

# Ministry of Finance

## Canteen services for employees out of GST net

### Relevant to Taxation Team

19th October 2021

#### Introduction

Following a tax judgement that provides some relief to several large industrial and manufacturing enterprises, canteen expenses collected from employees will henceforth be outside the scope of the goods and services tax.

#### Judgement by AAR

- The **Gujarat Authority for Advance Ruling (AAR)** has decided that GST does not apply to the money collected from employees for canteen costs and paid to the canteen service provider.
- It went on to say that this would only apply if the **corporation** was **not earning any profit** out of these funds and was only serving as a middleman.
- Two different authorities took opposing views in two previous AAR judgements. The AAR had held that GST is not chargeable on such an amount in the case of **Tata Motors** but had adopted the opposite opinion in the case of **Amneal Pharmaceuticals**.

#### Key Points

1. According to tax experts, this has been a **point of contention** among various enterprises that are required by law to provide food canteens.
2. In most scenarios, the employees pay a **nominal amount**.
3. Previously, there was some **uncertainty** about the **GST** on canteens and the **input tax credit** available to businesses.

4. In **2018**, the government announced that **banks** could **claim life insurance premiums** paid by **security guards** as an input tax credit, **hospitals** could **claim medical insurance premiums** paid by **nurses** as an input tax credit, and **businesses** could **claim canteen fees** charged to **labourers** as an input tax credit.
5. However, the government clarification also meant that in some situations, GST might be charged to canteen prices.
6. According to tax experts, the **exception** indicates that any legally compelled service given by any employer will be eligible for an input tax credit.
7. The new AAR decision goes even farther. According to the **AAR** judgement, any **service** offered by an employer **without the purpose to profit shall be exempt from GST**.

### Input tax credit

It is a system that allows a firm or a bank to deduct a portion of the GST paid on input services or raw materials from future tax liabilities.

### Reactions to the judgement

Name of the Person	Company/ Industry	Reaction
Rakesh Nangia	Managing Partner of Nangia Andersen India	The provision of employee canteen facilities and GST payment has been a topic of dispute across the sector, and numerous judgements have been pronounced in favour of and against the applicant in the stated subject. In light of varying perspectives from various agencies, adequate explanation from the Central Board of Indirect Taxes and Customs may put this problem to rest and assist the industry to adopt a realistic and unambiguous perspective.

Rajat Mohan	Senior Partner, AMRG & Associates	Corporations that provide subsidised dining facilities charge a 5% tax on food recoveries made from employees. The authority has concluded that where the employer bears the canteen costs and just a little portion is charged to employees, no GST is due on the recoveries. This judgement is persuasive enough to persuade all corporate taxpayers to adopt a tax-efficient tax strategy.
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## On a Platter

**Gujarat AAR ruling could bring clarity on other expenses incurred by cos and applicability of GST**

**AAR said in cases where cos don't make profit** from canteen fees, GST can't be levied

**Ruling brings relief** to several large industrial and manufacturing units

**There have been past contradictory AAR rulings on GST on canteen fees**

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