AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
UTTAR PRADESH
4, Vibhuti Khand, Gomti Nagar, Lucknow-

ADVANCE RULING NO. UP ADRG- 16/2022 DATED 05/12/2022

PRESENT:

1. **Shri Rajendra Kumar**
   Additional Commissioner, Central Goods and Service Tax
   Audit Commissionerate, Lucknow ....Member (Central Tax)
2. **Shri Vivek Arya**
   Joint Commissioner, State Goods and Service Tax .....Member (State Tax)

1.	Name of the Applicant	SHRIRAM PISTONS AND RINGS LIMITED, A-4 to A-7, B-8/1 & 2, B 9 & 10, Industrial Area III, Meerut Road, Ghaziabad- 201 003 (U.P.)
2.	GSTIN or User ID	09AAACS0229G1ZN
3.	Date of filing of Form GST ARA-01	01.09.2022
4.	Represented by	Shri Sanjay Kumar and Shri Atul Gupta, Advocate
5.	Jurisdictional Authority-Centre	Range-XI, Division- III Ghaziabad
6.	Jurisdictional Authority-State	Sector- Ghaziabad Sector 4 Range- Ghaziabad (A), Uttar Pradesh
7.	Whether the payment of fees discharged and if yes, the CIN	Yes UTIB22080900476733

ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 & UNDER SECTION 98 (4) OF THE UPGST ACT, 2017

1. M/s SHRIRAM PISTONS AND RINGS LIMITED, A-4 to A-7, B-8/1 & 2, B 9 & 10, Industrial Area III, Meerut Road, Ghaziabad- 201 003 (U.P.) (here in after referred to as the applicant) is a registered assessee under GST having GSTIN: 09AAACS0229G1ZN.

2. The applicant has submitted an application for Advance Ruling dated 08.09.2022 enclosing dully filled Form ARA-01 (the application form for Advance Ruling) along with annexure and attachments. The applicant in his application has sought advance ruling on following question-

(a)Whether providing food to the employees at subsidized price as per terms and conditions of the employment contract, falls outside the scope of "supply" as the same is covered by Para 1, Schedule III of CGST Act, 2017?

(b)Whether the subsidized deduction made from the salary of employees who are availing facility of food in the factory can be considered as consideration of 'supply of service' by the Applicant to its employees in furtherance of business of the Applicant as per Section 7 r/w Schedule I of the Central Goods and Service Tax Act, 2017 and Uttar Pradesh Goods and Service Tax Act, 2017?

(c)In case answer to (b) is yes, whether GST is applicable on the amount deducted from the salaries of employees?

(d)Whether the Applicant is eligible to take input tax credit on the GST charged by third party contractor for canteen services availed by it for its employees?

3. As per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant.

3.1 The applicant has submitted that- Shriram Pistons and Rings Limited (hereinafter referred to as '**Applicant**') is engaged in manufacture and supply of automobile parts (two wheelers and four wheelers) viz. Engine Parts such as Pistons, Piston rings, Engine Valves etc. and related products at its manufacturing unit (factory) located at A-4 to A-7, B-8/1 & 2, B 9 & 10, Industrial Area III, Meerut Road, Ghaziabad- 201 003 (U.P.)

3.2 The Applicant is a company incorporated under the Companies Act, 1956. The Applicant has its various manufacturing, research and development Centers and branch offices located in different states and accordingly the Applicant has obtained GST registration in the respective locations. The Applicant with GSTIN 09AAACS0229G1ZN is registered with the Goods and Services Tax department in the state of Uttar Pradesh and falls within the jurisdiction of Central Goods and Services Tax Commissionerate, Ghaziabad.

3.3 The employees are vital resources to carry out the day-to-day affairs of the factory. The Applicant has more than 2000 employees working in its factory and copy of the supporting document viz. Form no. 22 i.e. Half Yearly returns filed by the Applicant for the period of June 2022, in compliance to Uttar Pradesh Factories Rule.

3.4 As per Section 46 of the Factories Act, 1948 (hereinafter referred to as '**Factories Act**') read with Rule 68 of the Uttar Pradesh Factories Rules, 1950 (in short, referred as '**UP Factories Rules**'), the Applicant is under statutory obligation to provide canteen facility to its workers. Accordingly, the Applicant has clearly mentioned in the contract entered into with the labour union, which forms integral part of employment contract,that canteen facility will be provided to the labour.

3.5 In order to provide the canteen facility, the Applicant has engaged a canteen contractor (service provider) for providing quality food and refreshments to employees, who charges the Applicant as per agreed price per meal. The canteen contractor is raising invoice under HSN 996333 and is charging GST @ 5% to the Applicant Further, in order to ensure administrative control, discipline and to avoid wastage of food, the Applicant recovers a nominal part (at subsidized rates) of the canteen cost incurred by it from the employees as per agreed terms between the Applicant and the labour union. Accordingly, the charges of the meals/snacks are deducted from the salary of the individual employee.

3.6 The said amount recovered from the employees is paid to the canteen service provider. The Applicant does not earn any profit from such activity.

3.7 Under the aforesaid circumstances, the Applicant seeks the present advance ruling to understand whether GST is payable on the amount recovered by the Applicant from its employees for providing the food in the canteen under the GST law. Also, whether the Applicant is eligible to take input tax credit of GST charged by contractor for canteen service availed by it for its employees.

