

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

Advance Ruling No. KAR ADRG 11/2023

Dated: 21.02.2023

Present:

1. Dr. M.P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri. Kiran Reddy T
Additional Commissioner of Customs & Indirect Taxes Member (Central)

1.	Name and address of the applicant	M/s. SATS Food Solutions India Private Limited, Coolport Building, AIR India SATS Airfreight Terminal, Bangalore International Airport Limited, Devanahalli, Bengaluru-560300.
2.	GSTIN or User ID	29ABGCS3156B1ZF
3.	Date of filing of Form GST ARA-01	12.10.2022
4.	Represented by	Sri Sagar Dighe, CEO and Ms Parul, Chartered Accountant
5.	Jurisdictional Authority - Centre	The Commissioner of Central Taxes, Bengaluru North GST Commissionerate, North Division-8, Range - RANGE-DND8
6.	Jurisdictional Authority - State	ACCT, LGSTO 153 - Doddaballapura
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs.5,000-00 under SGST Act vide debit of Electronic Cash Ledger Reference No. DC2908220302019 Dated 26-08-2022

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

M/s. SATS Food Solutions India Private Limited, Cool Port Building, AIR India SATS Airfreight Terminal, Bangalore International Airport Limited, Devanahalli, Bengaluru-560300 (hereinafter referred to as 'The applicant'), having GSTIN 29ABGCS3156B1ZF have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of 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 registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively). The applicant is engaged in the business of manufacture/production and supply of frozen food in institutional packs to companies in Aviation Industries, quick service restaurants, Hotels etc., across Ready To Eat (RTE)/ Ready To Cook (RTC)/ Processed and Semi Processed categories.

3. The applicant has sought advance ruling in respect of the following question:

i. Applicable GST rate on their products.

4. **Admissibility of the application:** The question is about the “determination of the liability to pay tax on any goods or services or both” and hence is admissible under Section 97(2) (e) of the CGST Act 2017.

5. **BRIEF FACTS OF THE CASE:** The applicant furnishes some facts relevant to the issue:

5.1 The applicant states that SATS Limited, Singapore is engaged in providing food solutions and gateway services in Asia. They have presence in 13 countries and cater to aviation sector, institutional catering, quick service restaurants and hotels.

5.2 The applicant states that SATS Limited, Singapore has set up a new wholly owned subsidiary in India as SATS Food Solutions India Private Limited (SFSI for brevity) to provide food solutions to the Aviation Industry, Institutional, Quick Service restaurants, hotels, food aggregators, ghost and cloud kitchens, online restaurants and cafes. SFSI is 100% subsidiary of SATS Limited, Singapore.

5.3 The applicant states that SFSI is proposing to setup highly automated food factory in Bangalore to provide food solutions to the Aviation Industry, Institutional, Quick Service restaurants, hotels, food aggregators, ghost and cloud kitchens, online restaurants and cafes. They produce, manufacture and supply ready to eat / ready to cook food in frozen form with shelf-life extension. Their supplies consist of semi-manufactured and fully manufactured frozen food items. The aspect of take away and food parcels to individual customers are not available.

5.4 The range of food items manufactured by SFSI are Indian curries and rice treats, international cuisines, Indian and western desserts, bakery products etc. SFSI will supply the products in Bulk Industrial Packs in B2B space to companies who will then further sell it to its end consumers in consumable format by way of thawing, assembling, re-packaging and handling etc. The applicant states that the food products of SFSI cannot be sold in its true state to retail customers without further processing and handling activities such as cooking, thawing or heating.

5.5 The applicant has stated the key aspects of the supplies made by SFSI as below:

1. Products are in frozen condition at -40 (minus 40) to -50 (minus 50) deg Celsius and are not fit for immediate human consumption.
2. Frozen products are supplied to businesses and not to retail customers.



