

THE WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
14, Beliaghata Road, Kolkata – 700015
(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Shafeeq S, Joint Commissioner, CGST & CX

Jaydip Kumar Chakrabarti, Senior Joint
Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed there under, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

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| Name of the applicant | Indian Wire Products Company |
| Address | 38EM, Sanjeeva Garden, Thakdari Road, Green Valley, Dhapa Manpur, New Town, North Twenty Four Parganas, West Bengal, 700156 |
| GSTIN | 19AAAFI7075H2Z5 |
| Case Number | WBAAR 25 of 2025-26 |
| ARN | AD1911250025395 |
| Date of application | November 17, 2025 |
| Jurisdictional authority (State) | Beadon Street Charge |
| Jurisdictional authority (Centre) | Shyambazar Division, Kolkata North Commissionerate |
| Order number and date | 33/WBAAR/2025-26 dated 27.02.2026 |
| Applicant's representative heard | Mr. Rajarshi Dasgupta, A/R |

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression “GST Act” would mean the CGST Act and the WBGST Act both.

1.2 The applicant runs a restaurant under the name and style of Pappu Chaiwala and is duly registered under the Goods and Services Tax law as a provider of restaurant services. In the course of operating the said restaurant, the applicant also proposes to serve hookah, whether herbal or tobacco based, to customers within the restaurant premises as part of the overall dining experience. In this background, the applicant has sought an advance ruling on whether the service of providing hookah at the restaurant, as part of the composite restaurant offering, would fall within the scope of clause 6(b) of Schedule II to the Central Goods and Services Tax Act, 2017 and consequently be taxable at the rate applicable to restaurant services, that is 5 percent.

1.3 The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under seeking an advance ruling in respect of following questions:

- I. Whether or not serving of non-tobacco hookah / tobacco-based hookah in the restaurant along with food will be termed as supply of goods or services within the ambit of Clause 6(b) of Schedule II to the CGST Act?
- II. If yes, what will be the rate of tax applicable on herbal (non-tobacco-based) flavours and tobacco-based flavours?

1.4 The aforesaid questions on which the advance ruling is sought for are found to be covered under clause (a) of sub-section (2) of section 97 of the GST Act.

1.5 The applicant states that the questions raised in the application have neither been decided by nor are pending before any authority under any provision of the GST Act.

1.6 The officer concerned from the Revenue has raised no objection to the admission of the application.

1.7 The application is, therefore, admitted.

2. Submission of the Applicant

2.1 At the outset, the Applicant submits that the core issue for consideration is whether preparation and serving of hookah, either herbal (non-tobacco-based) or tobacco-based, within the restaurant premises, along with food and/or drinks, qualifies as restaurant service within the meaning of Clause 6(b) of Schedule II to the CGST Act, 2017 and consequently taxable at 5 percent.

2.2 Clause 6(b) of Schedule II to the CGST Act provides that 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 any drink (other than alcoholic liquor for human consumption), for consideration, shall be treated as supply of service. The provision is wide in scope and is intended to cover all articles meant for human consumption supplied in a restaurant environment.

The definition of “restaurant service” under Notification No. 11/2017-CT (Rate) makes it clear that supply of food or any other article for human consumption or drink provided by a restaurant, whether consumed on or away from the premises, is treated as service. Thus, what is relevant is the nature of activity and the setting in which the consumable item is supplied.

2.3 The Applicant submits that preparation of hookah flavours is not a mere trading activity. It involves a systematic and elaborate culinary-type process carried out within the restaurant kitchen. The preparation is comparable in complexity and method to preparation of food or beverages served in the restaurant.

The herbal flavour mix consists of certified food-grade ingredients suitable for human consumption. These broadly include dried herbal leaves such as tea leaves, mint leaves or rose petals, or fruit pulp and fibres such as apple or pineapple. Vegetable glycerine of USP grade is used as a smoke-producing agent. Molasses or honey is added as a binding and sweetening agent. Water-soluble food-grade flavour concentrates are added to achieve desired taste profiles. These ingredients are consumable substances and many of them are used in ordinary cooking processes within the restaurant.

The preparation requires the use of dedicated equipment such as stainless steel mixing bowls, measuring cups and spoons, wooden spatulas, airtight jars for storage and curing, food-safe gloves, and where required, dehydrator or oven for drying herbs. The preparation is carried out by trained staff in a hygienic environment in line with food safety standards.