4 The applicant has submitted their interpretation of law as under-

4.1 Applicant's interpretation that the deductions made from the salary of the employees for providing food facility on the agreed terms is a part and parcel of employment contract and thus do not qualify as 'supply of goods or services' in terms of Paragraph I to Schedule III of the CGST Act and will not be subjected to GST. Further, the Applicant is eligible to take input tax credit of GST charged by contractor for canteen service received by it for its employees as same is received in course or furtherance of its business of manufacture in terms of Section 16(1) of the CGST Act. The submissions in support of the aforesaid interpretation has been enunciated in the ensuing paragraphs:

5 The food facility provided by the Applicant to employees is excluded from the scope of 'supply' in terms of Clause (a) of Section 7 (2) of the CGST Act.

5.1 The Applicant submits that the food facility provided by it to its employees, is excluded from the purview of 'supply' in terms of Clause (a) to Section 7 (2) of the CGST Act, the provision whereof is reproduced below:

"SECTION 7. Scope of supply. —

(1) For the purposes of this Act, the expression "supply" includes—

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

.....

(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1),–

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services"

"SCHEDULE III

[See section 7]

ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

1. Services by an employee to the employer in the course of or in relation to his employment."

[Emphasis Supplied]

5.2 Section 7 (2) begins withss a non-obstante clause and overrides Section 7 (1) of the CGST Act. A plain reading of above section provides that even in case where any activity may be treated as 'supply' in terms of Section 7 (1), certain activities/ transactions would still be excluded from the scope of 'supply'.

5.3 Entry (1) of Schedule-III covers services provided by employee to its employer in the course of employment or in relation to employment. It may be noted that any activity or transaction which is undertaken in the course of employment or in connection with employment has been specifically excluded from the ambit of supply.

5.4 The food facility is being provided by the Applicant to its employees as a part and parcel of the employment terms and conditions. Therefore, the said food facility is being clearly an activity which is being undertaken in the course of employment only. The food facility has a direct nexus with the employment of the employee with the Applicant. Therefore, by virtue of Section 7 (2) read with Entry (1) of Schedule III, the food facility does not amount to supply.

5.5 In the instant case, the Applicant has made available food facility to its employees in the course or in relation to their employment whereby they can purchase coupon and take a meal in the factory canteen. The food facility is being provided by the Applicant due to the reason of employment contract only. Further, as already stated above, the food facility is being provided in the factory of the Applicant due to the mandatory requirement of Section 46 of the Factories Act read with Rule 68 (1) of UP Factories Rules.

5.6 The Applicant further submits that the food facility is similar to the other facilities like providing workspace, air-conditioning, laptops, computers & photocopy machines etc., made available by the employer, facilitating the employees to contribute towards the business activities of the employer, and these facilities are not for personal benefit of the employees. Therefore, the said food facility cannot be said to be an independent service/supply provided/made by the employer to the employees. Rather, it is provided as condition of the contract.

5.7 It is further submitted that the nominal amount recovered from the employees is only towards recovery of part of the cost of food facility extended by Applicant. Bearing of part of cost by the employees will not alter the nature of transaction. It is all part of one facility extended by the employer, where the cost is partly borne by the Applicant and partly by the employees. Therefore, in absence of any supply by the Applicant, no GST is payable on the recoveries made by Applicant from its employees.

5.8 Also, the Press release issued by CBIC on 10.7.2017 clarified the aspect with respect to taxability of perquisites supplied by the companies to their employees. In the last paragraph of the said press release, it was clarified that where free housing or membership of club, health centre etc. is provided to the employees free of cost under the contract of employment and cost of such services forms part of the CTC of the

employees, then no GST will be payable on such services provided by the employer to employee. The relevant part of the said press release is reproduced below:

> "Another issue is the taxation of perquisites. It is pertinent to point out here that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services). It follows therefrom that supply by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST. Further, the Input Tax Credit (ITC) Scheme under GST does not allow ITC of membership of a club, health and fitness centre [section 17 (5) (b) (ii)]. It follows, therefore, that if such services are provided free of charge to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer. The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to-company (C2C)".
>
> [Emphasis Supplied]

5.9 Further recently, the CBIC vide **Circular No. 172/04/2022-GST dated 6.7.2022 (issued vide F. No. CBIC-20001/2/2022-GST) in Sl. 5 clarified as following:**

	Perquisites provided by employer to the employees as per contractual agreement	
5.	Whether various perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST?	1. Schedule III to the CGST Act provides that "services by employee to the employer in the course of or in relation to his employment" will not be considered as supply of goods or services and hence GST is not applicable on services rendered by employee to employer provided they are in the course of or in relation to employment. 2. Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment. It follows therefrom that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, **will not be subjected to GST** when the same are provided in terms of the contract between the employer and

		employee.

5.10 In view of the above, it is submitted that the food facility provided by the Applicant to its employees would not amount to 'supply' under GST and accordingly GST is not payable on the amount recovered / representing the employees portion of canteen charges which is collected by the Applicant and paid to the canteen service provider.