3. Frozen products are supplied in bulk to businesses with minimum order quantities of 1 tonne or above and individual packaging sizes of 5 kgs and above.
 4. No MRP is printed or applicable on the products supplied to businesses.
 5. Frozen products have long shelf life, ranging from 6 to 18 months and are to be stored at minimum -18 (minus 18) degree Celsius
 6. The frozen products are not fit for immediate human consumption and need further processing such as thawing, final cooking (in case of processed and semi-processed), portioning, re-heating and re-packing with MRP. These activities are undertaken by the businesses or customers of SFSI to whom the frozen RTE/RTC/Processed/semi-processed products in bulk institutional packs are supplied. Minimum thawing time for the frozen products (under RTE/RTC/Processed/Semi Processed category) is 36 to 48 hours.
- 5.6. The Applicant has also stated that they have Frozen Ready-to-eat (RTE), Frozen Ready To Cook (RTC) Foods, Frozen Processed Food Products and Frozen Semi Processed Food Products and has explained about each one of them and the same is reproduced below:

a) Frozen Ready to Eat Products (Ready-to-eat (RTE))

Frozen Ready to Eat Products (Ready-to-eat (RTE)) food products are processed food products that are pre-cleaned, precooked, packaged but not ready for consumption without thawing, heating, repportioning, and repacking. Moreover, these products are sold to B2B businesses having any dine- in facility or direct access to consumers. Also, the products have longer shelf life as they are stored in -18 degree Celsius.

Example: Frozen Dal Tadka, Frozen Zafrani Murg Naan Foldover, Frozen Chilli Chicken Naan Foldover, Frozen Chana Masala, Frozen Mix Vegetable Fried Rice etc.

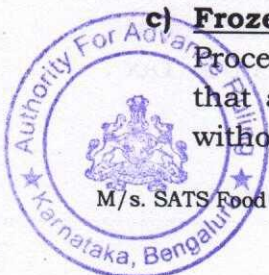
b) Frozen Ready To Cook Foods

Frozen Ready to Cook Foods are manufactured food products which need post manufacturing preparation like thawing, cooking, and addition of vegetables / protein at institutional buyer's end, repacking, repportioning, and reconstitution to convert this into ready to eat finished food products for retail use. e.g., Pasta Sauce needs to be thawed, and cooked along with addition of pasta and vegetables to prepare a dish. Frozen ready to cook food products have longer shelf life as they are stored in minimum -18 degree Celsius.

Example: Frozen Korma Gravy, Frozen Makhni Gravy, Frozen Red Pasta Sauce etc.

c) Frozen Processed Food Products

Processed Food Products are frozen Ready to Eat (RTE) food products that are pre-cleaned, precooked, packaged but not ready for consumption without thawing, heating, repportioning, and repacking.



Moreover, these products are sold to B2B businesses who in turn further process the frozen products and convert it into a form fit for human consumption and sell to retail consumers.

Also, the products coming out of SFSI production plan have longer shelf life as they are stored in -18 degree Celsius. But once the B2B businesses process and sell to retail customers, the products have a shelf life of not more than 4-24 hours.

d) Frozen Semi Processed Food Products

Semi Processed Food Products are Frozen Ready to Cook Foods(RTC) which need preparation like thawing, cooking, and addition of vegetables / protein at institutional buyer's end, repacking, reportioning, and reconstitution to convert this into ready to eat finished food products. e.g., Pasta Sauce needs to be thawed, and cooked along with addition of pasta and vegetables to prepare a dish.

Also, the products coming out of SFSI production plan have longer shelf life as they are stored in -18 degree Celsius. But once the B2B businesses process and sell to retail customers, the products have a shelf life of not more than 4-24 hours.

5.7 The applicant has stated that since SFSI do not supply the products directly to end consumers over the counter, their activity is not a 'restaurant service' for charging lower rate of tax. On the other hand, considering the bulk supplies to B2B, it may attract higher rate of tax and allow input tax credit. Furthermore SFSI will not be applying for any licenses specific for running restaurant business.

