

**GOA AUTHORITY FOR ADVANCE RULING**

[Constituted under Section 96 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) read with Rule 103 of the Goa Goods and Services Tax Rules, 2017]

**BEFORE THE BENCH OF**

Shri. Vishant S. N. Gaunekar, Additional Commissioner of SGST, Goa.  
Smt. Lakshmi Radhakrishnan, Joint Commissioner of CGST, Goa.

**Advance Ruling No.** GOA/GAAR/03 of 2023-24/ 3465

Name of the Applicant	<b>ZYDUS LIFESCIENCES LIMITED</b>
Address	<b>Kundaim Industrial Estate Kundaim, Ponda, North Goa, 403115</b>
GSTIN	<b>30AAACC6253G1Z6</b>
Date of Application	<b>23/05/2022</b>
Under Section 97(2) of the CGST/GGST Act, 2017 under which question raised	<p>1. Whether the subsidized deduction made by the Applicant from the employees who are availing food in the factory would be considered as a “supply” by the Applicant under the provisions of Section 7 of Central Goods and Services Tax Act, 2017 and Goa Goods and Services Tax Act, 2017.</p> <p>a. In case answer to above is yes, - whether GST is applicable on the amount deducted from the salaries of its employees?</p> <p>b. In case answer to above is no, - GST is applicable on which portion i.e.</p>

	amount paid by the Applicant to the Canteen Service Provider or only on the amount recovered from the employees?
Dates of Hearing	<b>11.01.2024 &amp; 28.07.2025</b>
Persons Present for Hearing	<b>Shri Rashmikant Shah, G.M. (Indirect Taxation) along with Mr. Vaibhav Vahia and Amit Parmar of applicant appeared through online mode.</b>

### **PROCEEDINGS**

(Under Section 98 of the Central Goods and Services Tax, Act 2017 and the Goa Goods and Services Tax, Act 2017)

The present application has been filed under section 97 of the Goa Goods and Services Tax Act, 2017 and the Central Goods and Services Tax, Act 2017 (hereinafter referred to as the '**SGST Act**' and '**CGST Act**') by the applicant Taxpayer **M/s. ZyduS Lifesciences Limited, Kundaim Industrial Estate Kundaim, Ponda, North Goa 403115** seeking an Advance Ruling in respect of the following questions.

- Determination of time and value of supply of goods or services or both.
- Admissibility of input tax credit of tax paid or deemed to have been paid.
- Determination of the liability to pay tax on any goods or services or both.
- whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

### **BRIEF FACTS**

#### **Applicant's Background:**

Zydus Lifesciences Limited, Kundaim Industrial Estate Kundaim, Ponda, North Goa 403115 is a registered taxable person holding GSTIN **30AAACC6253G1Z6**. The Applicant is formerly known as Cadila Healthcare Limited is a pharmaceutical company and has been dealing into various products across India. in the business of manufacture, supply and distribution of various pharmaceutical products.

The applicant states that: -

The applicant has contracted with a caterer – Kanaka Foods Management Service Private Limited at their factory (hereinafter referred to as ‘the Canteen Service Provider’) to operate canteen within the Applicant’s premises; and a specified percentage to the cost of the meals provided is deducted by the Applicant from their employees’ salaries on a monthly basis.

In respect of which the applicant is seeking through the advance ruling on the following question:

**CLARIFICATION REQUIRED ON THE BELOW POINTS:**

The applicant has sought advance ruling on the below points in advance ruling application.

1. Whether the subsidized deduction made by the Applicant from the employees who are availing food in the factory would be considered as a “supply” by the Applicant under the provisions of Section 7 of Central Goods and Service Tax Act, 2017 and Goa Goods and Service Tax Act, 2017.
  - b. In case answer to above is yes,
    - whether GST is applicable on the amount deducted from the salaries of its employees?
  - b. In case answer to above is no,

- GST is applicable on which portion i.e. amount paid by the Applicant to the Canteen Service Provider or only on the amount recovered from the employees?

### Submission of the Applicant

#### 1. Brief Facts

1.1. The Applicant is a Company incorporated under the provisions of the Companies Act, 1956 having factory as mentioned in Annexure-1 and is inter alia involved in the business of manufacture, supply and distribution of various pharmaceutical products. The Applicant is registered under the GST regime in the State of Goa vide GSTIN 30AAACC6253G1Z6.