5.11 It is abundantly clear that any services provided by the employer to the employees in terms of the contractual agreement entered into between the employer and employee will not be subjected to GST. As submitted above, the Applicant in the present case is providing canteen facility to its employees as per the contract. Further, the amount charged by the Applicant is fully paid to the third-party contractor and no profit or pecuniary benefit is involved in this activity. Hence, the provision of canteen facility is excluded from the purview of supply.

5.12 Therefore, the Applicant humbly submits that the canteen facility provided by the Applicant to its employees cannot be treated as supply and therefore, GST is not payable.

6 Without prejudice to the above, it is settled position under GST regime that employee recovery for usage of canteen facility does not amount to 'supply'.

6.1 The Applicant humbly submits that it is a settled legal position that the employee recovery would not qualify as 'supply' under GST and hence, not taxable. The Applicant humbly submits that this Hon'ble Uttar Pradesh Advance Ruling Authority has categorially held that employee recovery would not be treated as supply under GST

6.2 Reliance is placed on In Re: Dr. Willmar Schwabe (I) Pvt. Ltd., **2021 (12) TMI 214 - Authority for Advance Ruling, Uttar Pradesh,** wherein the Hon'ble Authority categorically held that the nominal amount recovered by Applicants from its employees for usage of bus transportation facility neither qualify as supply of goods nor supply of services as per clause 1 of the Schedule-III to the CGST Act which provides 'services by an employee to the employer in the course of or in relation to his employment shall be treated neither as a supply of goods nor a supply of services'. Inasmuch as the applicant was not supplying any services to its employees, in view of Schedule III, accordingly GST was not applicable on the nominal amounts recovered by Applicant from its employees in said case.

6.3 In the following cases, it has been consistently ruled by the Hon'ble Advance Ruling Authority of various states that the amount recovered from the employee and paid to the third-party canteen service provider, is not exigible to GST in the hands of the employer :

- In Re: **Emcure Pharmaceuticals Limited,** 2022 (1) TMI 186 - Authority For Advance Ruling, Maharashtra
- In Re: The Tata Power Company Limited - 2021 (11) TMI 398 - Authority For Advance Ruling, Maharashtra
- In Re: **Amneal Pharmaceuticals Pvt. Ltd., 2021 (9) TMI 1293 - Appellate Authority For Advance Ruling, Gujarat**
- In Re: Jotun India Pvt. Ltd. - 2019 (10) TMI 482 - Authority For Advance Ruling, Maharashtra

- In Re: Posco India Pune Processing Center Private Limited - 2019 (2) TMI 63 - Authority For Advance Ruling, MaharashtraIn Re: Tata Motors Limited - 2020 (9) TMI 352 - Authority For Advance Ruling, Maharashtra.

6.4 The understanding of the Applicant is duly supported by the aforesaid rulings that the Applicant is not involved in the business of providing canteen facility. The Applicant has no intention to carry out the canteen business and the Applicant is only a facilitator in the transaction between the employee and the third-party canteen service provider. The Applicant is only paying the part value of the canteen invoice raised by the canteen service provider on its own and the remaining amount after collecting the same from the employees. Thus, the Applicant has only collected the amount and passed the same to contractor. The amount collected is not for any supply, it is only a pass through. This fact is evident from the invoice issued by the canteen contractor on the applicant which shows that Rs. 34 per plate has been charged as a consideration along with GST whereas , the Applicant only deducted Rs. 34 from the salary of the employees. Hence, nothing has been retained by the Applicant. Copy of the invoice issued by Canteen contractor and salary slip of an employee, is already enclosed as Exhibit- C and Exhibit- D respectively. Hence, the provision of food facility by the Applicant to its employees through the third-party service providers cannot be said to be canteen services provided by the Applicant.

6.5 In light of the afore-cited rulings, the Applicant submits that it is not involved in providing any supply and, accordingly no GST is payable on recoveries made from the salary of employees.

7 Without prejudice, the subsidized deduction made by the Applicant from the salary of employees who are availing food facility in the factory do not constitute 'supply' per se in terms of Section 7 r/w Schedule I of the Central Goods and Service Tax Act, 2017 and Uttar Pradesh Goods and Service Tax Act, 2017 as it is not in furtherance of business of the Applicant

7.1 The subsidized amount recovered from the employees for providing food facility is not covered within the ambit of "supply" under Clause (a) of Section 7 (1) of the CGST Act.

7.2 In order to analyse the present issue, reference is made to Section 7 (1) of the CGST Act, which defines the term 'supply' as under:

> 7. (1) For the purposes of this Act, the expression "supply" includes—
> (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
> (b) import of services for a consideration whether or not in the course or furtherance of business;
> (c) the activities specified in Schedule I, made or agreed to be made without a consideration; and
> (d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.
>
> [Emphasis Supplied]

7.3 Section 7 (1) (a) of CGST Act defines the term 'supply' widely to include all forms of supply of goods or services or both such as sale, transfer, disposal, etc. made or agreed to be made for a consideration in the course or furtherance of business. Therefore, in order to constitute supply under Section 7 (1) (a) of the CGST Act, the following key elements are required to be satisfied:

(a) Supply of goods or/and services;
(b) Consideration;
(c) In the Course or furtherance of business.

