



**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 S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)**  
**Sri Sahil Inamdar, Additional Commissioner (Central Tax)**

**A.R.Com/19/2022**

**Date:12.04.2023**

**TSAAR Order No.07/2023**

**[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017.]**

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- 1.** M/s. Foodsutra Art Of Spices Private Limited, D No 7-2-1813/5, Flat No 304, SVSS Nivas, Road No 1, Czech Colony Santhnagar Hyderabad, Telangana - 500018 (36AADCF9198C1ZE) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.
- 2.** At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
- 3.** It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- under SGST and Rs. 5,000/- under CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided nor are pending before any authority under any provisions of the CGST/TGST Act'2017. The application is, therefore, admitted after examining it and the records called for and after hearing the applicant as per section 98(2) of TGST Act'2017.
- 4. BRIEF FACTS OF THE CASE:**
  - 4.1** The applicant M/s. Foodsutra Art of Spices Private Limited is providing canteen services to ITC limited. The applicant has submitted that they have been issuing the invoices for their regular Canteen services @ 5%. Apart from that, they are also receiving a Lump Sum amount of bonus for paying their employees from their service recipient (i.e., they're compensating them in this form ) , for that they are charging @18%. But, that their service recipient is not ready to accept the Invoice for charging @18%, instead of that they're asking them to charge @5%.

The applicant submitted that in their view according to Section 2 (32) of CGST Act, 2017 - "consideration" in relation to the supply of goods or services or both includes - (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

That their Service recipient is claiming that, they have to charge @5% by considering the reimbursement of expenses as Part of Canteen Service and they are not ready to accept it as separate service. That as the reimbursement of the bonus was not part of agreement; they agreed only for canteen service, so, the only service to be considered here was to be as canteen service by issuing Invoice @ 5%. But that the applicant's point of view is that, they are taking this consideration for paying their employees, by acting as an intermediary, so they are ready to issue Invoice by applying 18% GST Rate. Hence the applicant requested clarification regarding relevant rate of tax under GST.

#### **4.2 Company Background:**

The applicant M/s. Foodsutra Art Of Spices Private Limited is a Private incorporated on 20 November 2019. It is classified as Non-govt company and is registered at Registrar of Companies, Hyderabad. Its authorized share capital is Rs. 16,000,000 and its paid up capital is Rs. 16,000,000. It is involved in Hotels; camping sites and other provision of short-stay accommodation Restaurant facilities operated in connection with the provision of lodging remain classified in this group. Also included are the operation of sleeping cars when carried on by separate units.

#### **5. QUESTIONS RAISED:**

1. Which rate has to be taken for Reimbursement of bonus?
2. Whether they have to charge same GST rate as applicable for their main service of Canteen Service also for bonus reimbursement?
3. If they have to charge the same GST rate as like Canteen Service, please specify the provision, on what basis they have to charge 5%, instead of 18 %?

#### **6. PERSONAL HEARING:**

The Authorized representatives of the unit namely Sri P. Vijaya Reddy, CA attended the personal hearing held on 24.01.2023.

1. The Authorised Representative reiterated the contentions already submitted along with the application and requested for early disposal of the case.
2. Further, the Authorised Representative/Applicant M/s. Foodsutra Art of Spices Private Limited, Hyderabad, reiterated that their case /Similar Case is not pending in any proceedings in the applicant's case under any of the provision of the Act and have not already decided in any proceedings in the applicant's case under any of the provisions of the Act.

#### **Opinion expressed by Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Member), on the issues raised by the applicant.**

#### **7. DISCUSSION & FINDINGS:**

The applicant is receiving regular amounts for the bills raised by them on the canteen services and annually they are receiving further amounts with the nomenclature of bonus.

Under the Section 9(1) of the CGST Act, 2017 "...there shall be levied a tax called the Central Goods and Services Tax on all intra-State supply of goods or services or both..., on the value determined under Section 15..."

The Section 15 of the CGST Act, 2017 at clause (b) of sub section (2) states that the value of supply shall include "Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;"

Similarly, the definition of consideration at sub section 31 of Section 2 of CGST Act, 2017 includes any payment made or to be made in response to the supply of goods or services.