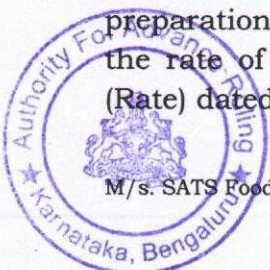
5.8 The applicant relies on the Authority for Advance Ruling, Kerala in the case of M/s. Square One Homemade Treats, 2019 (11) TMI 131.

6. Applicant's Interpretation of Law:

6.1 The applicant is of the view that branded items attracts a higher rate of tax as compared to unbranded items which attracts lower rate of tax. But when the bulk quantity of food product is supplied in B2B format in a package which bears the company's brand name, i.e., "SATS", it would naturally attract higher rate of tax. This also goes to prove that the food supplies of SFSI would not be a restaurant service.

6.2 The applicant submits that as the package in which the food products are packed bears the Company's brand name, "SATS", compliance and registration under Legal Metrology Act 2009 and Legal Metrology (Packaged Commodities) Rules, 2011 are fulfilled. On this basis also, food products supplied by SFSI in B2B format would not be a restaurant service so as to attract lower rate of tax with no ITC.

6.3 The applicant has stated that most of the food items manufactured by SFSI are classifiable either under HSN Code 2007 or under HSN Code 2106 90 99- other food preparation not elsewhere specified or included and is liable to GST at the rate of 12% or at the rate of 18% of Schedule II and Schedule III of Notification No.01/2017-Central Tax (Rate) dated 28-06-2017.



6.4 The applicant is of the view that services provided by them are not in the nature of restaurant service where GST rate is 5% with no ITC. Also the aspect of take away and food parcels does not apply to SFSI. Moreover SFSI has been registered as factory and will not be licensed as a 'restaurant / eating house' under the local laws.

PERSONAL HEARING / PROCEEDINGS HELD ON 10.11.2022

7. Sri Sagar Dighe, CEO and Ms Parul, CA and Duly Authorised Representative appeared for personal hearing proceedings held on 10.11.2022 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

8. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

9. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by their authorized representative and also their submissions made during the time of hearing.

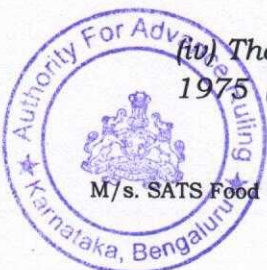
10. The applicant states that they are engaged in the business of manufacture/production and supply of frozen food in institutional packs to companies in Aviation Industries, quick service restaurants, Hotels etc., across Ready To Eat (RTE)/ Ready To Cook (RTC)/ Processed and Semi Processed categories.

The applicant states that most of the food items manufactured by SFSI are classifiable either under HSN Code 2007 or under HSN Code 2106 90 99- other food preparation not elsewhere specified or included and is liable to GST at the rate of 12% or at the rate of 18% of Schedule II and Schedule III of Notification No.01/2017-Central Tax (Rate) dated 28-06-2017 and thus the Applicant wants to know the rate of GST on their products.

11. In view of the above, we proceed to examine the classification of impugned products. In this regard, we invite reference to explanations (iii) and (iv) appended to the notification No. 1/2017- central Tax (Rate), dated 28.06.2017 which are relevant to determination of classification of a product, and are as follows:

(iii) "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General



Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

Accordingly we make a reference to the section notes and chapter notes of the relevant chapters of the Customs Tariff and also the corresponding Harmonised Commodity Description and Coding system explanatory notes of World Customs Organisation.

12. We observe that Section IV of Customs Tariff Act, 1975 covers *Prepared foodstuffs; Beverages, spirits and vinegar; Tobacco and manufactured tobacco substitutes; Products, whether or not containing nicotine, intended for inhalation without combustion; Other nicotine containing products intended for the intake of nicotine into the human body.* Chapter 21 of the said Act covers *Miscellaneous edible preparation and tariff heading 2106 deals with Food Preparations Not Elsewhere Specified Or Included and the relevant portions of the said heading are as under:*

