

GST-ADVANCE RULINGS

CA. C. B. Thakar, CA. Jinal Maru

Case: M/s SRI VENKATESHWAR AGENCIES [2020-TIOL-111] (TELANGANA AAR)

The applicant are the distributors of “SCOOPS” brand ice cream and ice cream products are supplied by them to sub-distributors, hotels, party orders and retail outlets in Hyderabad. They seek ruling as to the applicability of GST rates in pursuance to various amendments in entry 7 of notification 11/2017-CTR as regards various types of transactions.

The AAR held as under :

ACTIVITY	RULING
Ice cream and ice cream allied products, milk shakes served in the parlour with or without adding ingredients like fruits or topping sauces according to the customer taste or requirements	For the period from 15.11.2017 to 30.09.2019 & w.e.f 01.10.2019 under Sl. No. 7(i) & 7(ii) respectively of amended notifications @5% GST without availability of credit of input tax charged on goods and services used in supplying the service
Ice cream and ice cream allied products sold in the parlour as such i.e. cups, cones, bars, sticks, novelties, ½ litre packs, party pack and bulk packs etc	Same as above
Party orders: sale of bulk ice creams to caterers as takeaway	The provisions of Not. No. 11/2017-CT(R) (as amended)are not applicable.
Party orders: Serving of ice creams with incidents like fruits or topping as per the guest requirements or taste	For the period from 15.11.2017 to 30.09.2019 under Sl. No. 7(v) @ 18% GST For the period from 01.10.2019 onwards under Sl. No. 7(v) @ 5% GST without availability of credit of input tax charged on goods and services used in supplying the service
Ice cream products of cups, cones bars, sticks, novelties etc. sold to pushcart vendors, who in turn sell to their customers.	The provisions of Not. No. 11/2017-CT(R) (as amended)are not applicable.

Case: SHREE DIPESH ANIL KUMAR NAIK [2020-TIOL- 134] (GUJARAT AAR)

The applicant owned vacant land. As per the Plan Passing Authority, the seller of land is required to develop the primary amenities like Sewerage and drainage line, Water line, Electricity line, Land levelling for road, Pipe line facilities for drinking water, Street lights, Telephone line etc. The applicant sells these developed plots to customers. They sought for leviability of GST on said transaction.

AAR held that the activity of the sale of developed plots, which covers the price for not only land but also for the amenities carried out, would be covered under the clause 'construction of a complex intended for sale to a buyer' under clause 5(b) of Schedule –II. sale of developed plot is not equivalent to sale of land and therefore it is not exempted.

Case: M/s DEENDAYAL PORT TRUST [2020- TIOL- 131] (GUJARAT AAR)

The applicant is engaged in development of port based smart city i.e. Smart Industrial Port City (SIPC) within Gandhidham- Kandla- Adipur Complex. They have incurred various project development expenses like Programme management consultancy, Marketing Consultancy, Land levelling and other related works, Roads, Water, Electricity, & Drainage Infrastructure and other related works for Development of SIPC. That after the development of SIPC, DPT will auction the land under the SIPC for 60 or more years, for a consideration, in the form of one time up front premium and pay GST on same. They sought ruling for whether they can claim of ITC on said expenses incurred by them during development of SIPC.

AAR held that the said project development is nothing but construction of an immovable property and any project development services or goods or works contract used for construction of an immovable property shall attract the provisions of clauses (c) and (d) under sub-section (5) of Section 17 of the CGST Act, which specifically deny input tax credit in respect of works contract services or goods and services used for construction of an immovable property