A combined reading of Section 15 and definition of consideration in the CGST Act, 2017 reveals that all payments made in respect of a supply constitutes the value of supply on which tax shall be levied under the charging section i.e., Section 9 according to the rates applicable in the notifications issued under the Act.

According to the averments made by the applicant they are providing only canteen services to their recipient M/s. ITC Limited. There are no other ancillary or incidental services provided by them. Therefore the amounts received by them are in relation to supply of canteen services only. This amounts form the value of supply as defined in clause (b) of sub section (2) of Section 15 of the CGST Act, 2017 which are taxable under Section 9 of CGST Act, 2017.

In the explanation to Notification No. 11/2017 dt:28.06.2017 the restaurant services are defined as follows:

[(xxxii) —Restaurant service“ means 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.

Serial No. 7, SAC heading 9963 (Accommodation, food and beverage services) of Notification No. 11/2017 has prescribed a tax at the rate of 2.5% under CGST & SGST Acts respectively. Therefore the consideration received by the applicant as the value of supply including the amounts received in the name of bonus will be chargeable to tax at the rate of 2.5% under CGST & SGST Acts each in light of above discussion.

**8. In view of the foregoing, the ruling is given by State Member as under:**

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. Which rate has to be taken for Reimbursement of bonus?	2.5% CGST & 2.5% SGST.
2. Whether they have to charge same GST rate as applicable for their main service of Canteen Service also for bonus reimbursement	Yes.
3. If they have to charge the same GST rate as like Canteen Service, please specify the provision, on what basis they have to charge 5%, instead of 18 %?	Please see the discussion above.

  
(S.V. KASI VISWESWARA RAO)  
ADDL. COMMISSIONER(STATE TAX)

**Opinion expressed by Sri Sahil Inamdar, Additional Commissioner, (Central Member), on the issues raised by the applicant are as given below.**

**9. DISCUSSION & FINDINGS:**

9.1 The applicant is receiving regular amounts for the bills raised by them on the canteen services and annually they are receiving further amounts with the nomenclature of bonus.

9.2 Under the Section 9(1) of the CGST/TGST Act, 2017

*"(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person."*

9.3 The Section 15 of the CGST Act, 2017

*"15. Value of Taxable Supply.— (1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. (2) The value of supply shall include—*

*(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;*

***(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;***

*(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;*

*(d) interest or late fee or penalty for delayed payment of any consideration for any supply; and*

*(e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments."*

Thus the Section 15 of the CGST/TGST Act, 2017 at clause (b) of sub section (2) states that the value of supply shall include "Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;"

9.4 Similarly, the definition of consideration at sub section 31 of Section 2 of CGST Act, 2017 includes any payment made or to be made in response to the supply of goods or services.

*"consideration" in relation to the supply of goods or services or both includes— (a) **any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;***

*(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:*

*Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;*

Similarly, the definition of consideration at sub section 31 of Section 2 of CGST/TGST Act, 2017 includes any payment made or to be made in response to the supply of goods or services.

9.5 A combined reading of Section 15 and definition of consideration in the CGST/TGST Act, 2017 reveals that all payments made in respect of a supply constitutes the value of supply on which tax shall be levied under the charging section i.e., Section 9 according to the rates applicable in the notifications issued under the Act.

9.6 According to the averments made by the applicant they are providing only canteen services to their recipient M/s. ITC Limited. There are no other ancillary or incidental services provided by them to M/s. ITC Limited. The applicant has submitted that the issue under consideration involves receipt of amounts from the service recipient as Bonus to be given to the employees of the service provider. Thus it is a fact that the amounts received are in relation to supply of Canteen service only and probably as an inducement/response to the employees of the service provider for providing the said canteen services with quality. Therefore the amounts received by them are in relation to supply of canteen services only. These amounts form the value of supply as defined in clause (b) of sub section (2) of Section 15 of the CGST Act, 2017 which are taxable under Section 9 of CGST Act, 2017 with certain conditions.

9.7 In the explanation to Notification No. 11/2017 dated 28.06.2017 the restaurant services are defined as follows:

[“(xxxii) —Restaurant service” means 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.]