The process itself is multi-staged. The herbal base is first cleaned and dried. Leaves are finely chopped or fruit pulp is partially dehydrated. The base is mixed in specific proportions with vegetable glycerine and molasses to achieve uniform coating. Flavour concentrates are added in measured quantities and thoroughly blended. The mixture is then stored in airtight jars for curing for 24 to 48 hours or more to allow infusion of flavour. Prior to service, the mixture is tested for

consistency and adjusted accordingly.

2.4 Upon receipt of a guest's order, the hookah apparatus is sanitized. The base of the apparatus is filled with water, ice or other permissible liquid. The prepared mixture is placed in a clay bowl, covered with perforated aluminum foil, and ignited charcoal is placed above the foil using tongs. Disposable mouthpieces are provided to maintain hygiene. The apparatus is monitored and adjusted by staff during the course of consumption. In case of tobacco-based hookah, permissible nicotine is added to the base without changing the essential preparation process.

2.5 It is submitted that the hookah apparatus is not sold to the customer. The apparatus remains the property of the restaurant and is reused after cleaning and sanitization. What is supplied is the experience of preparation, presentation and service within the hospitality environment of the restaurant. The customer cannot carry the apparatus or prepared mixture outside for independent consumption.

2.6 The applicant submits that Circular No. 164/20/2021-GST draws a distinction between cooking and supply of food by restaurants and mere sale of already manufactured goods such as ice cream by ice cream parlours. The Applicant submits that hookah flavours are prepared and assembled in-house in response to customer orders. Therefore, the activity is closer to cooking and preparation than to sale of manufactured goods.

The Hon'ble Karnataka High Court in Sri R Bharath v. State of Karnataka has clearly observed that hookah consumption inherently involves rendering of service, as it requires apparatus, preparation, placement and assistance by staff. Unlike cigarettes, hookah cannot be consumed without external human intervention and elaborate arrangement. The Court recognized that preparation and presentation of hookah carry all the overtones of service similar to serving food or alcohol.

The West Bengal Authority for Advance Ruling in Summit Hotels & Resorts Private Limited held that beverages served and consumed within the restaurant premises using its infrastructure qualify as composite supply under Clause 6(b), the principal supply being restaurant service. Hookah served within the same infrastructure and ambience stands on identical footing.

2.7 The applicant believes that the expression "any other article for human consumption" used in Clause 6(b) is broad. It does not restrict itself to food having nutritional value. The only exclusion expressly carved out by the legislature is alcoholic liquor for human consumption, which is constitutionally excluded from GST under Article 366(12A). No other item is excluded.

The applicant has referred to the judgment of the Hon'ble Calcutta High Court in the case of Sanjay Anjay Stores v. The Union of India & others and argues that though it was held in the said case that flavored "tobacco" hookah is not "food" as provided in FSSA, however, flavoured non-tobacco

hookah would have to be treated as food under the said statute and the regulations made thereunder. Further, flavoured “tobacco” hookah would partake the character of “any other article for human consumption”. The service of flavoured “tobacco” hookah in a restaurant or eatery would retain its character of supply of service under Clause 6(b) of Schedule II to the CGST/SGST Act(s). It is well settled principle that in a taxing statute the Court must interpret the language as it stands. Nothing can be added or implied which is not expressly provided. Since the legislature has excluded only alcoholic liquor for human consumption, it is impermissible to exclude tobacco or herbal hookah by implication.

2.8 The Applicant further submits that hookah is not served independently. It is provided only when customers avail food or beverages and enjoy the overall hospitality services including seating, ambience, air-conditioning, music and service personnel. The dominant intention of the customer is to avail restaurant service as a whole.

Section 2(30) of the CGST Act defines composite supply as supply consisting of two or more taxable supplies naturally bundled and supplied together in the ordinary course of business, one of which is principal supply. In the present case, restaurant service is clearly the principal supply. Service of hookah is ancillary and incidental to such principal supply and is naturally bundled in the ordinary course of business.

In terms of Section 8(a) of the CGST Act, a composite supply shall be treated as supply of the principal supply. Therefore, the entire bundle including hookah service assumes the tax character of restaurant service.

Consequently, serving of herbal or tobacco-based hookah within the restaurant premises along with food and/or drinks qualifies as composite supply of restaurant service within the meaning of Clause 6(b) of Schedule II to the CGST Act.

