NATION TAX MARKET	**KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM**	KERALA GST State Goods & Services Tax

BEFORE THE AUTHORITY OF: Shri Jomy Jacob IRS &

: Shri Mansur M.I.

Legal Name of the applicant	PLANTLIPIDS PRIVATE LIMITED
GSTIN	32AABCP6061C1ZY
ARN	AD3211230041135
Address	KADAYIRIPPU, KOLENCHERY, ERNAKULAM-682311.
Advance Ruling sought for	1. Whether GST is chargeable on the amount recovered at subsidised rates from employees on the rolls and contract employees for providing food to them in the canteen run by the Company as mandated under the Factories Act, 1948? 2. Whether ITC can be claimed by the Company in respect of inward supplies used in the canteen for supplying food to the employees?
Date of Personal Hearing	02-04-2025
Authorized Representative	Sri. Ranjit Mathews.P., Chartered Accountant

ADVANCE RULING No.KER/04/2025 Dated 02.04.2025

The applicant, M/s. Plant Lipids Pvt. Ltd., is a manufacturer of spice oleoresins located in Kerala, employing over 590 workers. As mandated by Section 46 of the Factories Act, 1948, the company operates an in-house canteen to provide food to its employees. This facility is provided not with an intention to generate profit or as an ancillary business operation, but solely as a statutory obligation and welfare measure to enhance employee efficiency, health, and morale. The

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company does not recover the full cost of food supplied and collects either no charges or partial amounts as a nominal recovery to avoid wastage.

2. In this Ruling, a reference hereinafter to the provisions of the CGST Act, Rules or the Notifications issued there under shall include a reference to the corresponding provisions of the KSGST Act, Rules or the Notifications issued thereunder.

3. The details of the questions on which advance ruling is sought are given above and are not being reproduced.

4. The contentions of the applicant:

4.1 The applicant submits that the in-house canteen is operated solely to comply with the statutory obligation under Section 46 of the Factories Act, 1948, which requires factories employing more than 250 workers to provide canteen facilities. This activity is not carried out in the course or furtherance of business under Section 7(1)(a) of the CGST Act, 2017.

4.1.1 The Company issues food coupons to the employees including the contract employees and they take food from the canteen using the food coupons. The food coupons are issued at subsidised rates to all employees. The Company pays GST in respect of the value of food supplied to the contract employees. Tax at 5% is paid on the value computed by adding 10% markup on the cost incurred for running the canteen in the proportion of contract employees out of the total employees. No GST is paid in respect of the food supplied to employees on the rolls of the Company relying on CBIC press release and circular 172/04/2022-GST.

4.1.2 The applicant relied on judicial precedents to support that such statutory obligations form part of the employment contract:

- *S.G. Chemical and Dyes Trading Employees' Union v. S.G. Chemicals and Dyes Trading Ltd.* [1986 SCR (2) 126]

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- *Dattatraya Shankarrao Kharde & Ors v. Executive Engineer, Chief Gate* [1994 ILLJ 395 Bom]
- *National Thermal Power Corporation Ltd. v. Karri Pothuraju and Others* [(2003) 9 SCC 414]

These rulings affirm that statutory obligations, including those arising from labour welfare laws such as the Factories Act, become implied terms of the employment contract, enforceable even in the absence of specific clauses. The applicant further submitted that as per the CBIC Circular No. 172/04/2022-GST dated 06.07.2022 and the CBIC press release dated 10.07.2017, perquisites provided by an employer to an employee under contractual obligations are not treated as supply under GST.

4.1.3 Regarding Input Tax Credit (ITC), the applicant submitted that Section 17(5)(b) of the CGST Act, 2017 allows ITC on food, beverages, and catering only if the employer is legally required to provide them under any law in force. Since the Factories Act, 1948 mandates the canteen, the company is eligible for ITC on canteen-related expenses.

5. Comments of the Jurisdictional Officer

The application was forwarded to the jurisdictional officer as per provisions of Section 98(1) of the CGST Act. The jurisdictional officer has not offered any comments and hence it is presumed that the jurisdictional officer has no specific comments to offer. It is also construed that there are no proceedings pending on the issue against the applicant.

