M/s Musashi Auto Parts Pvt. Ltd.

Authority for Advance Ruling — Haryana

Advance Ruling No. HAR/HAAR/R/2019-20/18 (In Application No. 18/2019… Dated **04.02.2020**

Q Questions Before the Authority

- Whether the company is eligible to take input tax credit on GST charged by the vendor for canteen service availed by it for its employees.
- Whether distribution of coupons among employees attracts GST liability, and if so, under which SAC tax shall be deducted.
- Whether it is correct to determine the fair market value of coupons based on the rate charged to employees.
- Whether the company is eligible to take input tax credit on business promotion expenses (purchases of sweets, dry fruits, gold and silver coins or articles, and electronic gifts).

F Facts

The applicant, a manufacturer of auto parts at Bawal, Rewari, has about 2,400 employees and provides canteen food under section 46 of the Factories Act, 1948. It pays a caterer for the canteen service, and it recovers a nominal amount from employees through coupon sales or card punches per meal. It also buys sweets, dry fruits and gifts for business promotion and claims input tax credit on all of these.

H Ruling

Input tax credit on GST charged by vendor for canteen services availed for employees	**Not eligible**	Canteen food and catering is blocked under section 17(5)(b)(i). The Factories Act mandate does not make it a business supply, and the proviso is read as applying to section 17(5)(b)(iii) only.
Whether distribution of coupons to employees attracts GST liability, and under which SAC	**Attracts tax liability. No SAC stated in the ruling.**	The order does not specify an SAC code.
Whether fair market value of coupons may be determined from the rate charged to employees	**Coupon value forms part of the taxable value of the caterer, the service provider.**	The ruling does not use the phrase fair market value. It bases the value on the caterer's taxable value, which reflects the subsidy the applicant funds.
Input tax credit on business promotion expenses (sweets, dry fruits, coins, gifts)	**Not eligible**	Gifts are blocked under section 17(5)(h), and the purchases are not in the course or furtherance of business.

The authority held that the applicant cannot take input tax credit on GST charged for canteen services, and that the distribution of coupons to employees attracts tax liability. It held that the coupon value forms part of the taxable value of the caterer as the service provider. It also held that the applicant cannot take input tax credit on business promotion expenses.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

R Reasoning

The authority read section 17(5)(b)(i) as blocking input tax credit on food and catering, and held that the proviso permitting credit where the employer is obliged by law to provide the service attaches to section 17(5)(b)(iii), which covers travel benefits, not food. It held that the Factories Act mandate does not make the canteen supply a business activity. On the coupons, it relied on section 15(2)(b) and 15(2)(e), finding that the 25 per cent employee contribution is in substance a recovery for facilities the applicant supplies free to the caterer, and rejected the applicant's reliance on Schedule III para 1 because that entry covers services by an employee to the employer. For business promotion, it relied on section 17(5)(h) for gifts and held that the purchases were not made in the course or furtherance of business under section 2(17).

P Provisions Relied On

- Section 16(1), CGST Act, 2017
- Section 17(5)(b)(i), CGST Act, 2017
- Section 17(5)(b)(iii) and its proviso, CGST Act, 2017
- Section 17(5)(h), CGST Act, 2017
- Section 2(17), CGST Act, 2017
- Section 15(1) and 15(2)(b), (e), CGST Act, 2017
- Schedule III para 1, CGST Act, 2017
- Section 46, Factories Act, 1948
- Section 97(2), CGST/HGST Act, 2017

! For the Practitioner

The order is useful for employers that run subsidised canteens and claim input tax credit on the caterer's bill, since it denies that credit under section 17(5)(b)(i) and rejects the Factories Act mandate argument. It also shows that subsidised coupon recoveries can be valued on the caterer's taxable value. It does not decide the SAC to be applied to coupons, and it is an advance ruling binding only on the applicant, so it is not binding precedent on other taxpayers. It also does not address the Bombay High Court rulings the applicant relied on for business promotion, beyond rejecting that argument.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> har_aar_18_2019-20_04.02.2020_mappl.pdf

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