2.9 Accordingly the applicant submits that the applicable rate of tax on such supply shall be the rate prescribed for restaurant service, namely 5 percent, subject to the conditions specified under Notification No. 11/2017-CT (Rate), as amended from time to time.

3.Submission of the Revenue

3.1 The Revenue has submitted that in recent times, various restaurants operating as so-called “hookah bars” are predominantly supplying hookah services in addition to ancillary food items, and are discharging GST at the concessional rate of 5% under Notification No. 46/2017-Central Tax (Rate) dated 14.11.2017 by treating the entire activity as restaurant service. The jurisdictional

authority is of the opinion that such practice requires strict scrutiny as the principal supply in such establishments is not food or beverages but supply of variegated hookah flavours.

3.2 The Revenue has observed that hookah flavours, commonly packed in tins or jar containers, are classifiable under HSN Code 2403 11 10 and attract GST at 28% along with Compensation Cess at 72% at the time of supply by manufacturers or importers. These products generally contain flavoured tobacco (shisha/maassel), molasses, glycerine, honey, nicotine, flavouring substances and colours. The packages carry statutory health warnings and are treated as tobacco products under the applicable tariff classification.

3.3 It is the contention of the Revenue that the goods being supplied in such restaurants are in substance "assorted hookah flavours" falling under Heading 2403 11 10 and therefore taxable at 28% GST along with applicable Compensation Cess at 72%. The officer has further stated that the supply value charged from customers ranges from approximately Rs. 550/- to Rs. 1200/- per session depending upon duration and category of restaurant, which indicates that the dominant element of the transaction is supply of hookah flavours rather than food.

3.4 The Revenue is of the opinion that restaurants are misclassifying the supply of hookah flavours under the guise of restaurant service and availing the concessional rate of 5% GST meant exclusively for supply of food or drink for human consumption under Clause 6(b) of Schedule II read with Notification No. 46/2017-Central Tax (Rate). According to the officer, the benefit of 5% GST was intended only for digestible food or drink and not for tobacco-based articles such as hookah, cigarettes or pan masala.

3.5 The officer has further submitted that there is no provision under the GST law permitting a registered person to procure goods taxable at 28% GST with 72% Cess and subsequently resupply the same goods at a reduced rate of 5% by clubbing them under restaurant service. It is contended that such treatment amounts to reduction of tax liability contrary to the classification prescribed under the tariff and notifications.

3.6 The Revenue has also referred to compliance requirements under the Food Safety and Standards framework and the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003. It is submitted that restaurants fall within the definition of "public place" under Section 3(I) of the said Act and that supply and distribution of tobacco products are subject to statutory restrictions, including mandatory declaration of nicotine and tar content under Section 7.

3.7 The jurisdictional authority has expressed apprehension that the concessional rate notification is prone to misuse by establishments predominantly supplying hookah under the cover of restaurant operations, thereby causing revenue loss. The officer has raised the argument that if hookah is treated as an article for human consumption similar to food and beverages for the purpose of concessional taxation, then logically other tobacco products such as gutka, pan masala or cigarettes could also claim similar treatment, which was never the legislative intent.

3.8 In view of the above, the Revenue has submitted that the principal supply in such cases is supply of hookah flavours classifiable under HSN 2403 11 10 attracting GST at 28% along with Compensation Cess at 72%, and not restaurant service taxable at 5%.

4. Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the authorized representative of the applicant during personal hearing. We have also considered the view given by the Revenue.

4.2 According to the facts narrated by the applicant, he runs a restaurant called 'Pappu Chaiwala' and is a registered service provider of restaurant services. He serves various foods and non-alcoholic drinks for human consumption to the guests from his restaurant which are otherwise cooked or prepared at the kitchen of the restaurant premises. The Applicant contemplates to serve non-tobacco / tobacco-based hookah to his guests. As per his statement, the applicant will not serve hookah on standalone basis. It will be served with some food or non-alcoholic drink or both. The foods and hookah are mentioned in the menu card of the restaurant as *A La Carte* menu. The applicant intends to serve hookah (herbal or tobacco-based) to its customers at the restaurant premises.

4.3 In the above context the applicant has placed before this authority the following two questions:

1. Whether or not serving of non-tobacco hookah / tobacco-based hookah in the restaurant along with food will be termed as supply of goods or services within the ambit of Clause 6(b) of Schedule II to the CGST Act?
2. If yes, what will be the rate of tax applicable on such services?

