

GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/22/2021
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2021/AR/13)

Date: 09.07.2021

Name and address of the applicant	:	M/s. Dishman Carbogen Amcis Ltd., Dishman Corporate House, Iscon Ambali Road, Ahmedabad- 380058.
GSTIN/ User Id of the applicant	:	24AADCC1254E1Z9
Date of application	:	14.04.2021
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	e) Determination of the liability to pay tax on any goods or services both
Date of Personal Hearing	:	30.06.2021
Present for the applicant	:	Shri Vinod Bohra, Manager (Indirect Taxation)

BRIEF FACTS

The applicant, M/s. Dishman Carbogen Amcis Ltd., has sought Ruling on whether it is required by the applicant to charge GST on the amount collected from the employees towards canteen charges. The applicant submitted as follows:

- i. Company is providing canteen facility to their employee as it is mandatory as per Section 46 of the Factories Act, 1948. This facility provided to employee without making any profit and working as mediator between employee and contractor of canteen service provider. They are collecting amount from the employee and paid to the contractor of canteen.
- ii. With reference to the Gujarat Appellate Authority Advance Ruling (Appeal) No. GUJ/GAAAR/APPEAL/2021/07 dated 08.03.2021, Tax is not applicable on the collection of employee portion of amount towards food stuff supplied by the third party/canteen service provider.
- iii. Service in relation to supply of food and beverages by a canteen maintained in a factory covered under the factories Act, 1948 was exempted under the Service Tax as per Sr. No. 19 of Mega exemption Notification No. 25/2012-ST dated 20.06.2012.
- iv. They are of the opinion that this activity does not fall within the scope of supply as the same is not in the course or furtherance of its business. They are facilitating the supply of food to the employees which is statutory requirement and is recovering only employees share as actual expenditure incurred in a connection with the food supply without making any profit.
- v. The canteen service provider charging GST on supply of food and same is not entitled to avail as ITC as it has been restricted by virtue of Section 17 (5) of CGST Act, 2017. In such case canteen service provided by company should not be construed as “service” and no GST shall be payable.

Personal Hearing:

2. Shri Vinod Bohra, Manager (Indirect Taxation) appeared for the hearing and reiterated the contents of the application. The applicant vide letter dated 30-6-21 has submitted as follows:

- They are having two manufacturing facility at Bavla and Naroda in Ahmedabad-Gujarat and have more than 250 employees at both manufacturing location. Therefore, in terms of Factories Act, 1948, it is mandatory for the company to provide canteen facilities to the employee.
- They have contract with canteen contractor and agreed to pay him the fix per plate amount as per agreement. As per company policy, applicant provide the food facility to their employees and recovered of nominal amount from the employee and the said recovered amount is paid to canteen contractor.. For more clarity they have given the following illustration.

Illustration: The company (Dishman) and canteen contractor (XYZ) have agreed to provide a dish @ 60/- per plate and the contractor charges the GST on such supply. The company pays Rs.40/- directly to contractor and Rs.20 recovered from employees and pay to the contractor. The company has not availed GST credit on such supply.

FINDINGS:

3. We have carefully considered all the submissions made by the applicant. We find that the applicant has arranged a canteen for its employees, which is run by a third party Canteen Service Provider. As per their arrangement, part of the Canteen charges is borne by the applicant whereas the remaining part is borne by its employees. The said employees' portion canteen charges is collected by the applicant and paid to the Canteen Service Provider. The applicant submitted that it does not retain with itself any profit margin in this activity of collecting employees' portion of canteen charges. This activity carried out by applicant is without consideration. Thus, we pass the Ruling:

RULING

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.

(SANJAY SAXENA)

MEMBER (S)

(ARUN RICHARD)

(MEMBER (C)