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ITC on Canteen Services Admissible Only to the Extent of Cost Borne by Employer in Respect of Regular Employees and Not for Contractual Workers

The Karnataka Authority for Advance Ruling, in **Aditya Auto Products & Engineering India Pvt. Ltd. [KAR. ADRG 25/2026 dated May 19, 2026]** held that input tax credit (“ITC”) on GST charged by Canteen Service Providers (“CSPs”) engaged for operating statutory factory canteens is admissible only to the extent of cost actually borne by the employer in respect of regular employees. ITC attributable to contractual workers and to the portion of cost recovered from employees is not admissible, since the statutory mandate under Section 46 of the Factories Act, 1948 extends only to direct employees and credit cannot exceed the actual business expenditure incurred in discharge of such obligation.

Facts:

- Aditya Auto Products & Engineering India Pvt. Ltd. (“**the Applicant**”) is engaged in the manufacture, sale and trading of automotive parts classifiable under HSN 8708, supplying to OEMs and Tier-I suppliers.
- The Applicant operates three manufacturing units in Karnataka and employs approximately 1,288 regular employees (excluding contract workers), thereby crossing the threshold prescribed under Section 46 of the Factories Act, 1948.
- In compliance with the statutory obligation, the Applicant engaged Canteen Service Providers (“CSPs”) for running canteen facilities within the factory premises, catering to both regular employees and contract workers.
- From regular employees, a nominal subsidised amount ranging between ₹200/- and ₹250/- per month is recovered through salary deductions, with the balance cost being borne by the Applicant.

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- In respect of contract workers, a concessional amount is recovered from the respective contractors/suppliers by raising monthly invoices, on which the Applicant discharges GST @ 5%.
- The Applicant approached the Authority seeking a ruling on the admissibility of ITC on the GST charged by the CSPs for the catering services supplied at the factory canteen.

Issue:

Whether ITC is admissible to the Applicant on GST charged by the Canteen Service Provider for providing catering services, which the Applicant is mandatorily required to provide under Section 46 of the Factories Act, 1948?

Held:

The Karnataka Authority for Advance Ruling, in **KAR. ADRG 25/2026** held as under:

- **Observed that**, Section 17(5)(b) of the CGST Act, 2017 places a restriction on availment of ITC in respect of food and beverages, including outdoor catering. However, the proviso to the said clause permits ITC where provision of such goods or services is obligatory for an employer under any law for the time being in force.
- **Noted that**, Section 46 of the Factories Act, 1948 mandates the provision and maintenance of canteen facilities only for workers employed in factories where more than 250 workers are ordinarily employed. The engagement of CSPs by the Applicant was solely towards the discharge of this statutory obligation and not for carrying on an independent business of catering services.
- **Held that**, in respect of regular employees, the canteen facility forms part of the conditions of employment arising out of statutory mandate, and accordingly, ITC on

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catering services is admissible under the proviso to Section 17(5)(b) of the CGST Act, 2017.

- **Held that**, in respect of contractual workers, no direct employer-employee relationship exists between the Applicant and such workers, and no statutory obligation is cast upon the Applicant under the Factories Act, 1948 to provide canteen facilities to contract labour. Hence, the proviso to Section 17(5)(b) is not attracted and ITC remains restricted.
- **Held that**, the admissibility of ITC is further restricted only to the extent of cost actually borne by the Applicant. ITC cannot be availed on the portion of the value recovered from employees, since allowing credit on the recovered component would amount to availment beyond the actual business expenditure incurred in discharge of the statutory obligation.
- **Held that**, the inward catering services are not used for making an outward taxable supply of the same category of goods or services, as the principal business activity of the Applicant is manufacturing. Therefore, the exception carved out under Section 17(5)(b) relating to outward taxable supply is inapplicable.
- **Ruled that**, ITC is admissible to the Applicant only to the extent of catering expenses actually borne by it in respect of its regular employees, and not in respect of services attributable to contractual workers or the portion of cost recovered from employees.

Our Comments:

The present ruling reinforces the settled position that ITC on canteen services provided in discharge of a statutory obligation is admissible under the first proviso to Section 17(5)(b) of the CGST Act, 2017. However, the Authority has carved out two important boundaries — first, that the obligation must flow from law (and not merely from contractual or welfare

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arrangements), and second, that ITC must be co-extensive with the actual expenditure borne by the employer.

Statutory Framework: Section 17(5)(b)(i) of the CGST Act, 2017 specifically blocks ITC in respect of food and beverages and outdoor catering. The first proviso to Section 17(5)(b), inserted vide the CGST (Amendment) Act, 2018 (with effect from February 01, 2019), carves out an exception, providing that ITC shall be available where it is obligatory for an employer to provide the same to its employees under any law for the time being in force. Section 46 of the Factories Act, 1948 read with the relevant State Factories Rules, casts a statutory obligation on the occupier of every factory ordinarily employing more than 250 workers to provide and maintain a canteen, thereby squarely bringing such expenditure within the protective umbrella of the first proviso.