4.4 The applicant believes that in the instant case, he principally contemplates to render restaurant services by way of supply of food along with alcoholic or non- alcoholic drinks, tobacco or non-tobacco based hookah, etc. as well as service of ambience, atmosphere which are together taxed

as composite supply of service in terms of clause 6(b) of Schedule II to the CGST Act. Hookah shall be served in addition to the service of food with separate prices being mentioned on the *A La Carte* menu and the Applicant does not wish to be engaged in the business of sell or serve hookah only.

The applicant submits that once preparations of food or other articles are treated to be part of the service offered to the customer and liable to get covered within the ambit of Clause 6(b) of Schedule II to CGST Act, serving of preparation of hookah is also akin to preparation of food due to the following reasons:

1. Similar to the raw food items like vegetables, flour, etc. hookah involves extensive preparation in the kitchen and active involvement of service personnel.
2. Until the final item is prepared, the product hookah *per se* cannot be consumed. Multiple elements put together result in preparation of hookah.
3. Hookah cannot be taken outside the restaurant premises for later consumption. Once served in the restaurant in the appropriate apparatus, the same has to be consumed within the restaurant making it inextricably linked to the restaurant service.

The applicant has referred to Clause 6(b) of Schedule II and has argued that the clause does not carve any exception whatsoever from the term 'any other article for human consumption' thereby, covering all articles which can be consumed by humans in whatsoever form and the same need not be essentially food or any other item similar to food having nutritional value. The only exception that has been carved out is towards alcoholic liquor for human consumption from the coverage of drinks. The view of the applicant in this respect is that, had there been any intent of the law makers to exclude non-food-based products like hookah from the coverage of 'any other article for human consumption', there would have been an exception similar to the exception carved for alcoholic liquor for human consumption from the coverage of drinks.

The applicant further holds that by usage of the terms 'food' or 'any other article for human consumption' separately, the law has in its own sense made it very clear that the latter covers something in addition to food or other than food and not similar to food. Anything similar to food shall also get covered within the term food itself and something other than food shall definitely encompass any article which can be consumed by humans like tobacco-based hookah (given that non-tobacco-based hookah gets covered within the scope of food itself).

It is submitted that serving hookah in any restaurant is not a standalone service. There is no restaurant that serves only hookah. In that context, hookah is served in any restaurant/bar as an additional service. The service of hookah in restaurant is an integral part of the *A La Carte*, just like appetizers, soups, entrees, dessert and non-alcoholic beverages. The principal supply, being restaurant service and service of hookah, an article for human consumption is made available to the customers/patrons as a part of holistic restaurant experience. Service of hookah is restaurant-centric

and therefore, inextricably connected to the restaurant service, in other words, without restaurant service, hookah service is not possible. Therefore, it would be apparent from the above discussions that serving Hookah falls under the purview of the definition of “composite supply” under Section 2(30) of the GST Act and be treated as part of the restaurant service.

The applicant has concluded that once provision of hookah is treated as a composite supply of restaurant services, the same shall be subject to tax @ 5% in terms of Notification No 11/2017-CT.

4.5 During personal hearing the applicant’s representative has given some additional submissions regarding the preparation process of hookah and some other legal points.

According to the submission, the main base of non-tobacco hookah is prepared by mixing of the ingredients like dried herbal leaves (e.g. tea leaves, mint leaves, dried rose petals etc.) or fruit pulps/ fibres (like apple, pineapple etc.) in a proper ratio. Food grade vegetable glycerine, molasses or honey and water-based food grade flavor concentrate are added to this mixture. Then this mixture is stored in an airtight jar for several hours, even for a week if required. The applicant opines that the process of preparation of hookah is akin to preparation of any food or drinks served at the restaurant.

The applicant refers to the GST Circular No. 164/20/2021-GST Dated 06.10.2021 (reference page 13 and 14) and the advance ruling given by the West Bengal Authority for Advance Ruling vide cae no. 20/WBAAR/2025-26 dated 10.12.2025 and concludes that anything served at the restaurant which otherwise is prepared will be termed as restaurant service and hence liable to GST at the rate of 5% or such applicable rate prescribed from time to time.

