employees in the dining Hall. The software companies do not have kitchens because of safety reasons, but however, they have dining hall facilities. The Dining Hall/Cafeteria runs on a daily basis. A separate food license is Obtained by us for selling the food in this organization issued by GHMC.
6. Applicant entity also provides Transport services to a training institute for carting food from one building to another for service/sale. The applicant entity charges them a separate transport charges.

They requested for an advance ruling as regards to the rate of GST to be levied on the activities mentioned at para 1,2,3,4 a, 4 b,5 and 6 of their above submissions.

5. They have submitted a brief statement of relevant facts as given below:

5.1 As stated above, the applicant entity was categorized/classified as outdoor caterers in the old regime of Service Tax/VAT, as the old regime of Service Tax did not have any other classifications/categories for the services rendered by us which is vast which includes operation of canteen/Mess/Eating House/mess operation/ food sales in Hospitals for patients and visitors/Campsite etc., and also stated that outdoor catering in normal practice is catering for a particular event for a particular time or times for an event/function or occasion, wherein a firm order is given by an individual or organization for service of food for a certain amount of persons at a certain place for certain time or times. It's a specific order and not a repetitive and continuous order/s. Last but not the least the applicant entity serves or undertakes the sale/service of food on a regular daily basis and not on exclusive, special events. The food promoted by the applicant is of a working nature such as working lunch etc by saving time of the employee and increase productivity whereas the menu served for the outdoor Catering in almost all the cases is of a superior nature befitting the event such as a wedding/party/conference.

The case is posted on 05-07-2018 at 12.00 noon, Sri A.M Krishna

Authorised representative of M/s. Prism Hospitality Services (P) Ltd, has appeared for the personal hearing and reiterated the following written submissions which are as under :

- i. The applicant provides canteen services in organizations like Infosys etc., wherein the food is cooked in the premises of Infosys and "Sold" to the employees of the said organization at a price mutually agreed upon, it is done on a regular daily basis.
- ii. The applicant provides its services of serving food - Breakfast + lunch & Dinner and any other food requirements from a Mess/Dining Hall to the trainees of the Training institution of banking such as SBIRD, Andhra Bank Staff College etc., Even here the food is prepared and sold/served to the trainees in the premises, where the trainees attend a residential programme and they are rooms for stay in the premises for the trainees
- iii. The applicant operates student mess for students in Engineering colleges(Higher Education) such as CVR college, and so on. The food is prepared and served in the hostel premises.
- iv. a). In the Educational Institutions the applicant in some institutions also operate the canteen for the day scholar students and staff wherein food is prepared in the canteen and sold for consumption by the students/staff.
b) In the so called student/staff canteen, certain bought out items like Ice Creams/Soft Drinks/Biscuit packets etc wherein the Maximum Retail price is printed on the item is also sold for consumption by the students/staff.
- v. The applicant also has a kitchen in Miyapur, where food is prepared and transported to some software companies where it is again sold" to the company employees in the dining Hall. The software companies do not have kitchens because of safety reasons, but however, they have dining hall facilities. The Dining Hall/cafeteria runs on a daily basis. A separate food license is obtained by us for selling the food in this organisation issued by GHMC.
- vi. The applicant entity also provides Transport services to a training institute for carting food from one building to another for service/sale. The applicant entity charges them a separate transport charges.

Discussion & findings:

6. The issued raised at Sl No (1), (2), (3),(4)(a),(4)(b) & (5) in their application are covered under the Notification No.13/2018-Central Tax(Rate) dt.26.7.18.

7. The Notification No.13/2018-Central Tax(Rate) dt.26.7.18 issued amending the Notification Nos. 11/2017-CT(Rate) dt. 28-06-2017 Notification No. 46/2017-CT (Rate) dated 14.11.2017 covers the subject activities referred by the applicant in their application and the relevant portions of the said Notifications are reproduced as under:

Serial No. 7(i) of notification No. 13/2018-CT (Rate)

Sl No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
7	Heading 9963 (Accommodation, food and beverage services)	“(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 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.	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)]

8. It can be seen from the above Notification that the activity of supply of food in canteens of office, factory, hospital, college, industrial unit etc. on contractual basis **excepting that supply is not event based or on specific occasions**, constitute supply of service in terms of amended Notification No.13/2018-Central Tax(Rate) dt.26.7.18 and is taxable at rate of 2.5% CGST + 2.5% SGST and the supplier is not eligible for the input tax credit as per the condition stipulated therein.

9. Earlier, CBEC has clarified the queries seeking clarification regarding the taxability and rate of GST on services by a college hostel mess. As per the Circular No. 28/02/2018-GST dated 08-01-2018 issued in this regard, normally the educational institutions have mess facility for providing food to their students and staff. Such facility is either run by the institution/ students themselves or is outsourced to a third person. Further it has been clarified that the supply of food or drink provided by a mess or canteen is taxable at 5% without Input Tax Credit [Serial No. 7(i) of notification No. 11/2017-CT (Rate) as amended vide notification No. 46/2017-CT (Rate) dated 14.11.2017 refers]. It is immaterial whether the service is provided by the educational institution itself or the institution outsources the activity to an outside contractor.

10. Regarding the point raised at Sl No (6) of the application, the applicant in addition to the supply of food, is also undertaking transportation of food from the place of preparation of food to the premises where it is served. Here the applicant is undertaking two supplies, one is supply of food and another is

transportation service. Two supplies are involved and it is a composite supply where the supply of food is a Principal Supply and providing transportation is ancillary supply.

11. Section 8. Of CGST Act provides that 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.

12. In the instant case, principal supply being supply of food i.e. outdoor catering service, and transportation is ancillary, the whole transaction attracts 18% GST being highest rate of tax compared to tax on transportation service. Therefore, the applicant needs to discharge GST on the gross amount (cost of Food + cost of Transportation) at the rate of 18% i.e., GST rate of outdoor catering service.

13. In view of the foregoing discussions, we pass the following order.

Advance Ruling

1. For the points raised at s.no. 1, 2, 3, 4(a), 4(b) and 5 of their application i.e., the activity of supply of food in canteens of office, factory, hospital, college, industrial unit etc. on contractual basis **excepting that supply is not event based or on specific occasions**, constitute supply of service in terms of amended Notification No.13/2018-Central Tax(Rate) dt.26.7.18 and is taxable at the rate of 2.5% CGST + 2.5% SGST and the supplier is not eligible for the input tax credit as per the condition stipulated therein.
2. For the point raised at s.no.6 of their application where the applicant provides transport services to a training institute for carting food from one building to another for service/sale and the applicant charges a separate transport charges, the applicant needs to discharge GST on the gross amount (cost of Food + cost of Transportation) at the rate of 18% GST.

Sd/- J. LAXMINARAYANA
ADDL. COMMISSIONER (State Tax)

Sd/- V. SRINIVAS
ADDL. COMMISSIONER (Central Tax)

To,
M/s. Prism Hospitality Services (P) Ltd ,
22/A, Mini Industrial estate,
Hafeezpet, Miyapur,
Hyderabad-500049