#### 1.2. Canteen facility

The Applicant has employed about 700(Approx.) employees in its factory. With relation to the factory of the Applicant, the Applicant is registered under the provisions of the Factories Act, 1948 (hereinafter referred to as "Factories Act") and is required to comply with all the obligations and responsibilities cast under the provisions of the Factories Act. The summary of the type of employees and the nature of recovery of subsidized value is tabulated below for the ease of reference:

Meals:

SI. No.	Types of employees	Mode of availing facility	Basis of recovery	Mode of recovery	Book treatment	ITC availment in inward supply	Payment of GST on outward supply
1.	Full-time	ID card or	On the basis of	<b>Subsidize</b>	Deduction is	ITC of the GST paid	GST is paid on the basis of the

	employ ees	biometri c	consum ption	d value dedu cted from salar y on actua l cons umpt ion and discl osed unde r the dedu ction side of the salar y paysl ip	credite d to the canteen n expen se accou nt while the full amoun ts of the invoic e issued by the Cante en Servic e Provid er is booke d as expen se in	on the Canteen Service Provider's invoice is not availed	number of punches in the system during the month on <b>open market value</b> (i.e. the value charged by the canteen service provider)
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					the Applic ant's Profit & Loss accou nts		
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- 1.3. Each employee has been issued an ID card while joining the Company which can also be used to avail the canteen facility day wise. The employees are charged only for the days on which the employee had punched his ID card and an amount at pre-determined percentage shall be deducted from the salary payable to the respective employee.
- 1.4. The above deduction is credited to the expense account in which canteen expense is booked while the full amount of the invoice issued by the Canteen Service Provider is booked as expense in the Applicant's Profit & Loss account without taking the benefit of ITC of the GST paid on the Canteen Service Provider's invoice.
- 1.5. The Applicant discharges GST on the canteen facility basis the number of punches in the system during the month. The value of services is determined as under – **Full-time employees** - Per plate rate charged by the Canteen Service Provider from the Applicant for the Canteen services (i.e. open market value instead of actual recovery made from the employees)
- 1.6. Further, the Applicant is liable to pay to the Canteen Service Provider who raises GST invoice with tax rate of 5%. The Applicant does not avail ITC of the GST component paid thereunder.
- 1.7. Section 46 of the Factories Act, 1948 provides that “in any specified

factory wherein more than 250 workers are ordinarily employed, a canteen or canteens, shall be provided and maintained by the 'Occupier' for the use of the workers." In this regard, the Applicant shall also refer to Section 2(n) of the Factories Act, 1948 which defines the term 'occupier' of a factory to mean "the person who has ultimate control over the affairs of the factory". In the instant case, the Applicant has the ultimate control over the affairs of the factory and hence will be treated as the occupier. Therefore, the Applicant is mandated to provide and maintain canteen for the use of its employees.

- 1.8. Further, as per Section 2(I) of Factories Act 1948 "“worker” means a person employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not], in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process but does not include any member of the armed forces of the Union];
- 1.9. On perusal of the above provisions, undoubtedly the Applicant is obligated and mandated to provide canteen facility to its employees at the factory. Since the factory premises of the Applicant is located far away from local city limits and considering the time and efforts required for arranging food on daily basis, the Applicant had decided to provide canteen facility to its employees at the factory by appointing a Canteen Service Provider to comply with the statutory requirement laid down under the Factories Act.
- 1.10. To cater to the above-mentioned obligations, the Applicant has set up the canteen facility in a demarcated area within its factory premises wherein tables, chairs, utensils, washrooms, wash basins, storage rooms for keeping the cooked food, washing the utensils etc. have been

provided by and maintained and the ultimate control lies with the Applicant.

- 1.11. The mutually agreed roles and responsibilities of the Canteen Service Provider and the Applicant are clearly laid out in the Scope of Work in the Agreement between Canteen Service Provider and the Applicant (hereinafter referred to as “SOW”).

The copy of the Canteen Service Agreement along with the SOW is enclosed as Annexure-1.

- 1.12. While the food is provided by the Canteen Service Provider to all the employees at the canteen facility set up by the Applicant, considering that it is practically inconvenient to enter in contractual agreement with every employee, the Canteen Service Provider has entered into an agreement with the Applicant. It is agreed that the Applicant shall contract and pay in full to the service provider for the food served during a prescribed period on behalf of the employees and a pre-determined percentage of the amount paid by the Applicant is recovered from the employees (without any profit) and the balance amount is borne by the Applicant, is being treated as staff welfare expense towards subsidized food served to the employees.

- 1.13. The Applicant is seeking to file an application for advance ruling to ascertain the GST implication on the existing arrangement of canteen facility being provided to all the employees at the factory of the Applicant.