Referring to and quoting the judgment of the Hon’ble Karnataka High Court in the case of Sri R Bharath v. State of Karnataka, the applicant submits that the Hon’ble High Court of Karnataka has categorically summarized that when comparing Hookah/Shisha with cigarettes, the distinction lies primarily in the manner of consumption. A cigarette requires no special apparatus—apart from a lighter or matchstick, and perhaps an ashtray. Smoking zones merely provide space; they involve no additional service. Hookah, on the other hand, cannot be consumed without specific apparatus: a pipe, hot coal, water, nicotine or herbal hookah mixtures, and flavourings, all of which must be arranged and provided by restaurant staff. The preparation and presentation of hookah involve the active involvement of service personnel, similar to the serving of food or alcohol. Thus, unlike cigarettes, consumption of Hookah inherently constitutes a service. Moreover, hookah smoking cannot be confined to a mere designated corner, nor can the apparatus be carried in one’s pocket for personal use in a smoking area. Its preparation and consumption require elaborate arrangements and external assistance, underscoring its nature as a service.

The applicant has referred to the judgment of the Hon’ble Calcutta High Court in the case of Sanjay Anjay Stores v. The Union of India & others and argues that though it was held in the said case that flavored “tobacco” hookah is not “food” as provided in FSSA, however, flavoured non-tobacco

hookah would have to be treated as food under the said statute and the regulations made thereunder. Further, flavoured “tobacco” hookah would partake the character of “any other article for human consumption”. The service of flavoured “tobacco” hookah in a restaurant or eatery would retain its character of supply of service under Clause 6(b) of Schedule II to the CGST/SGST Act(s).

4.6 The revenue has expressed the view that the principal supply in such restaurants is a supply of hookah flavours and therefore GST at 28% (14% CGST + 14% SGST) is liable to be paid on the supply value of hookah flavours after restricting it under the appropriate heading HSN 2403 11 10 with applicable Cess at 72% on the supply price to the end customers (B2C Supply). The revenue has no ambiguity on the point that “variegated or assorted hookah flavours” is classifiable under Heading 2403 11 10 and attracts GST @28% with Cess at 72% as supply of assorted hookah flavours, the principal goods being Assorted Hookah Flavours which is supplied to the end customers at premier price.

The revenue has referred to Notification No. 46/2017-Central Tax (Rate) New Delhi, the 14th November, 2017 and observed that the pioneer object of the aforesaid Notification has been to provide the benefit of 5% GST (2.5% CGST + 2.5% SGST) only on the supply, by way of or as part of any service or in any other form or manner whichever, of digestible goods, being food or any other palatable articles for human consumption or drink or deemed to be edible.

The revenue has observed that here in this case the restaurant is purchasing tobacco and reselling it to the customers and opined that under the GST Act, 2017, there is no such provision or any law or rule – related indication or even no such Notification which authorises the RTP to purchase the referred goods taxable at 28% GST coupled with 72% Cess and thereafter resell or resupply the same goods at the reduced rate of GST at 5%.

4.7 As per our observation, the whole issue stands on the correct and meaningful understanding of sub-clause (b) of clause 6 of Schedule II appended to the CGST Act, 2017 read with the definition of composite supply as provided in Section 2(30) of the CGST Act, 2017.

Here we are reproducing the relevant portion of clause 6 *ibid*:

6. Composite supply

The following composite supplies shall be treated as a supply of services, namely:-

- (a) works contract as defined in clause (119) of section 2; and*
- (b) 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 any drink (other than alcoholic liquor for*

human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

First of all, Clause 6 of Schedule II has created a legal fiction where two kinds of composite supply enumerated in sub-clause (a) and (b) that are to be treated as supply of service even if goods are involved in the said supplies.

Let us elaborate sub-clause (b) *ibid* since this is the central theme of our discussion. If we go through the provision carefully the following points become evident before us:

1. The supply referred to in the sub-clause is a supply of goods.
2. The goods are of the nature of food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption).
3. The said goods are supplied by way of or as part of any service or in any other manner.
4. The supply or service involved may be for cash, deferred payment or other valuable consideration.
5. If that supply is by way of or as part of any service or in any other manner whatsoever, this is to be treated as supply of service though essentially the supply may be of goods being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption).

Next, while reading and understanding the phrases used in sub-clause (b) of clause 6 of Schedule II as above we should apply the principle of *ejusdem generis*. The phrase 'any other article for human consumption' must be understood with reference to and in the context of the two other words/phrases used in the sentence i.e. 'food' and 'any drink (other than alcoholic liquor for human consumption)'. Both of them refer to the things that are ingested by mouth and go to our digestive tract for digestion. So the phrase 'any other article for human consumption' must be construed in that particular spirit. It is to be understood and interpreted in terms of things that are ingested by mouth and digested in our body as is the case with foods and drinks.