6. Personal Hearing:

6.1 The applicant was granted an opportunity for a personal hearing on 02.04.2025. Shri.Ranjit Mathews.P., Chartered Accountant represented the applicant in personal hearing. In addition, they also provided a note dated NIL in connection with the personal hearing. Accordingly, the Company enters into an employment contract with every employee, incorporating an employee handbook that outlines company policies, including the canteen policy. Employees

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acknowledge having read and understood these policies. The employment contract specifies the Company's responsibility to provide food at the canteen within the company premises at subsidized rates. While contract employees do not have an explicit contract regarding food provision, Section 46 of the Factories Act, 1948 mandates that factories employing more than 250 workers must provide a canteen. The Act defines "worker" to include contract employees, making the provision of food an implied condition of employment.

6.2 The applicant submits that legal precedents from the Supreme Court of India and the Bombay High Court affirm that statutory obligations form implied terms in employment agreements. Accordingly, in *SG Chemical and Dyes Trading Employees' Union v. SG Chemicals and Dyes Trading Limited* and *Dattatraya Shankarrao Kharde v. Executive Engineer, Chief Gate*, the courts held that statutory provisions automatically become part of contracts, even if not explicitly mentioned. They also submitted that the High Court had taken the view that industrial laws regulating service conditions, such as the Minimum Wages Act and the Payment of Bonus Act, set mandatory employment terms.

6.3 The applicant further submits that every company with more than 250 employees must comply with Section 46 of the Factories Act, making the provision of food through a canteen a contractual obligation. Additionally, they also invited attention to CBIC press release dated 10-07-2017 which clarified that services provided by employers to employees under contractual agreements are not subject to GST. Since the provision of food through the canteen is an implied contractual term, the applicant is of the view that the subsidized rate collected from employees for food coupons is not subject to GST. They also cited CBIC circular 172/04/2022-GST to substantiate their claim.

6.4 With regard to ITC on food and beverages, they stated that Section 17(5) of the Central GST Act, 2017 restricts the availability of input tax credit (ITC) on certain goods and services, including food and beverages. However, they points out that the proviso to this section allows ITC when such goods or services are provided as a statutory obligation under any prevailing law. Since the Factories Act, 1948 mandates the Company to run a canteen and provide food and beverages to employees, the applicant is of the view that they are eligible to claim ITC on purchases and inward supplies related to the canteen's operation.

6.5 In support of their claims, they also pointed to a press release dated 21-07-2018, issued after the 28th meeting of the GST Council, which confirms that ITC is available for goods and services that employers are legally required to provide to employees. They also pointed out that this position has been reinforced by the Advance Ruling Authority (AAR), Uttar Pradesh, in the case of *Shriram Pistons and Rings Limited* (UP ADRG 16/2022 dated 05-12-2022), which held that no GST should be charged on the subsidized amount collected from employees for food, and ITC is permissible since the canteen service is a statutory requirement. Accordingly, they hold that they can claim ITC for expenditures related to the provision of food and beverages in the canteen.

6.5 In the synopsis submitted by them at the time of personal hearing, the original question submitted by them, viz., “Whether GST is chargeable on the amount recovered at subsidised rates from employees for providing food to them in the canteen run by the Company as mandated under the Factories Act,1948?” was slightly amended to read as follows “Whether GST is chargeable on the amount recovered at subsidised rates from employees on the rolls and contract employees for providing food to them in the canteen run by the Company as mandated under the Factories Act, 1948?”. Hence, the question now covers both employees in the rolls of the company and contract employees as well.

7. Discussion and Findings:

7.1 On the Taxability of Subsidised Canteen Charges:

7.1.1 Section 7 of the CGST Act defines "supply" to include all forms of supply made in the course or furtherance of business for a consideration. However, the

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applicant's provision of food through its canteen does not qualify as a business activity but rather as a welfare measure arising out of statutory compliance.