### **INTERPRETATION OF LAW AND / OR FACTS BY APPLICANT**

Question 1: Whether the subsidized deduction made by the Applicant from the Employees who are availing food in the factory would be considered as a “supply” by the Applicant under the provisions of Section

7 of Central Goods and Service Tax Act, 2017 and Goa Goods and Service Tax Act, 2017.

a. If yes,

i. Whether GST would be leviable in cases where nominal amount will be deducted from the salary of the employees by the Applicant?

b. In case answer to above is no,

i. GST is applicable on which portion i.e. amount paid by the Applicant or only on the amount recovered from the employees?

## **2. Recovery of amount from the employees cannot be subject to payment of GST**

2.1. The Applicant submits that the amount deducted from the salary of the employees for providing the subsidized canteen facility, cannot be considered as supply as per Section 7 of CGST Act, therefore, GST cannot be levied on such activity. The detailed submissions in this regard are made in the ensuing paragraphs.

### **Applicability of relevant legal provisions to the present case**

2.2. The provisions of both the Central Goods and Service Tax Act, 2017 (hereinafter referred to as 'CGST Act') (as amended) and the CGST Rules as well as the provisions under the Goa Goods and Services Tax Act, 2017 (hereinafter referred to as 'GGST Act') and Rules made thereunder i.e. the Goa Goods and Services Tax Rules 2017 (as amended) (hereinafter referred to as 'GGST Rules') are in pari materia except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act or Rules would also mean a reference to the same provisions under the GGST Act or Rules and vice versa.

2.3. To analyse whether arranging the canteen facility for serving food in the factory to meet statutory obligation laid under Section 46 of the Factories

Act, 1948 for providing facility to the employees would be considered as 'Supply of Service' by the Applicant to the employees, the Applicant has relied on the following legal interpretation of the CGST Act.

**Merely setting up of a canteen facility for the employees and deduction of nominal cost would not tantamount to Supply under Section 7 of the CGST Act**

- 2.4. In the light of the above facts, it is pertinent to determine the GST implications on the provision of canteen facility wherein food is prepared and brought in by the Canteen Service Provider, and other activities undertaken by the Applicant in accordance with SOW such as provision of demarcated areas etc. to its employees. In this regard, the Applicant has completely placed its reliance upon the following interpretation of the legal provisions.

**Concept of 'Supply' under CGST Act and its applicability thereof**

- 2.5. Section 9(1) of the CGST Act provides that there shall be levied a tax called the Central Goods and Service Tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding 20% as may be notified by the Government on the recommendation of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.
- 2.6. Basis the above, it is clear that to levy tax on any activity, the activity is required to qualify as a 'Supply' in the first place. To evaluate whether the deduction made from the salary of the employees opting for availing the food in the canteen at the Applicant's premises and provision of such facilities would tantamount to a 'Supply' or not in accordance with the provisions of CGST Act, the Applicant refers to the provision of Section 7 of the said Act, which states that:

“(1) For the purposes of this Act, the expression “supply” includes–

(a) **all forms of supply of goods or services** or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal **made or agreed to be made for a consideration by a person in the course or furtherance of business;**

(b) import of services for a consideration whether or not in the course or furtherance of business;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration

(1A) Where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.”

2.7. Thus, the term ‘Supply’ includes all forms of supply (goods and/or services) and includes agreeing to supply when the **supply is for a consideration and is in the course or furtherance of business**. The word ‘supply’ is all-encompassing, subject to exceptions carved out in the relevant provisions.

2.8. It is pertinent to study various facets of the Supply concept, as mentioned under Section 7 of the CGST Act, from the perspective of the facts under discussion. The Applicant believes that the following criteria, inter alia, plays a crucial role to determine the GST implications on provision of such a facility: -

- There shall be a **legal intention** of both the parties to the contract to supply and receive the goods or services or both. The absence of such intention would not amount to Supply within a meaning of CGST Act;
- - It should involve **quid pro quo** – viz., the supply transaction requires something in return, which the person supplying will obtain, which may be in monetary terms/ in any other form except in cases of deeming provision as specified in Schedule I; and
- The Supply of goods or services or both shall be affected by a person **in the course or furtherance of business.**

The each of the above-mentioned limbs are discussed in the ensuing paras;

- 2.9. The Applicant wishes to reiterate the facts that it is merely providing demarcated space for canteen facility, as mandated under the provisions of the Factories Act, 1948, to its employees for eating the food during the specified times. To comply with the same; the Applicant has decided to arrange for a food facility in the form of separate arrangement with the Canteen Service Provider.
- 2.10. In the light of the above facts, it could be said that the supply is from the Canteen Service Provider to the employees and not from the Canteen Service Provider to the Applicant as the food gets consumed only by the employees. Though, the supplier is the Canteen Service Provider and invoice is raised on the Applicant, but the ultimate recipient of such canteen facility is the employee. The Applicant merely allows the Canteen Service Provider to use his demarcated area i.e. canteen area for serving food to the employees and makes payment to the Canteen Service Provider on behalf of the employees for administrative convenience.