7.4 It is clear from the above that in order to constitute supply under Section 7, the supply should be in the course of business or furtherance of business. The term in the "course of business" or "furtherance of business" is not defined under the CGST Act. However, it is pivotal to appreciate that the term "Business" has been defined under Section 2 (17) of the CGST Act and reads as under: -

> Section 2 (17) "business" includes—
> (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
> (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
> (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
> (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
>
> (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
> (f) admission, for a consideration, of persons to any premises;
> (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
> (h) services provided by a race club by way of totalisator or a licence to book maker in such club; and
> (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;
>
> [Emphasis Supplied]

7.5 A bare reading of the above clause (a) provides that the term "business" includes any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity whether or not it is for pecuniary benefits. Also, as per clause (b) any activity ancillary or incidental to the activities covered under clause (a) are also treated as business. Further, clause (c) also states that any activity or transaction falling in the above categories would be business whether or not there is volume, frequency, continuity or regularity in transactions. Hence, the above definition

provides that business includes any activity in the nature of trade, commerce, manufacture, etc.

7.6 The Applicant reiterates that 'supply' can come into existence only when there is any activity done in the course of business or furtherance of business. It is clear from the above discussion that business means any activity in the nature of trade, commerce, manufacture, etc.

7.7 Further, Section 7(1)(c) of the CGST Act provides that the scope of supply includes activities specified in Schedule I, made or agreed to be made without consideration. Para 2 of the Schedule I annexed to the CGST Act provides that supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business. Explanation (a) to Section 15 to the CGST Act defines related for the purposes of the CGST Act. Explanation (a)(e) provides that the employer and the employee are deemed to be related persons.

7.8 On a conjoint reading of the above provisions, any supply of goods or services between employer and employee in the course or furtherance of business even without consideration will be treated as supply for the purposes of Section 7 of the CGST Act.

7.9 It is submitted that the Applicant is engaged in the business of manufacture of Engine Parts such as Pistons, Piston rings, Engine Valves etc. The entire business activities are aimed towards the manufacture, develop, sale, distribution, promotion of Pistons, engine valves only. As stated above, the Applicant is providing canteen facility to the employees at the Ghaziabad unit.

7.10 It is submitted that as per Section 46 of the Factories Act read with Rule 68(1) of the UP Factories Rules, every factory is mandatorily required to provide and maintain canteen in the factory in which more than 250 workers are employed. Therefore, in order to comply with the said mandatory condition, the Applicant is providing and maintaining the canteen at the factory. The Applicant is not engaged in the "business" of providing canteen facility to its employees.

7.11 Further, the objective of providing canteen facility in its factory is to provide a healthy and workable environment to the employees. The canteen facility is being provided in order to increase the working efficiency of the employees and not to undertake any business activity. The Applicant is also known in the Indian industry as well as international trade and industry as a manufacturer of automotive components.

7.12 As mentioned above, the Applicant is involved in the business of the manufacturing and selling of automotive components and providing canteen facilities to its employees is not the business of the Applicant. The canteen facility is provided by a third-party canteen service provider for which the third party is raising an invoice on the Applicant with GST. Therefore, the canteen services are being provided by the third-party service provider only. The Applicant is merely acting as a conduit to provide the canteen facility.

7.13 Thus, the Applicant is not in the business of providing canteen facility. Further, providing/ non-providing of such canteen facility will not affect the business of Applicant in any manner. Hence, the canteen facility cannot be said to be a business activity of the Applicant and the provision of canteen facility to the employees cannot qualify as supply.

7.14 The Applicant also submits that the business of manufacturing, cooking, packing,

supplying food items is strictly regulated in India under the Food Safety and Standard Act, 2006 ("FSSAI Act"), The Canteen service provider may be complying with the conditions of FSSAI Act. Applicant is acting as a mere facilitator in the transaction between the third-party contractor and employees. Therefore, the Applicant does not hold a license to carry out food related business. Had the Applicant been engaged in the business of canteen services, the Applicant would have been required to obtain the requisite registration and undertake necessary compliance under the FSSAI regulations. The relevant provisions under FSSAI Act are extracted below:

> "Section 3 (1) (n) "Food business" means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of manufacture, processing, packaging, storage, transportation, distribution of food, import and includes food services, catering services, sale of food or food ingredients;
>
> Section 3 (1) (o)"food business operator" in relation to food business means a person by whom the business is carried on or owned and is responsible for ensuring the compliance of this Act, rules and regulations made thereunder;"

7.15 From the above, the term "food business" means any undertaking involved in the activities related to manufacture, processing, packaging, storage, transportation and in distribution of food. It also provides that a food business operator is a person who carries or owns a food business and is responsible for carrying out the compliance of this Act, rules and regulations made under this Act. The Applicant is not involved in any of the activities mentioned above. The Applicant only enters into the contract with a third-party contractor who provides the food to the employees. The Applicant is only a facilitator in the said transaction.

7.16 Further, according to Regulation 2.1 of Food Safety and Standards (Licensing and Registration of Food Businesses), Regulations 2011, all the food business operators in the country will have to be registered. Since, the Applicant is not a food business operator, the Applicant is under no obligation to obtain registration and to carry out compliance of the FSSAI Act and Rules. This also supports the above contention of the Applicant that the Applicant is not engaged in the business of canteen services.

7.17 In view of the above, the Applicant's business is neither a "food business" nor the Applicant qualifies as a "food service operator". Therefore, the Applicant cannot be said to be engaged in the business of providing canteen services.

