

ITC not allowable on Expired Cakes & Pastries and Needs to be reversed: The AAR, Gujarat

Fact of the Case

The applicant, M/s. Kanayalal Pahilajrai Balwani has been engaged in the business of manufacturing & distributing cakes & pastries items. The applicant sends cakes & pastries to the distributors to keep them on display to fascinate consumers. The cakes & pastries are of perishable nature and cannot be preserved for a longer period and on regular intervals, all cakes & pastries kept in the display have to be compulsorily replaced after the expiry of said bakery item. The applicant submits that display assists them to achieve the objectives of continuing to conduct the business of manufacturing and selling cakes & pastries in future also.

The applicant has sought the advance ruling on the issue in respect of admissibility of an input tax credit of tax paid or deemed to have been paid.

Decision of the Case

The Coram ruled that the manufacturers of perished or expired cakes should reverse any ITC that they may have availed on the inputs or ingredients used in the manufacturing of such cakes.

The AAR has given the ruling in the light of the provision of circular dated October 26, 2018, which prescribed “where the time expired goods, which have been returned by the retailer/wholesaler, are destroyed by the manufacturer, he/she is required to reverse the ITC attributable to the manufacture of such goods.” “We hold the act of throwing away expired cakes and pastries is akin to destroying the expired food products, for the applicant destroys by throwing them away,” the AAR said while holding this scenario is similar to treatment of expiry drugs.

The Gujarat Authority of Advance Ruling (AAR) ruled that Input Tax Credit (ITC) is not allowable on expired cakes & pastries and needs to be reversed.