7.1.2 The applicant has issued an Employee handbook which outlines standards of personal and professional conduct that all employees must strive to uphold and behave in an ethical and professional manner at all times. The Code provides a basis for all employees to maintain a working environment that is productive, positive, enjoyable, safe and free from harassment and discrimination. The canteen policy is a part of the Handbook (page 72 of the Handbook) and accordingly with the purpose of providing employees with nutritious and affordable meal options that support their health and well-being while enhancing productivity. This policy governs the administration, eligibility, and subsidized pricing of canteen services to ensure a positive dining experience for all employees. It provides for providing subsidised meals to the employees. The canteen policy does not seem to distinguish between employees in the rolls of the company and contract employees. The canteen policy lays down the eligibility, food standards, subsidy structure, governance mechanisms, and salary-based recovery processes. The policy explicitly states that the canteen services are available to both permanent and contract employees and are provided as part of structured employment welfare measures.

7.1.3 Schedule III of the CGST Act states that services by an employee to the employer in the course of or in relation to his employment shall not be treated as a supply of goods or services. By extension, the provision of benefits such as canteen meals, when provided pursuant to the contract of employment or legal obligation, is also excluded from the definition of "supply." The above legal position is reinforced by the CBIC Circular No. 172/04/2022-GST and earlier press releases. These clarifications make it abundantly clear that when perquisites are contractually embedded in the employment terms—either expressly or as a result of statutory obligations, they do not constitute a taxable supply. Therefore, it is held that any amount collected from employees, whether as full, partial, or no recovery, towards the cost of food provided under a statutory obligation, shall not attract GST, being in the nature of an employment-related perquisite.

7.1.4 Now, coming to Treatment of Contract and Regular Employees in Canteen GST Exemption, under Section 46 of the Factories Act, 1948, any factory employing more than 250 workers is mandated to provide and maintain a canteen for the use of workers. Importantly, the definition of "worker" in Section 2(l) of the Act includes any person employed directly or by or through any agency (including a contractor) to work in a manufacturing process. Thus, the obligation to provide canteen facilities extends not only to employees on the rolls but also to contract labour engaged in factory operations. There is no distinction in the statutory language that exempts employers from extending canteen benefits to contract workers.

7.1.5 This statutory mandate has been upheld in several judicial precedents. The Hon'ble Supreme Court in NTPC Ltd. v. Karri Pothuraju & Others [(2003) 9 SCC 414] held that contract workers employed in the premises of the principal employer fall within the scope of "worker" under the Factories Act and are entitled to statutory welfare measures, including canteen facilities. Similarly, in Dattatraya Shankarrao Kharde v. Executive Engineer, Chief Gate [1994 ILLJ 395 Bom], the Bombay High Court held that even in the absence of specific contract terms, statutory provisions like those under the Factories Act become implied terms of the employment relationship, enforceable by law.

7.1.6 From a GST perspective, CBIC Circular No. 172/04/2022-GST dated 06.07.2022 clarifies that any perquisite provided by an employer in terms of a contractual obligation (including those arising from statutory mandates) is not a "supply" under Section 7 of the CGST Act. Therefore, once canteen facilities are extended as part of legal obligations applicable to all "workers"—whether regular or contractual—the perquisite assumes the character of employment-related welfare and cannot be taxed, even if a partial cost recovery is made.

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7.1.7 Therefore, excluding contract employees from the GST exemption would create an artificial and unlawful classification contrary to the spirit of the Factories Act and the judicial interpretation of "worker." The legal and policy framework clearly supports uniform treatment of all workers, whether permanent or contract, when it comes to statutory canteen facilities.

7.2 On Eligibility to Claim Input Tax Credit:

7.2.1 Section 17(5)(b) of the CGST Act generally disallows ITC on goods and services used for food and beverages. However, the proviso to this Section states that "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". Vide Circular No. 172/04/2022-GST dated 06-07-2022, it was clarified that the proviso after sub-clause (iii) of clause (b) of sub-section (5) of section 17 of the CGST Act is applicable to the whole of clause (b) of sub-section (5) of section 17 of the CGST Act. Therefore, the proviso provides a carve-out where food and beverages are provided under any law in force. The Factories Act, 1948, makes it obligatory for the applicant to run a canteen in the applicant's case.

