

ITC can be availed on Sale of Eatables: AAR

Fact of the Case

The applicant, Manoj Mittal runs an eatables business in Darjeeling, which has two sections. On one counter, sweetmeats, namkeens, and bakery items are sold off the counter in the form of takeaways. In the other section, fast food snacks and beverage items are prepared and served, which can either be consumed at the premises or allowed as takeaways. The applicant also provides catering services to an educational institution.

The applicant approached AAR with questions :

1. Whether sale from the portion of the sweetmeats and bakery shop should be categorised as supply of goods and if this will be eligible for ITC ?
2. The second segment would be treated as restaurant service ?
3. Whether the catering services provided to the educational institution will be exempt from GST based on the agreement ?

Decision of the Case

The Coram ruled that the sale "shall be categorised as supply of goods" and that "the applicant is eligible to avail ITC".

The AAR further held that the supply of food items and beverages by the applicant which offers the facility of eating in the same premises, along with takeaway of the same, shall be treated as restaurant services and will attract tax at 5 per cent rate but without ITC.

The AAR further held that the supply of the catering services to the educational institution, based on the agreement, will be exempted from payment of GST. However, the supply of food and beverages to the auditor, guests/ parents on programme days, as it appears from the agreement, will be treated as 'outdoor catering' and attract GST at the rate of 5 per cent but without ITC.

The West Bengal Authority of Advance Ruling (AAR) ruled that Input Tax Credit (ITC) can be claimed on Sale of Eatables.