CBIC Clarification: The Authority has correctly placed reliance on *Circular No. 172/04/2022-GST dated July 06, 2022*, wherein the CBIC has clarified that the proviso to Section 17(5)(b) is applicable to the entire clause (b) and that ITC shall be available in respect of goods or services which are obligatory for an employer to provide to its employees under any law for the time being in force. The Circular has effectively put to rest the earlier divergence in views on whether the proviso operates only on sub-clause (iii) or extends to the entire clause (b).

Treatment of Employee Recovery – The Real Pinch Point: While the admissibility of ITC on statutory canteen services is no longer res integra, the Authority has gone a step further by restricting ITC to only the portion of the cost actually borne by the employer. This proportionate restriction proceeds on the principle that GST is a tax on supply, and ITC cannot exceed the actual business expenditure incurred. Where a portion of the cost is recovered from employees (whether through salary deduction or otherwise), to that extent, the employer has not “borne” the cost and consequently cannot claim credit. Taxpayers should therefore institute a robust mechanism to bifurcate the CSP invoice into (a) the portion

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recovered from employees and (b) the portion borne by the employer, and reverse/restrict ITC to the latter component only.

Position on Contract Workers: The Authority has rightly distinguished contract workers from regular employees, since the statutory obligation under Section 46 of the Factories Act, 1948 attaches to the occupier in respect of workers directly employed. Although contract workers form part of the factory ecosystem, the legal relationship of employment subsists between the contractor and the worker, and not between the principal employer and the contract worker. Consequently, in the absence of either an employer-employee relationship or an independent statutory mandate, the proviso to Section 17(5)(b) cannot be invoked qua contract workers.

Pari Materia Rulings: The present ruling is in line with the consistent view taken by various Authorities for Advance Ruling and Appellate Authorities across the country:

- Gujarat AAAR in *Tata Motors Ltd. [Advance Ruling (Appeal) No. GUJ/GAAAR/APPEAL/2022/23 dated December 22, 2022]* held that ITC is admissible on canteen services provided in compliance with Section 46 of the Factories Act, 1948 but only to the extent of cost borne by the employer and not on the portion recovered from employees.
- Gujarat AAR in *Cadila Healthcare Ltd. [Order No. GUJ/GAAR/R/39/2021 dated July 30, 2021]* and Haryana AAR in *Musashi Auto Parts India Pvt. Ltd. [HAR/HAAR/R/2018-19/41 dated October 04, 2018]* adopted a similar reasoning on the obligatory nature of the canteen under the Factories Act.
- Maharashtra AAR in *Tata Motors Ltd. [GST-ARA-23/2019-20/B-46 dated August 25, 2020]* held that the nominal recovery from employees does not constitute a “supply” under Section 7 of the CGST Act, 2017 and accordingly is not exigible to GST.

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Contrary Position on Contract Workers: It is, however, pertinent to note that certain Authorities have taken a more liberal view on contract workers. The Gujarat AAAR in *Troikaa Pharmaceuticals Ltd. [Appeal No. GUJ/GAAAR/APPEAL/2022/22 dated December 22, 2022]* and the Uttarakhand AAR in *Tube Investments of India Ltd. [Ruling No. 11/2022-23 dated March 21, 2023]* have, in certain fact patterns, extended the benefit of ITC to canteen services provided to contract workers, particularly where the relevant State Factories Rules (such as the Gujarat Factories Rules, 1963) expressly include contract workers within the head count for triggering Section 46. The position therefore remains fact and State-specific, and taxpayers operating across multiple States should evaluate the State Factories Rules carefully before taking a uniform position.

Key Takeaways for Taxpayers: (i) Maintain documentary evidence of statutory applicability of Section 46 of the Factories Act, 1948 — head count registers, factory licence, and HR records; (ii) institute a bifurcation mechanism in books and CSP reconciliations to identify the employer-borne portion vis-à-vis the employee-recovered portion and restrict ITC accordingly; (iii) discharge GST @ 5% on recoveries made from contractors towards contract workers, as the same constitutes a separate taxable supply; (iv) examine the applicable State Factories Rules to assess whether contract workers can be counted towards the threshold for triggering the statutory obligation; and (v) suitably caveat ITC working papers and GSTR-3B reconciliations to withstand departmental scrutiny.

Relevant Provisions:

Section 17(5)(b) of the CGST Act, 2017:

“(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely: —

(b) the following supply of goods or services or both —

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(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply...

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”

Section 46 of the Factories Act, 1948:

“The State Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.”

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(Author can be reached at info@a2ztaxcorp.com)

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