7.18 The Applicant also submits that the meaning of the term business should be restricted to cover only commercial activities. Any activity which is towards providing any support or service such as helping, aiding or assisting own employees cannot be treated at par with business. In the given case in hand, the provision of canteen facility is merely a support function extended by the Applicant to the employees. Hence, the said activity cannot be equated with business.

7.19 In this regard, reliance is placed on State of Gujarat vs. Raipur Manufacturing Co. Ltd., 1966-VIL-03-SC (Civil Appeal No. 603 of 1966) wherein the Petitioner was engaged in the business of manufacturing and selling cotton textiles. The Petitioner

purchased coal for usage in business of cotton textiles. The said coal was later sold by the Petitioner. The Supreme Court held that the Petitioner was not engaged in the business of coal. The operative part of the judgement is extracted below:

> "8. It is clear from these cases that to attribute an intention to carry on business of selling goods it is not sufficient that the assessee was carrying on business in some commodity and he disposes of for a price articles discarded, surplus or unserviceable. It was urged, however, on behalf of the State that where a dealer with a view to reduce the cost of production disposed of unserviceable articles used in the manufacture of goods and credits the price received in his accounts, he must be deemed to have a profit motive, for it would be uneconomical for the business to store unserviceable articles and to survive as an economic unit. But the question is of intention to carry on business of selling any particular class of goods. Undoubtedly from the frequency, volume, continuity and regularity of transactions carried on with a profit motive, an inference that it was intended to carry on business in the commodity may arise. But it does not arise merely because the price received by sale of discarded goods enters the accounts of the trader and may on an overall view enhance his total profit, or indirectly reduce the cost of production of goods in the business of selling in which he is engaged. An attempt to realize price by sale of surplus unserviceable or discarded goods does not necessarily lead to an inference that business is intended to be carried on in those goods, and the fact that unserviceable goods are sold and not stored so that badly needed space is available for the business of the assessee also does not lead to inference that business is intended to be carried on in selling those goods.
>
> 14. It appears from the statement furnished that coal of the value of Rs. 16,083/- was sold by the Company under 12 bills in the year 1953-54. Coal is purchased by the Company for the purpose of lighting its furnaces and heating boilers. A part of the coal purchased was sold. The Tribunal merely stated in respect of all the items of goods sold that looking to the volume and frequency of their sale, the Company should be regarded as a dealer in respect of those goods. Unless there is evidence to show that there was an intention to carry on business of selling coal, the mere fact that coal of the value exceeding Rs. 16,000/- was sold will not by itself make the Company a dealer carrying on business in coal. We have no evidence on the record as to what the total quantity of the coal purchased by the Company was, and what percentage thereof was sold. No investigation has been made as to the circumstances in which the coal came to be sold. Mere sale of a commodity which a Company requires for the purpose of its business and which has been purchased for use in that business will not justify an inference that a business of selling that commodity was intended, unless there are circumstances existing at the time when the commodity was purchased or which have come into existence later which establish such an intention. It may be pointed out that the burden of proving that the

Company was carrying on business of selling coal lay upon the Sales-tax authorities and if they made no investigation and have come to the conclusion merely because of the frequency and the volume of the sales, the inference cannot be sustained."

[Emphasis Supplied]

7.20 It is also submitted that as per clause (b) of Section 2 (17), business also includes any activity which is in connection with or incidental or ancillary to the activities covered under clause (a) of Section 2 (17) of the CGST Act. Hence, one may question as to whether the provision of canteen facility can be said to be in connection with or incidental or ancillary to the principal business of automotive components.

7.21 In this regard, the Applicant submits that the connected activities or incidental or ancillary activities cannot be construed to include all activities carried out by the business. Furthermore, as per Black's Law Dictionary (Ninth Edition), "incidental" means dependent upon, subordinate to, arising out of, or otherwise connected with (something else, usually of greater importance). Also, the term "ancillary" is defined in the Black's Law Dictionary (Ninth Edition) as supplementary; subordinate.

7.22 The activities which are having direct nexus with the main business can be said to be ancillary or incidental. One of such examples could be sale of by-products. However, canteen facility is not related to or connected with the principal business of supply of automotive components in that manner. Hence, the same cannot be construed as incidental or ancillary to the main business of the Applicant.

7.23 In support of the above contention, the Applicant relies on the case of Deputy Commissioner of Commercial Taxes vs. Thirumagal Mills Ltd., 1967 (20) STC 287 Mad, where a similar provision was examined and considered by the Hon'ble Madras High Court with the following observation:

"4. The primary requisite of "business" as defined even under Madras Act 15 of 1964 is that it should be a trade or commerce or adventure or concern in the nature of trade or commerce. Presence or absence of profit will not matter. But the activity must be of commercial character and in the course of trade or commerce. The second clause in the definition of "business", as it appears to us, is still one invested with commercial character, for the reference is to any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern. Unless the transaction is connected with trade, that is to say, it has something to do with trade or has the incidence or elements of trade or commerce, it will not be within the definition. The words "in connection with or incidental or ancillary to" in the second part of the definition of "business", in our opinion, still preserve or retain the requisite that the transaction should be in the course of business understood in a commercial sense. The intention of Madras Act 15 of 1964 does not appear to be to bring into the tax net a transaction of sale or purchase which is not of a commercial character.

