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GST ON RECOVERY OF FOOD EXPENSES FROM EMPLOYEES FOR THE CANTEEN PROVIDED BY COMPANY

As per Section 46(1) of the “Factories Act,1948” a Canteen or Canteens is/are required to be provided and maintained by the occupier for the use of the workers or employees wherein more than 250 workers are ordinarily employed.Hence, the question arises whether recovery of food expenses from employees for the canteen services provided by the company comes under the definition of “**Outward Supplies**” and are taxable under Goods and Services Tax Act.

M/s. Caltech Polymers Pvt. Ltd., Malappuram (**hereinafter called as the Appellant**), a registered Person with GSTIN 32AAACC9223A1ZE is a Private Limited Company engaged in the manufacturing and sale of foot wear. They are providing the canteen services exclusively for their employees. They incur the canteen running expenses for a month and recover the same from their employees without charging of any profit on the canteen expenses. The company had submitted an application for Advance Ruling on “whether recovery of food expenses from employees for the canteen services provided by the company comes under the definition of “Outward Supplies” and are taxable under Goods and Services Tax Act.”

Supporting Remarks raised by the Appellant: (1) The company is providing the canteen facilities to its employees as per the Statutory Requirement specified in Section 46(1) of the “Factories Act,1948” and recovering only the actual expenditure incurred in connection of supply of the services **without charging of any profit**.

(2) As the company is providing the aforesaid services without adding of any profit, the same is not in the course or furtherance of its business and hence, Recovery of food expenses from employees for the canteen provided by company does not fall under the purview of the GST.

(3) The company had also highlighted the Service Tax Mega Exemption **Notification No.25/2012-ST dated 20.06.2012** issued by the Government of India whereby services in relation to supply of food or beverages by a canteen maintained in a factory covered under the Factories Act,1948 was exempted under the “Service Tax Law”.

Remarks raised by the Authority of Advance Ruling: (1) Schedule II of the CGST Act,2017 describes the activities which are to be treated as Supply of Goods or Supply of Services. As per Clause 6 of the Schedule II of the GST Act,2017, the following Composite Supply is treated as “Supply of Services”.

“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.”

(2) Though the company is not charging any profit on the expenses incurred in relation to the canteen services, the same will be treated as per Section 7(1)(a) of CGST Act 2017.

(3) Apart from this, the company will be treated as Supplier as per **Section 2(105) of CGST Act,2017**.

(4) The Advance Ruling Authority has acknowledged that “the Service Tax Mega Exemption Notification No.25/2012-ST dated 20.06.2012 issued by the Government of India whereby services in relation to supply of food or beverages by a canteen maintained in a factory covered under the Factories Act, 1948 was exempted under the “Service Tax Law”.But no such provision is there in the GST Act, 2017.

Based on the aforesaid clarifications, The Advance Ruling Authority has informed that “recovery of food expenses from employees for the canteen services provided by M/s. Caltech Polymers Pvt. Ltd., comes under the definition of “**Outward Supplies**” and are taxable under Goods and Services Tax Act,2017.

Being aggrieved by the said Advance Ruling, the company had submitted an application to the Appellate Authority for Advance Ruling but, the same clarifications had been given and it is confirmed that GST will be applicable recovery of food expenses from employees for the canteen services provided by the company comes under the definition of “Outward Supplies” and are taxable under Goods and Services Tax Act.