7.2.2 The applicant has mentioned that the food coupons are issued at subsidised rates to all employees. The question posed is whether ITC can be claimed by the Company in respect of inward supplies used in the canteen for supplying food to the employees.

7.2.3 The Proviso to Section 17(5)(b)(i) of the CGST Act, 2017 allows Input Tax Credit (ITC) where the provision of food or beverages is a statutory obligation, and it does not make ITC eligibility conditional upon the manner in which consideration, if any, is received from employees. Whether the employer bears the entire cost, or recovers it partially or fully from employees, has no bearing on ITC entitlement. The canteen facility as previously discussed arises from the employer-employee relationship and qualifies as a perquisite under that

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relationship. The law does not require that such services be provided free of cost, and the availability of ITC remains independent of whether the transaction results in reimbursement or not. The eligibility for ITC comes purely by virtue of the fact that the provision for canteen facility is a statutory obligation and there does not seem to be any ground to disallow the ITC benefit, provided the facility is in pursuance to a statutory obligation and that GST liability has not been passed on to the employees of the company.

7.2.4 Although the statute does not explicitly state whether partial or full recovery would affect ITC eligibility, a plain reading of the proviso to Section 17(5)(b) supports full admissibility of ITC where the provision is legally obligatory. The absence of any contrary language in the statute implies that such recovery from employees does not nullify the employer's entitlement to ITC. However, it should be subject to the condition that burden of GST has not been passed on to the employees of the company. The above position has been upheld by the following AAR.

Shriram Pistons and Rings Ltd. – UP AAR [UP ADRG 16/2022] where it was held that ITC on GST paid on canteen facility is admissible where burden of GST has not been passed on to the employees.

Therefore, we hold that full ITC on inward supplies used in the statutory canteen is admissible, irrespective of whether the applicant recovers any portion of the food cost from its employees.

In the light of the facts and legal position as stated above, the following ruling is issued:

RULING

Question 1: Whether GST is chargeable on the amount recovered at subsidised rates from employees on the rolls and contract employees for providing food to them in the canteen run by the Company as mandated under the Factories Act, 1948?

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Ruling: No. GST is not chargeable on the amount recovered at subsidised rates from employees on the rolls and contract employees for providing food to them in the canteen run by the Company as mandated under the Factories Act, 1948.

Question 2: Whether ITC can be claimed by the Company in respect of inward supplies used in the canteen for supplying food to the employees?

Ruling: Yes. The Company is eligible to claim full Input Tax Credit (ITC) on all inward supplies used in the canteen, as the provision of canteen facilities is obligatory under the Factories Act, 1948. However, it should be subject to the condition that burden of GST has not been passed on to the employees of the company.

OFFICE OF THE COMMISSIONER STATE G.S.T.D KERALA
THIRUVANANTHAPURAM

Jomy Jacob, IRS
Additional Commissioner of Central Tax
Member

Mansur M.I.
Joint Commissioner of State Tax
Member

To

M/s PLANT LIPIDS (P) LTD,
KADAYIRIPPU,
KOLENCHERY,
ERNAKULAM- 682311

Copy submitted to:-

1. The Chief Commissioner of Central Tax and Central Excise, Thiruvananthapuram Zone, C.R.Building, I.S.Press Road, Cochin- 682018. [E-mail ID: cccochin@nic.in; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram – 695002.
3. The Commissioner of Central Tax and Central Excise, Cochin Commissionerate.

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Copy to:-

1. Additional Commissioner, TPS (HQ), Thiruvananthapuram
2. The Deputy Commissioner, ITMD,Thiruvananthapuram

3.The State Tax Officer, Tax Payer services Circle, Kunnathunadu.

4. The Superintendent, Central Tax, Kolenchery Range, Perumbavoor Division.

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