5. In this case it is difficult to say that the assessee has been carrying on business in fair price shop. We have looked into its articles of association and nowhere is there any reference to the carrying on of business in fair

price shop. What appears to be probable is that the assessee in order to provide amenity to its workmen has opened the fair price shop so that commodities may be made available to them at fair price. It may be that in fact profit accrues. But that is not what is material. The question is whether the assessee meant to run the fair price shop as a trade or commerce or a commercial activity. We do not find it possible to say that the fair price shop is a commercial activity of the assessee. We hold that the assessee is not carrying on the business of selling commodities in the fair price shop in a trade or commercial sense, and that, therefore, it is not with reference to the fair price shop a dealer within the meaning of the Act."

...Emphasis Supplied

7.24 In the case of Panacea Biotech Limited vs. Commissioner of Trade and Taxes (2013) 59 VST 524 (Del.) the issue was related to whether the selling of used cars is ancillary or incidental to the pharmaceutical business of the assessee. The Hon'ble Delhi High Court held that:

"11. In the present case, the main business of the petitioner is manufacture and sale of pharmaceutical products and the vehicles are used by it in the course of business (as written by Respondent No.-2 in the impugned order (Annexure A-1)). This may lead to the inference that proceeds from the sales of such vehicles should have been included in the turnover and must be taxed accordingly. But the selling of used cars cannot by any stretch of the imagination be characterized as "ancillary" or incidental to the business of a pharmaceutical company. It is not shown that the cars were of a special character e.g. air conditioned vehicles especially designed to store and ferry pharmacy products. They were purchased for use of company employees and executives, for office purposes. At the stage of purchase, they suffered sales tax, which the assessee, as buyer, was bound to pay. However, the assessee never held them for the purpose of sale and purchase, but for using them. After their use, having regard to lapse of time, and their wear and tear, the assessee decided to replace them. These cars were then sold. Their sales, in a sense are twice removed from the business of the assessee. They cannot be called "incidental" or "ancillary" to the manufacture and sale of pharmaceutical products, which the assessee is engaged in."

...Emphasis Supplied

7.25 Based on the above cited judgments, the canteen facility provided by the Applicant to its employees cannot be said to be principal or ancillary or incidental business activity of the Applicant. Therefore, one of the essential ingredient i.e. "business' is missing to constitute 'supply' under GST. Thus, it is submitted that the said canteen facility cannot be taxed under GST as Supply.

8 INPUT TAX CREDIT OF GST PAID BY CANTEEN SERVICE PROVIDER IS AVAILABLE TO THE APPLICANT.

Service provided by the canteen service provider is in course or furtherance of Applicant's business.

8.1 Section 16(1) of the CGST Act provides that every registered person shall be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

8.2 Further, the term 'business' is defined in Section 2(17) of the CGST Act which reads as under:

> "(17) "business" includes —
>
> (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
>
> (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
>
> ....."

8.3 It is submitted that the canteen facility provided by the Applicant to its employees is having a direct nexus with the business activities of the Applicant since it is made available, in order to facilitate the employees to perform their jobs and are provided so long as the employees is in the Applicant's employment. It is similar to other facilities provided by any employer to its employees like desk, laptop etc. Moreover, it is the statutory obligation of the Applicant under the Factories Act to provide the canteen facility. Accordingly, the canteen facility provided by the Applicant is incidental to the manufacturing activity. Thus, the service provided by the canteen service provider are received by the Applicant for furtherance of the Applicant's business and therefore, the Applicant is eligible to avail the ITC in terms of Section 16(1) of the CGST Act.

ITC is available in terms of the second proviso to section 17(5)(b) of the CGST Act

8.4 Section 17(5) of the CGST Act provides that notwithstanding anything contained in Section 16(1) of the CGST Act, input tax credit in respect of goods or services mentioned therein will not be available. Thus, even if credit is available as per Section 16(1) of the CGST Act, credit cannot be availed if it is barred by Section 17(5) of the CGST Act. Section 17(5)(b) of the CGST Act which merits discussion in light of the facts of the instant case is extracted hereunder for ease of reference:

> *(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 —

(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;*

(ii) membership of a club, health and fitness centre; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

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.

8.5 On a perusal of the above provision, it can be seen that ITC with respect to food and beverages (which will also include canteen services) is restricted under GST Law subject to two provisos mentioned in the provision. As per the second proviso (highlighted above in bold and italics), ITC in respect of canteen services 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.

8.6 It is pertinent to note that the proviso clearly mentions that in a case where it is obligatory for an employer to provide any of the goods or services or both as listed in Section 17 (5)(b) to its employees under any law for the time being in force, ITC in respect of such goods or services or both shall be available to the employer.

8.7 Therefore, in case of canteen service, the second proviso is applicable and ITC in respect of canteen services received from a service provider is available to an employer where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

8.8 It is submitted that the Applicant is under a statutory obligation to maintain a canteen in terms of Section 46 of the Factories Act, since it has more than 250 workers. The relevant portion of Section 46 of the Factories Act is extracted hereunder:

***"46. Canteens** .- (1) 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.*

(2) Without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the date by which such canteen shall be provided;

(b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;
(c) the foodstuffs to be served therein and the charges which may be made therefor;
(d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen;
(dd) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employer;
(e) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c)."