But in case of hookah, whether with tobacco or non-tobacco products, the smoke is inhaled and it goes to our respiratory tract and gets absorbed directly into the bloodstream. There is no question of ingestion or subsequent digestion.

The primary purpose of food and drink ((other than alcoholic liquor for human consumption) is to extract nutrients (carbohydrates, proteins, fats, vitamins, minerals etc.) for energy, growth, and repair of body. On the other hand, the purpose of inhaling smoke from hookah especially the one containing tobacco is to deliver nicotine, a highly addictive psycho-stimulant to the brain, which triggers pleasure and sensation leading to further addiction. Non-tobacco hookah serves almost the same purpose except for the addiction due to nicotine. It has nothing to do with extraction of nutrients for energy, growth and repair of body.

Even if we stretch our imagination to the farthest point, we cannot put food, drink and smoking hookah within the same bracket even when they are served in the same restaurant and on the same table. A man cannot consume tobacco or non-tobacco smoke in the same way he consumes foods and drinks. We must understand the term 'any other article for human consumption' with reference to the other two words encompassing the term. We can comprehend the legislative intention for inclusion of the term by adopting this approach only.

According to the applicant, flavoured non-tobacco hookah should be treated as food and flavoured tobacco hookah exhibits the character of 'any other article for human consumption'. We are not inclined to accept this argument. The point to be noted is that it is not the question of tobacco or non-tobacco products. Whatever is used in the hookah for the purpose of smoking, it cannot be equated with taking any food or other article for human consumption. The phrases are used in such a way that they refer to something that is to be ingested and digested. Smoking, be it from tobacco or non-tobacco products, is in no way related to ingestion and digestion.

In his additional submission the applicant has emphasised that flavours of hookah would not be served on a standalone basis. The customer has to place order for certain foods or drinks and only then order for hookah can be placed by the customer. So the proposition of the applicant is that service of hookah at the restaurant is incidental to service of food and drinks. This proposition appears to be highly improbable and impractical given the fact that the menu chart placed before us displays different flavours of tobacco or non-tobacco based hookah. Of course there is a condition that '*sheesha won't be served on a standalone basis*'. Even if for the sake of argument we accept that in practice hookah will be served only with some food or drinks, does it mean that service of hookah is incidental to the service of foods and/or drinks? Our answer is in the negative. Here the two supplies are separate ones but the applicant has tried to combine them in an artificial manner by imposing certain condition. The restaurants in India are generally designated as smoke-free under the Cigarettes and Other Tobacco Products Act (COTPA), 2003. Smoking is banned in all public places, including dining areas. However, restaurants with a seating capacity of 30 or more are permitted to have a separate, designated smoking area. So service of foods and /or drinks in a restaurant cannot accompany a smoking apparatus for the purpose of tobacco or non-tobacco smoking. In this respect service of hookah cannot be said to be incidental to service of foods and/or drinks in a restaurant.

4.8 In our considered view, 'any other article for human consumption' when read with reference to 'food' and 'any drink ((other than alcoholic liquor for human consumption)' it creates a comprehensive picture ensuring that supply, by way of or as part of any service or in any other manner whatsoever, of any form of edible substance is to be considered as a service. Smoke to be inhaled from any origin, be it tobacco or non-tobacco, does not qualify for any form of edible substance to be included in the phrase 'any other article for human consumption'.

Question can be raised as to what then constitutes 'any other article for human consumption' in the context of restaurant service. To our understanding, this term in the context of a restaurant usually refers *inter alia* to such things as water, condiments, spices, and other edible accompaniments that are served with the main meals and often enhance the flavour of the main meal but are not considered a primary dish or beverage themselves that are cooked and prepared in the restaurant. Mostly they are not cooked or prepared in the restaurant. Restaurant service providers buy them from market as other people do and serve them with cooked food as accompaniments and additives. For example,

- **Water:** It includes packaged drinking water.
- **Condiments and sauces:** Ketchup, mustard sauce, mayonnaise, hot sauce, soya sauce, steak sauce, and gravies.
- **Spices and seasonings:** Salt, pepper, sugar/sweeteners, and chilli flakes provided in shakers or packets.
- **Table additions:** Butter or margarine packets, jam, and honey.
- **Garnishes:** Items like pickles, olives, or lemon/lime wedges that may be consumed with the meal.