2106 10 00	-Protein concentrates and textured protein substances
2106 90	-Other:
	--- Soft drink concentrates
2106 90 11	---- Sharbat
2106 90 19	---- Other
2106 90 20	--- Pan masala
2106 90 30	--- Betel nut product known as – Supari
2106 90 40	--- Sugar-syrups containing added flavouring or colouring matter, not elsewhere specified or included; lactose syrup; glucose syrup and malto dextrine syrup
2106 90 50	--- Compound preparations for making non-alcoholic beverages
2106 90 60	--- Food flavouring material
2106 90 70	--- Churna for pan
2106 90 80	--- Custard powder
	--- Other :
2106 90 91	---- Diabetic foods
2106 90 92	---- Sterilized or pasteurized millstone
2106 90 99	---- Other

13. Further, explanatory notes pertaining to tariff heading 2106 says as below:

5. Heading 2106 (except tariff items 2106 90 20 and 2106 90 30), *inter alia, includes*

(a) *protein concentrates and textured protein substances;*

(b) *preparations for use, either directly or after processing (such as cooking, dissolving or boiling in water, milk or other liquids), for human consumption;*

(c) *preparations consisting wholly or partly of foodstuffs, used in the making of beverages of food preparations for human consumption;*



- (d) powders for table creams, jellies, ice-creams and similar preparations, whether or not sweetened;
- (e) flavouring powders for making beverages, whether or not sweetened;
- (f) preparations consisting of tea or coffee and milk powder, sugar and any other added ingredients;
- (g) preparations (for example, tablets) consisting of saccharin and foodstuff, such as lactose, used for sweetening purposes;
- (h) pre-cooked rice, cooked either fully or partially and their dehydrates; and
- (i) preparations for lemonades or other beverages, consisting, for example, of flavoured or coloured syrups, syrup flavoured with an added concentrated extract, syrup flavoured with fruit juices and concentrated fruit juice with added ingredients.

The Applicant is into manufacture of ready to eat (RTE) food, which are processed food products that are pre-cleaned, precooked, packaged but not ready for consumption without thawing, heating, reportioning, and repacking. The Applicant is also into manufacture of ready to cook (RTC) food, which are processed food products which need post manufacturing preparation like thawing, cooking, and addition of vegetables / protein at institutional buyer's end.

14. Since the applicant is into manufacture of ready to eat and ready to cook food products, the same are covered under explanation 5(b) mentioned supra at para 13 which is *preparations for use, either directly or after processing (such as cooking, dissolving or boiling in water, milk or other liquids), for human consumption*. Thus the food products manufactured by the applicant are covered under tariff heading 2106 and hence exigible to GST at 18% (CGST 9% and SGST 9%) as per entry No. 23 of Schedule III of Notification No.1/2017-Central Tax (Rate), dated 28.06.2017 and the same is reproduced below:

Schedule III -9%

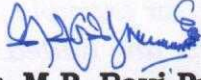
S.No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
23.	2106	All kinds of food mixes including instant food mixes, soft drink concentrates, Sharbat, Betel nut product known as "Supari", Sterilized or pasteurized millstone, ready to eat packaged food and milk containing edible nuts with sugar or other ingredients, Diabetic foods; [other than Namkeens, bhujia, mixture, chabena and similar edible preparations in ready for consumption form]



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

RULING

The food products manufactured by the applicant are exigible to GST at 18% (CGST 9% and SGST 9%) as per entry No. 23 of Schedule III of Notification No.1/2017-Central Tax(Rate), dated 28.06.2017

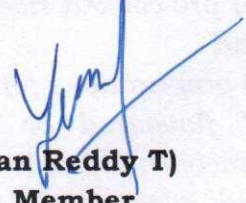


(Dr. M.P. Ravi Prasad)

Member

MEMBER

Karnataka Advance Ruling Authority
Place: Bengaluru, Bengaluru - 560 009



(Kiran Reddy T)

Member

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009

Date: 21.02.2023

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. The Commissioner of Central Taxes, Bengaluru North GST Commissionerate, North Division-8, Range - RANGE-DND8
4. The Assistant Commissioner of Commercial Taxes, LGSTO 153 - Doddballapur.
5. Office Folder.

