

TAX INFO

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Latest update on GST Law: Information regarding **Whether Canteen Services for Employees Attract GST or not?**

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Some companies deduct nominal amount from employee's salary for availing **canteen facility**. In other words, difference between amount paid to service provider and amount recovered from employees would be cost to company as salary cost. Now the question is **whether GST should not be leviable on the amount representing the employee's portion of canteen charges, which would be collected by the company and paid to the Canteen service provider.**

In the earlier two AAR rulings, a different view was taken by two different authorities. **In the case of M/s Tata Motors**, the AAR had ruled that GST is not applicable on the amount collected from employees for providing food in canteens. However, **in the case of M/s Amneal Pharmaceuticals**, the AAR ruled that GST is applicable on such an amount.

Recently, **The Gujarat Authority for Advance Ruling (AAR)** ruled that GST does not apply to the amount collected from the employees towards canteen charges, which is paid to the canteen service provider. Hence, the canteen charges collected from employees will now be out of the scope of GST.

The AAR ruled that the company is not making a profit on the amount collected from employees. However, it is merely acting as an intermediary, so the GST cannot be levied.

Amid these different rulings on the same issue, appropriate clarification from the Central Board of Indirect Taxes and Customs (CBIC) may provide more clarity on this issue. Such a circular would also enable the industry to adopt a correct view.

In 2018, the Government clarified that companies can take ITC for canteen fees charged to labourers. This meant that GST could be applied on canteen charges in some instances and any service provided to employees mandated by the law will be eligible for the ITC. The recent AAR ruling takes it a step further. The AAR ruling means that any service provided by an employer without an intention to make a profit should be outside the scope of GST.

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