**No GST to be levied on third-party canteen charges collected by employer from employee**

2.11. The Applicant wishes to rely on the recent ruling of Gujarat Advance Ruling in our own case Cadila Healthcare Limited- Gujarat state (GUJ/GAAR/R/2022/19 Dated 12.04.2022) wherein under similar circumstances it has been held that “GST, at the hands on the applicant, is not leviable on the amount representing the employees portion of canteen charges, which is collected by the applicant and paid to the Canteen service provider”.

The copy of the AAR is enclosed as **Annexure-2**.

2.12. The Applicant wishes to rely on the recent ruling of Gujarat AAAR in the matter of **Amneal Pharmaceuticals Pvt. Ltd [TS-569-AAAR(GUJ)-2021-GST]** wherein the ruling of AAR was modified and it was ruled that no GST to be levied on third-party canteen charges collected by employer from employee. The relevant extract of the said ruling is provided below; *Gujarat AAAR rules that GST “is not applicable on the collection, by the appellant, of employees’ portion of amount towards foodstuff supplied” by the third party/Canteen Service Provider (CSP), modifies AAR; Notes that Appellant runs a factory consisting of more than 500 employees and arranged for canteen facility to provide food at a subsidised rate as per Factories Act, 1948 for which it collects some portion from employees salary without making any profit; Also takes note of Appellant’s submission that it is (i) collecting and paying employee’s portion of consideration to third party i.e. Canteen Service Provider (CSP) (ii) working as mediator between employees and contractor / CSP, therefore no GST would be payable by employees to company on the subsidized value of food and (iii) this activity does not fall within the scope of ‘supply’*

*as the same is not in the course or furtherance of its business; **Highlights that the appellant does not supply any goods or services to its employees against the amount collected from the employees but only collects employees' portion of amount and pays the consolidated total amount, which includes appellant's share of amount also, to CSP towards the foodstuffs provided to employees by CSP; In specific term, claims "The appellant neither keeps any margin in this activity of collecting employees' portion of amount nor makes any separate supply to the employees"***

- 2.13. Further, the Applicant places reliance on the decision Gujarat AAR in case of Dishman Carbogen Amcis Ltd (ADVANCE RULING NO. GUJ/GAAR/R/22/2021) wherein it has been held that "GST, at the hands on the applicant, is not leviable on the amount representing the employees portion of canteen charges, which is collected by the applicant and paid to the Canteen service provider."
- 2.14. The Applicant places reliance on the decision of Karnataka Authority for Advance Ruling in the case of Dakshina Kannada Co-Operative Milk Producers Union Ltd [2021 (8) TMI 352] wherein it is held that there is no supply of services by employer by paying part consideration of employees' refreshments.
- 2.15. The Applicant wishes to rely on the judgement of European Court of Justice (ECJ) in the case of R. J. Tolsma Vs Inspecteur der Omzetbelasting Leeuwarden in case C-16/93 (Judgement of the Court, Sixth Chamber) wherein it was held that the Supply of Service effected for consideration within the meaning of that provision does not include an activity consisting in playing music on the public highway for which no remuneration is stipulated, even if musician solicits money and receives sum whose amount is however neither quantified nor quantifiable. The principle espoused here

was that a supply of services is effected “for consideration” only when the provider of the service and the recipient enter into a legal relationship wherein the provider carries out a service and receives remuneration in return for the said service – which was absent in the public performance on the highway owing to lack of intention. In the present case also; there was no intention of the Applicant to contract with its employees with respect to the service of food and beverages in its canteen premises – and hence, this basic requirement of qualifying as a supply itself is not satisfied.

- 2.16. In the light of the above judgement, the Applicant wishes to submit that there must be a legal intention to enter in a contractual relationship with its recipient, which casts roles and responsibility on each of the contractual party, in order to fall under the ambit of Supply under GST. Unless there is an intention to provide a service, the same shall not be treated as Supply within the meaning of Section 7 of the CGST Act.
- 2.17. The Applicant submits that they are responsible and obligated to ensure that the statutory deductions such as provident fund/employee state insurance etc. are made on a timely basis from the salary of all the employees of the Applicant including the contractual employees. While there is a direct control over the deduction of statutory deductions directly from the salary of employees, the Applicant exercise indirect control over the deduction of such statutory levies from the salary of the contractual employees. To summarize, the ultimate responsibility for deduction of statutory levies is on the Applicant.
- 2.18. Therefore, the Applicant wishes to submit that there is no ‘Supply’ by him in the form of provision of canteen facility to its employees.