Having said so, it is clear that the supply of tobacco or non-tobacco products in a hookah in a restaurant is excluded from the scope of Clause 6 of Schedule II *supra* and hence serving of hookah for smoking cannot be considered as a composite supply of service.

4.9 Now we will go into the details of the nature of supply involving tobacco or non-tobacco based hookah for the purpose of smoking. As per the submission of the applicant, the following is the process for preparation of hookah, both tobacco and non-tobacco based.

First of all, the ingredients for hookah are prepared as per the customer's choice and order. Thereafter, the hookah apparatus is cleaned and sanitised. Once such process is over, the base of the hookah is filled with cold water or cold drink or ice, depending on the guest's order and in the clay bowl of hookah, the chosen ingredients (chosen tobacco or non-tobacco products like dried tea leaves, mint leaves or dried rose petals etc.) are kept and covered with perforated aluminum foil. Thereafter, food grade glycerin is being added which in turn creates thick smoke. Once this exercise is over, charcoal is ignited using a burner, heated until red-hot, and transferred safely with tongs above the foil and thereafter served to the guests along with few disposable mouthpieces.

5.10 There is no denying of the fact that smoking from hookah in a restaurant which serves food and tobacco or non-tobacco products in hookah involves the enjoyment of the infrastructure of the

restaurant which *inter alia* includes the hookah as the apparatus for smoking and ambience of the restaurant. So it has got both goods (in the form of tobacco or non-tobacco products) and service (the infrastructure and ambience of restaurant) elements as supplies. In this respect the supply under question is a composite one. In paragraph 4.7 and 4.8 we have already discussed at length why this supply in spite of being a composite supply will not qualify in sub-clause (b) of Clause 6 of Schedule II. Having said so, there is hardly any scope that this supply will be treated as one of service.

Here we can pose a very legitimate question. Whether the restaurant facilities as we commonly understand is absolutely necessary for preparation of hookah? Though the applicant has tried to establish that the process of preparation of hookah is akin to preparation of any food or drinks served at the restaurant, our reply is a big no. In fact the kitchen of the restaurant is not used for preparing hookah. It is prepared in a designated area separate from the area where food is cooked in a restaurant. It is not the case that restaurant facilities are absolutely essential for preparation and serving of hookah. In that way it cannot be related to restaurant service as such. However, a restaurant like the one run by our applicant can serve hookah along with food in the restaurant meeting other necessary legal formalities separately for serving food and hookah. That does not mean that hookah is essentially related to restaurant service. However, we reiterate our considered view that service of hookah in restaurant has some elements of service in it.

In this context we are reproducing the definition of composite supply as provided in Section 2(30) of the CGST Act, 2017.

"composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Illustration.- Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.

In the case in our hand the supply has two taxable supplies. One is of goods in the form of tobacco or non-tobacco products provided to the customers for the purpose of smoking. The other is the supply of service in the form of preparation of hookah, serving the tobacco or non-tobacco in the hookah etc. They are naturally bundled in the sense tobacco or non-tobacco products cannot be smoked without apparatus as is the case with smoking from a pipe. Before smoking from hookah the apparatus is to be prepared accordingly with the chosen flavour of tobacco or non-tobacco products. But here the preparation of hookah is only incidental to facilitate smoking of tobacco or non-tobacco products put inside the hookah. The basic purpose of a customer placing order for hookah is to purchase tobacco or non-tobacco products for the purpose of smoking. The role of hookah is only to

facilitate the process smoking. So the principal supply here is that of goods in the form of tobacco or non-tobacco products, as the case may be.

4.11 Once the nature of supply of tobacco or non-tobacco based hookah in the restaurant is decided, now we will move to the discussion regarding its taxability.

Section 8 of the CGST Act, 2017 clearly spells out the method of taxation in respect of composite and mixed supply. The provision is reproduced hereinunder:

Section 8. Tax liability on composite and mixed supplies.-

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-

- (a) *a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and*
- (b) *a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.*

The above provisions of Section 8 are applicable to supply of tobacco or non-tobacco based hookah in restaurant. In the preceding paragraph we have already identified the two elements of the referred supply – one is tobacco or non-tobacco products as goods and the other is supply of infrastructure and ambience of restaurant as service, the tobacco or non-tobacco products being the principal supply.