8.9 In exercise of the powers conferred under the Factories Act, the State Government of Uttar Pradesh framed the Uttar Pradesh Factories Rules, 1950, which also mandated maintenance of canteen in the factory under Rule 68 *ibid.* The relevant provision is reproduced below:

*"**Canteens:***

***Rules 68**. (1) The occupier of every factory wherein more than two hundred and fifty workers are ordinarily employed on any one day and which is specified by the State Government in this behalf shall provide, within six months from the dare of specification, in or near the factory, an adequate canteen according to the standards prescribed in this rule. This rule shall come into force at once.*

(2) The manager of every factory shall submit in triplicate, through the Inspector of Factories of the region concerned, the plans and site plan of the building to be constructed or adopted, for use as a canteen to the Chief Inspector of Factories for his approval. (3) The canteen building or buildings shall be situated not less than fifty feet from any latrine/urinal, boiler house, coal stacks, ash dumps and any other source of dust, smoke or obnoxious fumes :

……..
……

(4) The canteen building or buildings shall accommodate a dining hall, kitchen, store room, pantry and washing places, separately for workers and for utensils.

(5) In a canteen the floor shall be made of smooth and impervious material, the remaining portion of the inside walls shall be made smooth by cement plaster or in any other manner approved by the Chief Inspector.

……..
……..

(20) The Manager shall appoint a Canteen Managing Committee which shall be consulted from time to time as to-
(a) The quality and quantity of foodstuff to be served in the canteen;
(b) the arrangements of the menus;
(c) times of meals in the canteen; and
(d) any other matter as may be directed by the Committee :"

8.10 In view of the above provisions, it is abundantly clear that the Applicant is

maintaining its canteen under a statutory mandate provided in Section 46 of the Factories Act read with Rule 68 of the UP Factories Rules, therefore, the Applicant is eligible to avail ITC of the GST paid by the canteen service provider, in terms of second proviso to Section 17(5)(b) of the CGST Act.

8.11 It is submitted that the second proviso is applicable to the entire Section 17(5)(b) of the CGST Act and not only to sub-clause (iii). This has been recently clarified by the CBIC vide **Circular No. 172/04/2022-GST dated 6.7.2022 (issued vide F. No. CBIC-20001/2/2022-GST) in Sl. 3, as following:**

Circular No. 172/04/2022-GST
F. No. CBIC-20001/2/2022-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 6th July, 2022

Clarification on various issues of Section 17(5) of the CGST Act		
3.	*Whether the proviso at the end of clause (b) of sub-section (5) of section 17 of the CGST Act is applicable to the entire clause (b) or the said proviso is applicable only to sub-clause (iii) of clause (b)?*	*1. Vide the Central Goods and Service Tax (Amendment Act) 2018, clause (b) of sub-section (5) of section 17 of the CGST Act was substituted with effect from 01.02.2019. After the said substitution, the proviso after sub- clause (iii) of clause (b) of sub-section (5) of section 17 of the CGST Act provides as under:* *"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."* *2. The said amendment in sub-section (5) of section 17 of the CGST Act was made based on the recommendations of GST Council in its 28th meeting. The intent of the said amendment in sub- section (5) of section 17, as recommended by the GST Council in its 28th meeting, was made known to the trade and industry through the Press Note on Recommendations made during the 28th meeting of the GST Council, dated 21.07.2018. It had been clarified "that scope of input tax credit is being widened, and it would now be made 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."* *3.* ***Accordingly, it is 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.

8.12 In view of the aforesaid, the second proviso is applicable to the entire Section 17(5)(b) of the CGST Act. In the instant case, it is obligatory for the Applicant to have canteen in its factory in terms of Section 46 of the Factories Act due to more than 250 workers. Therefore, the Applicant has engaged canteen service provider to provide canteen service to fulfill its obligation under the Factories Act. Accordingly, the Applicant is eligible to avail ITC of GST paid against the invoice raised by the canteen service provider and such credit is not subject to the rigor of Section 17(5)(b)(i) of the CGST Act.

8.13 In support of the aforesaid submissions, reliance is placed ***in Re:* Bharat Oman Refineries Limited, 2021 (12) TMI 999 - Appellate Authority For Advance Ruling, Madhya Pradesh, wherein the Hon'ble Authority held that i**nput tax credit of GST paid to canteen service provider would be available to the appellant in terms of proviso under Section 17(5)(b). 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. The relevant portion of the ruling is reproduced below:

> *"4.....*
>
> *c. As regards provision of canteen facility we find that the appellant has submitted that the canteen facility was required to be provided by a company as per Section 46 of the Factories Act, 1948. Therefore applying the proviso under Section 17(5)(b) 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, we are of the view that input credit of GST paid would be available to the appellant."*

8.14 Thus, the Applicant is eligible to take input tax credit of the GST paid on the invoices raised by the canteen service provider in terms of Section 16(1) of the CGST as it is in furtherance to the business as well as is not subject to the rigor of Section 17(5)(b) as such facility was provided under a statutory obligation.

8.15 In view of the above, it is submitted that the canteen facility provided by the Applicant to its employees would not amount to 'supply' under GST and accordingly GST is not payable on the amount recovered / representing the employees portion of canteen charges which is collected by the Applicant and paid to the canteen service provider. Further, the Applicant is eligible to avail ITC of the GST paid on the invoices raised by the contractor for canteen service availed by it for its employees.