**The Supply shall be effected for a 'Consideration'**

2.19. With respect to the definition of supply, as mentioned in Section 7 of the CGST Act, (Supra) it is pertinent to evaluate another element of supply which states that an activity could be considered as a supply only if it is “made or agreed to be made’ for a consideration. Thus, it becomes very critical to analyze the term “consideration” against the deduction of amount from its employees’ salary.

2.20. The term ‘consideration’ has been defined in **Section 2(31) of the CGST Act, 2017** which is provided below:

‘consideration’ in relation to the supply of goods or services or both includes,

a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.

2.21. The Applicant wishes to submit that a supply must involve **enforceable reciprocal obligations**. If something has been used, but there was no agreement for its supply between the relevant parties, **any payment subsequently received by the aggrieved party is not consideration for**

**supply**. The receipt of payment is not premised on the enforcement of reciprocal obligations between parties and cannot be linked to a supply for the purpose of levying GST. Hence, the deduction in employees' salary made by the Applicant would constitute a mere transaction in money between the Applicant and its employees.

2.22. Also, the Applicant wishes to bring the judgement of Bombay High Court in the case of **Bai Mamubai Trust, Vithaldas Laxmidas Bhatia, Smt. Indu Vithaldas Bhatia vs. Suchitra [Commercial Suit (I) No. 236 of 2017]**, has held that for GST to be payable on any payment, there must be the **necessary quality of reciprocity to make it a 'supply'**.

2.23. In the instant case, the Applicant deducts a pre-determined amount from the employee's salary as a recovery of expenses under employment relationship without any commercial objective. The same is also shown as a deduction in the salary slip provided to the employees. Based on the above interpretation, it can be said that there is no reciprocity of any activity or transaction i.e. when is no express or implied reciprocity i.e. quid-pro-quo, between the Applicant and the employees. Thus, in the absence of an identifiable supply, **the activity would not constitute 'consideration' for any supply.**

**The Supply should be effected in the course or furtherance of business under the CGST Act**

2.24. With respect to the definition of supply, as mentioned in Section 7 of the CGST Act, (Supra) it is pertinent to evaluate the last element of supply, which states that an activity could be considered as a supply only if it is in the course or furtherance of business. Thus, it becomes important to analyze whether provision of canteen facility because of the statutory obligation could be considered as "in the course or furtherance of business".

2.25. In this regard, the Applicant refers to the definition of 'business', as defined in **Section 2(17) of the CGST Act** which reads as follows:

"business" includes:

**(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity**, whether or not it is for a pecuniary benefit:

**(b) any activity or transaction in connection with or incidents or ancillary to sub-clause (a);**

(c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;

(d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;

(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;

(f) admission, for a consideration, of persons to any premises;

(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

(h) [activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and]

(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities."

2.26. Considering the nature of activities and transactions undertaken by the Applicant, it is evidently clear that the activity under evaluation does not fall within the definition of business from Sr. No. (c) to (i) above. Thus, the Applicant wish to analyse in detail, various elements of the definition of business as provided in Sr. No. (a) above i.e. **"any trade, commerce,**

**manufacture, profession, vocation, adventure, wager or any other similar activity”.**

2.27. The **Black Law’s dictionary** provides the below definitions for the activities in Sr no (a):

*a. Trade – “The business of buying and selling or bartering goods or services; A transaction or swap; A business or industry occupation; a craft or profession.”*

*b. Commerce – “The exchange of goods and services, esp. on a large-scale involving transportation between cities, states, and nations.”*

*c. Manufacture - “A thing that is made or built by a human being (or by a machine), as distinguished from something that is a product of nature. Manufacturers are one of the statutory categories of inventions that can be patented. Examples of manufactures are chairs and tires.”*

*d. Profession - “A vocation requiring advanced education and training. Collectively, the members of such vocation.”*

*e. Vocation - “A person’s regular calling or business; one’s occupation or profession.”*

*f. Adventure - “A commercial undertaking that has an element of risk; a venture. Cf. Joint venture; A Voyage involving financial and insurable risk, as to a shipment of goods.”*