In case of tobacco based hookah, the supply will be treated as supply of goods and will be taxed @ 20% CGST + 20% SGST vide serial no. 17 (HSN code being 2403) of Schedule III of Notification No. 01/2017 – Central Tax (Rate) Dated 28.06.2017 read with Notification No. 19/2025 – Central Tax (Rate) dated 31.12.2025. Any other tax or duty applicable to this HSN shall also be levied as per the extant laws.

The applicant states that for preparation of non-tobacco based hookah, he will use dried tea leaves, mint leaves or dried rose petals etc. These goods neither find specific entry in the list of exempted goods as per notification no. 2/2017 – Central Tax (Rate) dated 28.06.2017, as amended by notification no. 10/2025 – Central Tax (Rate) dated 19.09.2025 nor find any specific entry in the schedules of taxable goods as per Notification No. 01/2017 – Central Tax (Rate) Dated 28.06.2017, as amended.

In our considered view in case of non-tobacco (dried tea leaves, mint leaves or dried rose petals etc.

as stated by the applicant) based hookah as such, the supply will also be treated as supply of goods and will be taxed @ 9% CGST + 9% SGST vide serial no. 639 of Schedule II of Notification No. 01/2017 – Central Tax (Rate) Dated 28.06.2017, as amended.

To remove any doubt let us clarify the whole issue placed before us as under:

When a restaurant serves tobacco or non-tobacco based hookah in the restaurant along with food, there occurs two separate composite supplies. One is the supply of food which is covered by sub-clause (b) of Clause 6 of Schedule II *supra* and will be regarded as composite supply of service and will be taxed accordingly. The other composite supply is the supply of tobacco or non-tobacco products for the purpose of smoking in which the principal supply is that of tobacco or non-tobacco products and as such it will not be covered by sub-clause (b) of Clause 6 of Schedule II *supra*

In view of the foregoing discussion, we rule as under:

RULING

1. Whether or not serving of non-tobacco hookah / tobacco-based hookah in the restaurant along with food will be termed as supply of goods or services within the ambit of Clause 6(b) of Schedule II to the CGST Act?

Answer: The two supplies are to be regarded as separate supplies. Serving of food will be termed as supply of services within the ambit of Clause 6(b) of Schedule II to the CGST Act. However, serving of hookah in the restaurant will be regarded as a composite supply of goods. As such, Clause 6(b) of Schedule II of the CGST Act, 2017 is not applicable to this supply.

2. If yes, what will be the rate of tax applicable on such services?

Answer: Since the two supplies are regarded as two separate supplies, different rate of tax will be applicable on the referred supplies.

The supply of food in the restaurant under question (which is not at any 'specified premises) is to be taxed @ 2.5% CGST + 2.5% SGST vide serial no. 7(ii) of Table in Notification No. 11/2017 – Central Tax (Rate) Dated 28.06.2017 read with the corresponding StateTax notification, as amended.

In case of tobacco based hookah, the supply will be treated as supply of goods and will be taxed @ 20% CGST + 20% SGST vide serial no. 17 (HSN code being 2403) of Schedule III of Notification

No. 01/2017 – Central Tax (Rate) Dated 28.06.2017 read with Notification No. 19/2025 – Central Tax (Rate) dated 31.12.2025 read with the corresponding StateTax notification, as amended.

In case of non-tobacco (dried tea leaves, mint leaves or dried rose petals etc. as stated by the applicant) based hookah, the supply will also be treated as supply of goods and will be taxed @ 9% CGST + 9% SGST vide serial no. 639 of Schedule II of Notification No. 01/2017 – Central Tax (Rate) Dated 28.06.2017, read with the corresponding StateTax notification, as amended.

Sd/-

(SHAFEEQ S)

Member

West Bengal Authority for Advance Ruling

Sd/-

(JAYDIP KUMAR CHAKRABARTI)

Member

West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 27th February, 2026

To,

Indian Wire Products Company

38EM, Sanjeeva Garden, Thakdari Road, Green Valley,
Dhapa Manpur, New Town, North Twenty Four Parganas,
West Bengal, 700156

Copy to,

- (1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-700107
- (2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015
- (3) The Commissioner, Kolkata North Commissionerate, 180, Shantipally, R.B.Connector, Kolkata - 700107
- (4) The Charge Officer, Beadon Street Charge, Jalasampad Bhawan, Block DF, Sector-I, Salt Lake, Kolkata - 700091

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