

Birthday Candles, Balloons, Snow Sprays Under GST: Odisha AAR

From samosas to flavoured milk, AARs have focussed on food during lockdown

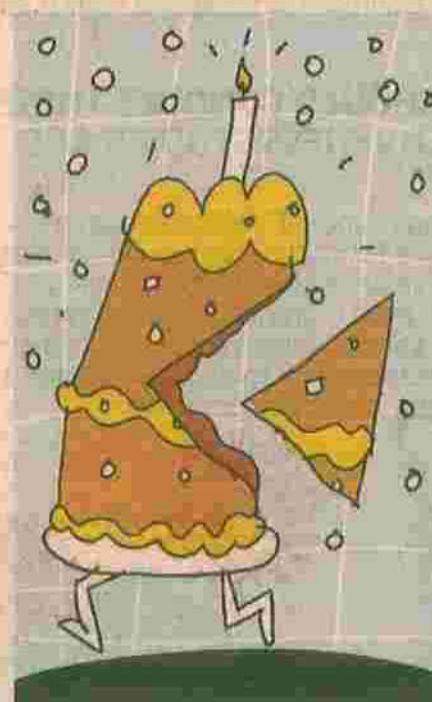
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Mumbai: If you wish to celebrate someone's birthday, you may have to shell out a bit more for the paraphernalia since balloons, caps, snow sprays or candles given along with birthday cakes are neither complimentary nor free, as per a recent advance ruling that proposes levying of Goods and Services Tax (GST) on these items.

In a recent advance ruling, it was argued that any item provided by restaurants or cake shops along with the cake should be taxed.

Under the GST framework, nothing is for free. The ruling said that GST should be levied on these items and they should not be treated as composite supply.

The Odisha Authority of Advance Rulings (AAR) has, in Pioneer Bakers case — held that supply of items such as birthday caps, knives, and decorative items along



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with the cakes by restaurants is not a composite supply. Accordingly, they would attract GST as per schedule rates and not at 5% as restaurant services.

"The ruling would have an impact on the pricing mechanism of bakeries," said Anuj Kakkar, indirect tax partner at Asire Consulting. "In cases where bakeries charge a single price for cake and decorative items such as candles, knif-

ves etc., the supply will be considered as mixed supply. In such a case, the entire sale price will attract the highest rate of GST as applicable to the constituent items."

The issue of whether an item supplied along with the goods should be taxed or not is determined on the basis of how the supply is defined. Under the GST framework, supply of such items can

be defined as a composite supply or a mixed supply. The tax department's stand on various issues means that tax rates on certain items bundled together vary.

In the past, controversies have erupted around

whether the 'chutney' sold along with 'bhajiya' (fritters sold in Gujarat) should be taxed. Or whether GST on a 'samosa' eaten inside a shop and outside the shop should be different.

The GST rates on some of the services or goods bundled together have been already under a lot of scrutiny, such as warranties offered by consumer goods companies to consumers.

AAR held that birthday caps, knives, & decorative items along with the cakes are not a composite supply