*g. Wager - “Money or other consideration risked on an uncertain event; a bet or gamble. A promise to pay money or other consideration on the occurrence of an uncertain event. See wagering contract under Contract.”*

2.28. Further, reliance is also placed on the case of **Cinemax India Limited Vs Union of India (Special Civil Appeal Nos. 8032, 9661, 11032, 11111, 12933 of 2010 and 707 of 2011 decided on 23.08.2011)** wherein the term ‘furtherance of business’ has been pointed out as:

*“The meaning of 'furtherance', as per Black's Law Dictionary, 6th Edition, 11th reprint, 1997, is act of furthering, help forward, promotion, advancement or progress. Furtherance of business will, thus mean, act of furthering business, helping forward business, promotion of business, advancement of business or progress of business.”*

2.29. In the Australian Concise Oxford Dictionary (1997) defines the phrase 'in the course of' as 'during' and the word 'furtherance' as to mean 'furthering or being furthered; the advancement of a scheme etc.'

2.30. Further, in the case of **Indian Institute of Technology Vs. State of Uttar Pradesh & Ors. [1976(38)STC 428 (All.)]** it was held that – (a) the statutory obligation of maintenance of a hostel which involved supply and sale of food was an integral part of the objects of the Institute; and (b) the running of the said hostel could not be treated as the principal activity of the Institute. Consequently, the Institute was held to not be doing business.

2.31. In the light of the above canteen services cannot be treated as ancillary to the business activity of the Applicant. Firstly, canteen services are provided only to the employees of the Company as per the internal employment policy applicable to the employees. Hence, if canteen can be termed as expenses for use in the course of business than a business activity itself, then the same cannot be termed as 'supply' to be taxed under GST

2.32. In fact, the Canteen Service Provider is required to adhere to all the applicable provisions of such Act since they are engaged in the provision of manufacturing, selling and handling food and not the Applicant. Therefore, the activity of setting up the canteen facility and subsequent deduction of nominal value would not tantamount to Supply under Section 7 of the CGST Act.

**Extension of Canteen facility only to Applicant's employees in the course of employment relationship**

2.33. Notwithstanding anything mentioned above, the Applicant wishes to draw attention towards Schedule III of the CGST Act which provides the activities or transactions which shall be treated neither as a Supply of Goods nor a Supply of Services. One of the activities mentions therein is:  
*(1) Services by an employee to the employer in the course of or in relation to his employment.*

2.34. It is also essential to understand the press release issued on 10 July 2017 by CBIC, wherein the GST implications on the services of Employer and Employee has been clarified. Para 3 of the said circular provides that:

*“It is pertinent to point out here that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services). It follows therefrom that supply by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST. Further, the input tax credit (ITC) scheme under GST does not allow ITC of membership of a club, health and fitness centre [section 17 (5) (b) (ii)]. It follows, therefore, that if such services are provided free of charge to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer. The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to-company (C2C).”*

2.35. Considering the press release dated 10th July 2017, common facilities provided commonly to employees would not be subject to GST as they cannot be considered as gifts:

1. Telephone / mobile services
2. Internet services
3. Education reimbursement for employees' children

4. Transport facilities
5. Membership of gym, health club etc.
6. Subscription to journals
7. Canteen facility etc.

2.36. It is submitted that in the present facts there is no independent contract, which exists between the Applicant and the employee for setting up of the canteen facility. The canteen facility at the factory is being undertaken on account of the legal obligation casted upon the Applicant for its employees only, and hence the same must be considered as a part of employment arrangement.

2.37. Schedule III read with Section 7(2) of the CGST Act specifies that any services provided by an employee to the employer in the course of or in relation to his employment shall be neither a supply of goods nor supply of services. In short, the consideration paid by the employer to the employee as part of the employment policy shall be out of the scope of levy of GST

2.38. Further, as the facility of canteen is provided due to the existing 'Employer-Employee' relationship, an employee is not allowed to use the canteen facility once the 'Employer-Employee' relationship ceases i.e. when the employment is terminated. This makes it evident that 'Employer-Employee' relationship is a pre-requisite to avail the canteen facility.

