


GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/2022/20
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2022/AR/8)

Date: 12.04.22

Name and address of the applicant	:	M/s. Cadmach Machinery Pvt. Ltd., Phase IV, 3604/3605, GIDC Vatva, Ahmedabad- 382445
GSTIN/ User Id of the applicant	:	24AAACC6242R1ZF
Date of application	:	05/02/22
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	<i>(e) and (g)</i>
Date of Personal Hearing	:	22/03/22
Present for the applicant	:	Shri Meet Jadawala, CA

Brief facts :

M/s. Cadmach Machinery Co. Pvt. Ltd., hereinafter referred to as Cadmach for the sake of brevity, is engaged in manufacture and supply of pharmaceutical machinery. Cadmach is working with the capacity of approximately 400 employees & workers. In compliance to section 46 of the Factories Act, Cadmach is carrying out canteen facilities through third party canteen service at their factory. The model that they have in their factory is that the food is being offered to employees on subsidized rate whereby the employee's share of the cost is being deducted from their salary.

2. Cadmach is collecting and paying the portion of the employee to third party (i.e. Canteen service Provider). The Canteen Service Provider supplies foodstuffs to the employees of the Cadmach against consideration. As per the agreed arrangements between the Cadmach and its employees, part of that consideration/ amount is borne by the Applicant whereas the remaining part is borne by its employees. The employees' portion of consideration/amount is collected by the Cadmach and the consolidated amount of consideration (employees' portion as well as Applicant's portion) is paid to the Canteen Service Provider by the Applicant. For instance, Cadmach and canteen contractor agrees to provide a dish @ 60/- per plate and the contractor charges the GST on such supply. The company pays Rs. 50/- directly to contractor and recover Rs. 10 from employees and pay to the contractor.

3. Cadmach is recovering nominal amount on monthly basis to ensure use of canteen facility only by authorized persons/employees and expenditure incurred towards canteen facility borne by Applicant is part and parcel of cost to company. Once employee ceases to be in employment with Applicant, he/she is not authorized to use the canteen facility. In other words, employer-employee relationship is must to avail the canteen facility.

4. Cadmach submitted that in terms of Section 7 of CGST Act, 2017, for a transaction to qualify as supply, it should essentially be made in the course or furtherance of business. Cadmach is engaged only in the business of developing and manufacturing a broad range of pharmaceutical machineries and is maintain canteen as per the provisions of the Factories Act, 1948. Even of the said canteen facility were not provided, the pharmaceutical business of the Cadmach would still be continuing. The employees/workers are vital resources to carry out the day to day affairs of the Cadmach. Further, the said activity is not a factor which will take the Cadmach business activity forward.

5. Cadmach submitted that they are not supplying any canteen service to its employees in the instant case. The said canteen facility services are also not the output service of Cadmach since it is not in the business of providing canteen service. Rather, canteen facility is provided to employees by the third party vendor and not by them and they are receiver of such service.

6. Cadmach submitted that they neither keeps any margin in this activity of collecting employees' portion of amount nor makes any separate supply to the employees and the canteen service obligation emanates out of employment contract/arrangement than anything else. Had there been no employment there would have no obligations to supply food or run canteen service for its employees. Hence the service in the instant case more than anything else is one that is incidental to employment contract and certainly not the one incidental to carrying on any activity of business as mentioned in clause (a) of section 2 (17) of the CGST Act.

Question on which Advance Ruling sought:

7. Whether recovery of amount from employee on account of third party canteen service provided by assessee, which is obligatory under section 46 of Factories Act, 1948, would come under definition of, 'outward supply' and, therefore, taxable as a 'supply' under GST

Personal Hearing:

8. Shri Meet Jadawala attended the Virtual Hearing on 22-3-22 and reiterated the submission.

Revenue's Submission:

9. Revenue has neither submitted its comments nor appeared for hearing.

FINDINGS:

10. We find that Cadmach has arranged a canteen for its employees, which is run by a Canteen Service Provider. As per their arrangement, part of the Canteen charges is borne by Cadmach whereas the remaining part is borne by its employees. The said employees' portion canteen charges is collected by Cadmach and paid to the Canteen Service Provider. Cadmach submitted that it does not retain with itself any profit margin in this activity of collecting employees' portion of canteen charges. We are not inclined to accord this canteen service facility provided by Cadmach to its employees to be an activity made in the course or furtherance of business, to deem it a Supply by Cadmach to its employees.

Thus, we pass the Ruling:

Ruling

GST, at the hands of the Cadmach, is **not** leviable on the amount representing the employees portion of canteen charges, which is collected by Cadmach and paid to the Canteen service provider.

(ATUL MEHTA)
MEMBER (S)

(ARUN RICHARD)
MEMBER (C)

Place: Ahmedabad

Date: 12.04.22