

**THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 115/2019

Dated: 30th September, 2019

Present:

1. Sri. Harish Dharnia,
Addl. Commissioner of Central Tax Member (Central Tax)
2. Dr. Ravi Prasad M.P.
Joint Commissioner of Commercial Taxes Member (State Tax)

1.	Name and address of the applicant	M/s Mountain Trail Foods Private Limited, 3 rd and 4 th Floors, 12, MPD Tower, 5 th Block, Industrial Main Road, Koramangala, Bengaluru - 560 095
2.	GSTIN or User ID	29AAFCM5807R1ZP
3.	Date of filing of Form GST ARA-01	09.03.2018
4.	Represented by	Sri M. Krishna Murthy, Authorise Representative
5.	Jurisdictional Authority - Centre	Commissioner of Central Tax, Bangalore South Commissionerate.
6.	Jurisdictional Authority - State	LGSTO-40, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- each under CGST Act and KGST Act vide CIN IOBA18022900305465 dated 22.02.2018

**ORDER UNDER SECTION 98 (4) OF CGST ACT, 2017
& UNDER SECTION 98 (4) OF KGST ACT, 2017**

1. M/s Mountain Trail Foods Private Limited, (called as the 'Applicant' hereinafter) 3rd and 4th Floors, 12, MPD Tower, 5th Block, Industrial Main Road, Koramangala, Bengaluru, having GSTIN number 29AAFCM5807R1ZP, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 & KGST Act, 2017 read with Rule 104 of CGST Rules 2017 & KGST Rules 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is a Private Limited Company and is registered under the Goods and Services Act, 2017. The applicant has sought advance ruling in respect of the following questions:

Applicability of rate of GST on the packed food products

Mountain Trail Foods



b) *Admissibility of input tax credit on the packed food products sold.*

3. The applicant furnishes some facts relevant to the stated activity:

a. The applicant states that they are in the business of preparation of beverages Hot Chai, Iced Chai and shakes, Cakes and Savoury, Breaf fast, Maggi, Bun Maska athe Chai point location and takeaway (parcel) prepared food products at their outlets (restaurants). In addition, the company also sells packed ready to eat products, confectionary and packed bakery products of various brands, co-branded products, Loose leaf Tea, Assam Tea, Premium Tea packets, Dip Tea bags, Chai Bottle, Chai Mugs.

b. The applicant classifies beverages and food products consumed and also takeaway (parcel) at Chaipoint premises as restaurant business and is charging GST at 5% as this is restaurant service. The applicant classify services under Group 99633 Service Code 996331 - Services provided by Restaurants, Cafes and similar eating facilities including takeaway services, Room services and door delivery of food.

c. The applicant also sells packaged food products like - Loose leaf Masala Tea, Assam Premium Tea, Green Tea, Dip Tea bags of various variant, which cannot be consumed as is basis, as they are normal FMCG products used for preparation of tea and need further cooking preparation and other packaged products like Chai bottle, Cake Rusk, Multigrain biscuits of various brands / co-branded products. The applicant does not process these goods and purchased goods are sold as per MRP. He has provided a list of such products and also the HSN Code and rates of CGST and SGST for these.

d. The applicant submits that on sale of packed food products, they are discharging GST at rate applicable for those products and availing input tax credit including allocated input tax credit of warehouse, offices, other goods and services which are used in the furtherance of business. They have also submitted that the applicant is discharging GST @5% applicable for restaurant business and regular rates for traded food products.

e. The applicant has sought an advance ruling to confirm the business model in connection with the packed traded products sold in the outlets where GST is collected at applicable rates and input credit availed relating to the said business.

4. FINDINGS & DISCUSSION:

4.1 The applicant has not sought any advance ruling in respect of the prepared and served food and drinks and hence the same is not considered here.

4.2 The packaged goods enlisted by the applicant like loose leaf masala tea, Assam Premium Tea, etc are not articles of foods and drinks and are covered

under goods. The supplies of such commodities are supplies of goods. They are covered under Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 and under Notification No.2/2017 -Central Tax (Rate) dated 28.06.2017.

4.3 Entry No. 7 of Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 relating to the supply of goods reads as under:

"Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen . "

There is no doubt that the commodities supplied are goods and the entry covers the following transactions:

- (a) Supply of goods being food or any other article for human consumption or drink, by way of any service provided by a restaurant, eating joint including mess, canteen.
- (b) Supply of goods being food or any other article for human consumption or drink, as a part of any service provided by a restaurant, eating joint including mess, canteen.
- (c) Supply of goods being food or any other article for human consumption or drink, in any other manner whatsoever provided by a restaurant, eating joint including mess, canteen.

Hence the transaction is covered under (c) as the transaction is supply of goods by a restaurant, eating joint including mess, canteen, etc.

But the first few lines of this Notification states as under ". hereby notifies that the central tax, on the intra-State **supply of services of description** as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table".
(emphasis supplied)

Since this notification is applicable only to supply of services and not supply of goods, only Notification No.1/2017- Central Tax (Rate) is applicable and hence all the supply of goods which are enlisted in the list produced by the applicant are taxable as supply of goods and at rates applicable as per Notification No.1/2017- Central Tax (Rate) dated 28.06.2017 and amended from time to time.




5. Since the goods as specified above are supplied and output tax is payable on the same, the applicant is eligible to take applicable input tax credit which is admissible as per the GST Laws.

6. In view of the foregoing, we pass the following

RULING

1. The sale of packed items like packaged food products which cannot be consumed as is basis and that needs further cooking operations and other packaged food products which are not processed by the applicant and sold as purchased are taxable at the appropriate rates and are not covered under the tax rate applicable to Group 99633 (HSN Code) as those relates only to services.
2. The applicant is eligible to take credit of the applicable input tax credit relatable to the supply of such goods.




(Dr. Ravi Prasad.M.P.)
Member

Date : 30.09.2019

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. Pr. Commissioner of Central Tax, Bangalore East Commissionerate, Bengaluru.
4. The Asst. Commissioner, LGSTO-40, Bengaluru
5. Office Folder