2.39. Reliance is also placed on the ruling issued by this Hon'ble Authority in case of **Tata Motors Limited [GST-ARA -23/2019-20/B-46 dated 25 August 2020]**, wherein it was held that since the Applicant (i.e. Tata Motors) had not been supplying any services to its employees, in view of the provisions of Schedule-III; GST was not applicable on the nominal amounts recovered by the said Applicant from its employees for providing transportation facilities (with the same being applicable to canteen facility). It was further observed that the Applicant, in its capacity of being the employer was the recipient of the service and employees were the users of

such services. This Hon'ble AAR held that by virtue of Clause 1 of Schedule-III to CGST Act 2017, **GST was not applicable to the nominal amount recovered by the applicants from their employees.**

- 2.40. Further, reliance is also placed on the decision of Maharashtra AAR in case of **M/s The TATA Power Company Limited (NO.GST-ARA-99/2019-20/B-92)** wherein the authority has held that amounts recovered towards Top-up and parental insurance premium from the employees, does not amount to a supply of any service under section 7 of the Central Goods & Service Tax Act, 2017.
- 2.41. Further reliance has been placed in case of **Posco India Pune Processing Center Private Limited [GSTARA-36/2018-19/B-110 dated 7 September 2018]**, wherein the Applicant was paying the premium towards mediclaim taken for their employees and the parents of such employees against such payments made they were recovering 50% from their employees. The AAR Maharashtra held that there is no way that the 50% amount recovered can be treated as amounts received for services rendered, since this entire amount is paid to the insurance company which is providing mediclaim facilities to the employees and their parents. Such recovery of 50% premium amounts by the applicant from their employees cannot be supply of services under the GST laws.
- 2.42. Similar ruling has been passed in case of In Re: **M/s Jotun India Pvt Ltd [2019 (10) TMI 482]** by the Authority for Advance Ruling, Maharashtra, wherein it was held that the recovery of 50% of Parental Health Insurance Premium from employees does not amount to "supply of service" under Section 7 of the CGST Act, as the Assessee was not in the business of providing insurance service.
- 2.43. If such services are covered by the employment policy, then they are not to be considered as supply. Kind attention is drawn to Section 7(2) of the CGST Act which overrides section 7(1) of CGST, thus makes it amply clear

that any transactions which are provided by the employee to employer in the course/relation to the employment shall be out of the scope of GST. Once the activity comes under Schedule III, then anything which contradicts or withstands this clause shall be ineffective or inoperative qua this clause.

**“Section 7(2) - Notwithstanding anything contained in sub-section (1),—**

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services”. In view of the above submissions, the Applicant wish to re-iterate that the canteen facility provided to its employees upon which they are deducting the nominal value, cannot be regarded as supply under the GST law. Therefore, GST cannot be levied on such activity

### **PERSONAL HEARING**

The personal hearings were held on 11/01/2024 & 28/07/2025 during which Shri Rashmikant Shah, General Manager (Indirect Taxation) along with Mr. Vaibhav Vahia and Amit Parmar, Officials of the applicant appeared for personal hearing through online mode before this Authority and they were heard on behalf of applicant.

### **FINDINGS AND DISCUSSIONS**

We have carefully gone through all the written submissions/grounds on record and have also heard the authorized representatives of applicant taxpayer.

Upon careful perusal of all records and as per the case set out by applicant, it is seen that the applicant has set up a canteen facility within its factory premises at Kundai Industrial Estate, and it is applicants case that same is mandatory requirement under Section 46 of the Factories Act, 1948.

It is further case of the applicant that they have engaged a third party caterer who provides food to their employees at said canteen facility and at the end of the month, a portion of the cost is recovered from employees by way of deductions from their salary by applicant and the rest portion is the subsidy/perquisites to the employees.

The question arises whether such recovery constitutes a consideration, thereby making it a supply under GST regime.

This issue is dealt by Circular No. 172/04/2022-GST dated 06/07/2022 issued by CBIC and the corresponding Circular issued by SGST Goa. The clarification issued at sr. no. 5 of Circular No. 172/ 04/ 2022-GST dated 06/07/2022 issued by GST Policy Wing, CBIC reads as under.

**“Perquisites provided by employer to the employees as per contractual agreement**

**Issue No. 5.** Whether various perquisites provided by employees by the employer to its employees in terms of contractual agreement entered into between employee are liable for GST?

**Clarification:-**

1. Schedule III to the CGST Act provides that "services by employee to the employer in the course of or in relation to his employment" will not be considered as supply of goods or services and hence GST is not applicable on services rendered by employee to employer provided they are in the course of or in the employer and the relation to employment.

2. Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his

employment. It follows therefrom that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee.”

In view of above clarification and the facts placed on record by applicant stating that the canteen facility is within the factory premises and is for discharging of a statutory obligation as an employer, said perquisite provided by an employer to its employees, in accordance with the employment contract, is not liable to GST.