Serial No. 7, SAC heading 9963 (Accommodation, food and beverage services) of Notification No. 11/2017 has prescribed a tax at the rate of 2.5% under CGST & SGST Acts respectively.

9.8 The applicant’s point of view is that, they are taking the bonus consideration from service recipient which is meant to be paid to their employees, by acting as an intermediary, because of which they are issuing Invoice, for the bonus amount to be received, with GST Rate of 18%. As per Section 2(13) of Integrated Goods and Services Tax (“IGST”) Act, Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

9.9 As per Section 2(102) of CGST/TGST Act’2017 — “services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

[Explanation.— For the removal of doubts, it is hereby clarified that the expression —services includes facilitating or arranging transactions in securities;]

9.10 The applicant’s point of view is that, they are taking the bonus consideration from service recipient which is meant to be paid to their employees, by acting as an intermediary, because of which they are issuing Invoice, for the bonus amount to be received, with GST Rate of 18%. If the applicant retains a portion of the Lump Sum amount received for payment of bonus, which is received from their service recipient to pay the same to their employees, in the form of commission then he is liable to pay GST at the rate applicable to Intermediary services on the commission retained and rest of the amount, after excluding the commission from the bonus, shall be included in the taxable value pertaining to the canteen services as the bonus is also paid by the service recipient in relation to the canteen services provided by the applicant to the recipient. He is liable to pay GST at rate of 5% on the rest of the amount, which is arrived after excluding the commission from the entire bonus, as it would be included as value of supply of canteen services in accordance with Section 15(2) of the CGST Act, 2017.

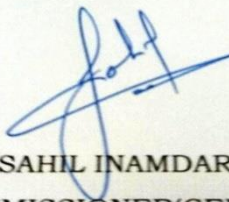
9.11 If the applicant does not retain a portion of the Lump Sum amount received for payment of bonus in the form of commission then the entire bonus amount shall be included in the taxable value pertaining to the canteen services as the bonus is also paid by the service recipient in relation to the canteen services provided by the applicant to the recipient. Therefore the consideration received by the applicant as the value of supply including the amounts received in the name of bonus will be chargeable to tax at the rate of 2.5% under each of CGST

& SGST Acts each in light of above discussion. Therefore he is liable to pay GST at rate of 5% on the entire Lump Sum amount received for payment of bonus.

**10. In view of the foregoing, the ruling is given by Central Member as under:**

In view of the above discussion, the questions raised by the applicant are clarified as per the below rulings:

QUESTIONS	RULING
1. Which rate has to be taken for Reimbursement of bonus?	It is 5% on the entire bonus amount if no commission is taken/deducted, in the capacity as an intermediary, from the amount transferred by the service recipient as detailed in point no.9.11.  It is 18% on the commission if he takes/deducts commission on the bonus amount as an intermediary and 5% on the rest of the bonus amount as detailed in point no. 9.10.
2. Whether they have to charge same GST rate as applicable for their main service of Canteen Service also for bonus reimbursement	It is detailed in the above points 9.10 and 9.11 for the reasons discussed supra.
3. If they have to charge the same GST rate as like Canteen Service, please specify the provision, on what basis they have to charge 5%, instead of 18% ?	It is detailed in the above points 9.5, 9.10 and 9.11.

  
(SAHIL INAMDAR)  
ADDL. COMMISSIONER(CENTRAL TAX)

From the above, the Authority for Advance Ruling concurred in the Ruling and has discussed it independently

**[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]**

To  
M/s. Foodsutra Art Of Spices Private Limited,  
D No 7-2-1813/5, Flat No 304, SVSS Nivas,  
Road No 1, Czech Colony, Santhnagar  
Hyderabad, Telangana - 500018.

Copy submitted to :

1. The Commissioner (State Tax) for information.
2. The Commissioner (Central Tax), Hyderabad Commissionerate, 2nd Floor, GST Bhavan, Basheerbagh, Hyderabad, Telangana- 500004.

Copy to:

3. The Assistant Commissioner (ST), Sanathnagar Circle