

GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/2023/08
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2022/AR/31)

Date: 22 /02/2023

Name and address of the applicant	:	M/s. HRPL Restaurants P Ltd., 1201-1204, 1301-1302, Elenza Vertax, 12, 13 Floor, Sindhu Bhavan Road, Bodakdev, Ahmedabad -380 059.
GSTIN of the applicant	:	24AAHCR3681C1ZJ
Date of application	:	29.10.2022
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) (b)
Date of Personal Hearing	:	22.12.2022
Present for the applicant	:	Rutvij Modi (Manager), Divya Soni (Deputy Manager)

Brief facts:

M/s. HRPL Restaurants P Ltd., 1201-1204, 1301-1302, Elenza Vertax, 12, 13 Floor, Sindhu Bhavan Road, Bodakdev, Ahmedabad-380059 [for short –‘applicant’] is registered under GST and their GSTIN is 24AAHCR3681C1ZJ.

2. The applicant runs a chain of restaurants/eating joint namely

- [a] 1944 the HOCCO Kitchen;
- [b] HOCCO eatery; &
- [c] Huber and Holly.

The applicant operates under two business models viz

- [i] company owned restaurants &
- [ii] franchise restaurants.

The applicant has sold his ice cream division to South Korea’s *Lotte Confectionery*.

3. As far as ‘1944 the HOCCO Kitchen’ is concerned, the activities include:

- it’s a premium restaurant;
- these outlets have seating capacity with air conditioning where food or ice cream or both is served as per the desire of the customer;
- the menu includes Punjabi food, Pav bhaji, Snacks, Ice cream, etc;

4. As far as ‘The HOCCO Eatery’ is concerned, the activities include:



- serving delicacies such as channa puri, pav bhaji, rice meals, sandwiches, pizza etc;
- their menu also consists of various desert options viz milk shakes, ice creams, etc.;
- the outlets have two types of arrangements i.e.
 - outlets having sitting arrangement wherein the customers can have dine in experience and also order food online and
 - outlets that do not have proper sitting facility;
- that of the 10 company owned outlets, 8 have seating capacity;
- the outlets without proper seating arrangements, have few odd chairs;
- that there is no differentiation in the items being served at such outlets;
- that the outlets have similar menu irrespective of whether there is proper seating arrangement or otherwise;
- that though ice cream, preparation are sold/served, the sales mix is having significant share of food and beverages as compared to ice cream.

5. As far as 'Huber and Holly' is concerned, the activities include:

- it is a premium category fast food restaurant wherein pizza, pasta, sandwiches, ice cream sundaes, ice cream pastry etc are served;
- the customer can have dine in experience or can also order food online or takeaway;
- the outlets have seating capacity with air conditioning where food/ice cream or both is served as per the desire of the customer.

6. Now, ice creams as is evident are also served at these outlets. These ice creams include MRP products/pre-packaged products as well as non MRP products. They are served/packed there and then.

7. The applicant has further given the following difference between an ice cream parlour and restaurant/eating joint viz:

Sr. No.	Ice Cream parlour	Restaurant / eating joint
1	Ice cream parlours sell already manufactured ice-cream.	Restaurants/eating joint indulge in supply of food or any other article for human consumption or any drink.
2	Ice-cream parlours do not engage in any form of cooking at any stage.	Restaurants/eating joints engage in cooking/preparing, during the course of providing service.
3	Ice-cream parlours are predominantly engaged into selling of ice-cream only.	Restaurants/eating joints supply cooked food, drinks, ice-cream etc..
4	Ice-cream parlours may or may not have seating capacity.	Restaurants will have separate seating facility . Eating joints may or may not have seating facility.

It is further stated by the applicant that none of the outlets have just ice-creams on their menu; that they are serving food as well as ice creams; that the applicant is also registered as a restaurant under the FSSAI regulation. The applicant has further stated that based on the variety of transactions involved, their outlets are nothing but a restaurant/eating joint.

8. It is his further contention that they are liable for GST @ 5% by treating such supply as '*supply of restaurant service*' without availing ITC; that they are not ice cream parlour in terms of circular No. 164/20/2021. The applicant has also relied on the