Hence, such deduction of portion of cost is not liable to GST

### **RULING**

#### **ADVANCE RULING UNDER SECTION 98 OF THE CGST/ GGST ACT, 2017.**

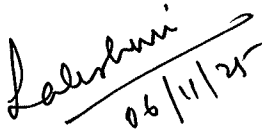
The ruling so sought by the applicant is accordingly answered as under.

**Question:** Whether the subsidized deduction made by the Applicant from the employees who are availing food in the factory would be considered as a “supply” by the Applicant under the provisions of Section 7 of Central Goods and Service Tax Act, 2017 and Goa Goods and Service Tax Act, 2017.

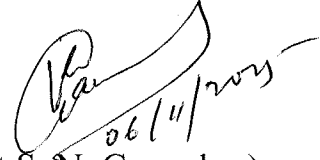
- a. In case answer to above is yes,
  - whether GST is applicable on the amount deducted from the salaries of its employees?
- b. In case answer to above is no,
  - GST is applicable on which portion i.e. amount paid by the Applicant to the Canteen Service Provider or only on the amount recovered from the employees?

**Answer:**

- 1) The deduction of portion of the cost amount by the applicant employer from the salary of the employees who are availing facility of food at canteen provided at factory premises at Kundaim, Goa would not be considered as a 'supply' under GST Acts and is not liable to GST as per the clarification issued at sr. no. 5 of Circular No. 172/ 04/ 2022-GST dated 06/07/2022 issued by GST Policy Wing, CBIC.
- 2) In view of above ruling, remaining questions does not survive.



(Lakshmi Radhakrishnan)  
CGST Member



(Vishant S. N. Gaunekar)  
SGST Member

Dated: - /11/2025

Place: - Panaji, Goa

**To,**

**M/s. ZYDUS LIFESCIENCES LIMITED,  
Kundaim Industrial Estate, Kundaim, Ponda, Goa 403115**

Copy to:

1. The Commissioner of State GST, Altinho, Panaji, Goa;
2. The Commissioner of CGST Goa, Patto Plaza, Panaji, Goa;
3. Dy. Commissioner of State Tax, Ponda Ward, Upper Bazar, Ponda, Goa;
4. Dy. Commissioner of CGST, Division III, Patto Plaza, Panaji, Goa;
5. State Tax Officer, Ponda Ward, Upper Bazar, Ponda, Goa;
6. Superintendent of CGST, Range I, Division III, Patto Plaza, Panaji, Goa
7. Office File.
8. Guard File.



## Goa Authority for Advance Ruling

Members: Mrs. Lakshmi Radhakrishnan, Additional Commissioner-Center [Member Centre]  
Mr. Vishant S. N. Gaunekar, Additional Commissioner - State [Member State]

Order Number: ZD300925002048S / 3467

Date of order: 06/11/2025

Advance Ruling ARN: AD300522000363Z

Date of ARN: 24/05/2022

Name of Applicant: ZYDUS LIFESCIENCES LIMITED

Address of Applicant: -NA-

GSTIN / UIN / Temporary Id of Taxpayer: 30AAACC6253G1Z6

Name and Designation of Jurisdictional Officer: -NA-

Name and Designation of Concerned Officer: Mr SABA KRISHNA PARAB, State Tax Officer

The matter(s) on which advance ruling is sought for, is/are:

1. Determination of time and value of supply of goods or services or both
2. Admissibility of input tax credit of tax paid or deemed to have been paid
3. Determination of the liability to pay tax on any goods or services or both
4. Whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term

### ORDER

The Applicant has filed an Application for seeking Advance Ruling before the Authority for Advance Ruling under section 97 of the Central Tax, State Tax /UTGST Act, 2017 and the rules made thereunder.

**For Rejection of AR application** - In view of the observations, as mentioned in the attached Annexure, we find/do not find substance in this application and accordingly the application filed for seeking Advance Ruling is admitted/rejected under section 98 of CGST, SGST/ UTGST Act, 2017.

**For Passing AR Order** - In view of the discussion and findings, the order is passed for the matter(s) listed above.

Please refer the Annexure, attached with this Order, to view the details of Order passed.

This is a system generated Order and does not require any signature.

Mr. Vishant S. N. Gaunekar, Additional  
Commissioner - State  
Member State

Mrs. Lakshmi Radhakrishnan,  
Additional Commissioner-Center  
Member Centre

Note(In case of Passing Order):

1. An appeal against this advance ruling lies before the Goa Appellate Authority for Advance Ruling.
2. The Applicant or the department, as the case may be, being aggrieved of this decision may file appeal within 30 days of communication of this order.

Copy to

- 1 Concerned Officer
  - 2 Jurisdictional Officer
  - 3 Applicant
- (As applicable)