



JUDGEMENT

Pre-Packaged Food Sold Over the Counter by Restaurants Classified as Supply of Goods, Not Restaurant Service, and Subject to Applicable GST Rates with ITC Benefits

Issued By:	Gujarat AAR
In Case Of:	Riddhi Enterprise
Order No:	GUJ/GAAAR/APPEAL/2025/04
Order Date:	22 nd February 2025

FACTS & OBSERVATIONS

- The appellant, M/s. Riddhi Enterprise, is engaged in the restaurant business, preparing and selling food for dine-in, takeaway, and home delivery. Additionally, the appellant sells pre-packaged food items procured from external vendors.
- The appellant contended that all sales, including pre-packaged food, should be classified as “restaurant services” under SAC 9963, attracting 5% GST with no Input Tax Credit (ITC) as per Notification No. 11/2017-Central Tax (Rate).
- The Gujarat Authority for Advance Ruling (GAAR) ruled that only food prepared in the restaurant qualifies as restaurant services, while pre-packaged food purchased and sold over the counter constitutes a supply of goods.
- The appellant filed an appeal before the Gujarat Appellate Authority for Advance Ruling (AAAR), challenging GAAR’s decision and citing prior rulings such as Kundan Mishthan Bhandar and Gangaur Sweets to support their claim.

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- The AAAR observed that restaurant services involve the preparation and supply of food, while the sale of pre-packaged food procured from external vendors constitutes a supply of goods, not a service.
- The authority examined rulings in cases such as '*Kundan Mishthan Bhandar*' and *Gangaur Sweets*' but found them inapplicable due to differences in facts, particularly concerning direct sale of pre-packaged food.
- The AAAR clarified that food prepared in the restaurant qualifies as "restaurant service" under SAC 996331 and is taxable at 5% without ITC. However, pre-packaged food sold over the counter is classified as a sale of goods, subject to applicable GST rates with ITC benefits.
- The AAAR upheld GAAR's ruling, affirming that only food prepared within the restaurant qualifies as a restaurant service, while pre-packaged food is a taxable supply of goods.

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