9. As per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant.

10. The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report on the matter and reminder dated 27.10.2022 was sent. . The Deputy Commissioner, CGST & Central Excise Division, Lucknow-III vide his letter C. No. 20-CGST/R-11/D-III/Misc/131/2021/964 dated 11.10.2022 offered desired comments/view/verification report on the question raised in the Advance Ruling Application as under:-

As per section 7 read with schedule I of CGST, Act 2017 and SGST Act 2017 the activity of providing food at subsidized rate to employees doesn't appear supply of service by the applicant to his employees. No, in view of the provision of Section 17(5)(b)(i) the party is not eligible to take Input tax Credit of GST charged by the contractor for canteen services

11. The applicant was granted a personal hearing on 15.11.2022 which was attended by Shri Sanjay Kumar And Shri Atul Gupta, the authorized representative of the applicant during which they reiterated the submissions made in the application of advance ruling.

DISCUSSION AND FINDING

12. At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the UPGST Act. Further for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.

13. We have gone through the Form GST ARA-01 filed by the applicant and observed that the applicant has ticked following issues on which advance ruling required-

(1) Admissibility of input tax credit of tax paid or deemed to have been paid.
(2) Determination of the liability to pay tax on any goods or services or both
(3) whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term

At the outset, we find that the issue raised in the application is squarely covered under Section 97(2) of the CGST Act 2017. We therefore, admit the application for consideration on merits.

14. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by authorised signatory, during the personal hearing held on 15-11-22. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law.

15. We find M/s Shriram Pistons and Rings Limited has arranged a canteen facility for its employees, which is run by a Canteen Contractor M/s P.J. Banan. As per their arrangement, part of the Canteen charges is borne by M/s Shriram Pistons and Rings Limited whereas the remaining part is borne by its employees. The said employees' portion of canteen charges is collected by M/s Shriram Pistons and Rings Limited and paid to the Canteen Service

rovider. M/s Shriram Pistons and Rings Limited submitted that it does not retain with itself any profit margin in this activity of collecting employees' portion of canteen charges. M/s Shriram Pistons and Rings Limited vide letter dated 15-11-2022 has submitted that more than 2000 employees are working in its factory.

16. We find that CBIC vide Circular No. 172/04/2022-GST dated 6-7-22 has issued following clarification on the issue whether GST is leviable on the benefit provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee:

Clarification

> *1. Schedule III to the CGST Act provides that "services by employee to the employer in the course of or in relation to his employment" will not be considered as supply of goods or services and hence GST is not applicable on services rendered by employee to employer provided they are in the course of or in relation to employment.*
>
> *2. Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment. It follows there from that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee,* ***will not be subjected to GST*** *when the same are provided in terms of the contract between the employer and employee.*

17. We are not inclined to accord these activities provided by M/s Shriram Pistons and Rings Limited to its employees to be an activity made in the course or furtherance of business to deem it a Supply by M/s Shriram Pistons and Rings Limited to its employees in view of the above clarification and therefore amount collected by M/s Shriram Pistons and Rings Limited from employees towards canteen charges in terms of the contractual agreement in lieu of providing canteen service i.e. food is not liable to GST.

We, therefore observe that the applicant is not liable to pay GST on the amount deducted/ recovered from the employees. Further the applicant is recipient of canteen service to facilitate the employees and Canteen Service Provider raises the Bill of canteen charges inclusive of GST as per the contract. The applicant collects/ recoveres the partial amount from the employees and is required to pay the gross amount inclusive of GST to the canteen service by adding residual amount in the employees' portion and is required to pay gross amount of Bill inclusive of GST to the Canteen Service Provider.

18. ITC on canteen charges on the food supplied to employees of the applicant company

To decide the issue of eligibility of ITC on GST paid for Canteen Service on the food supplied to employees of the applicant company, we refer to Section 17(5)(b) of CGST Act, 2017, reads as follows:-

Section 17(5)(b)

"(b) the following supply of goods or services or both-

(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-

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.

ii) membership of a club, health and fitness centre: and
iii) travel benefits extended to employees on vacation such as leave or home travel concession:

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."

19. We find that the proviso of Section 17 (5)(b) stipulates that ITC shall be available on the GST paid where it is obligatory to provide a benefit for an employer to its employees in terms of any law for the time being in force. The CBIC vide Circular No. 172/04/2022-GST dated 6-7-22 has issued clarification on the eligibility of such ITC which is reproduced as under:

Issue:

Whether the proviso at the end of clause (b) of sub-section (5) of section17 of the CGST Act is applicable to the entire clause (b) or the said proviso is applicable only to sub-clause(iii) of clause (b)?

Claification:

1.Vide the Central Goods and Service Tax (Amendment Act) 2018, clause(b) of sub-section (5) of section17of the CGST Act was substituted with effect from 01.02.2019. After the said substitution, the proviso after sub clause (iii) of clause (b) of sub-section (5) of section17 of the CGST Act provides as under:

"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.

2. The said amendment in sub-section (5) of section 17 of the CGST Act was made based on the recommendations of GST Council in its 28th meeting. The intent of the said amendment in sub section (5) of section17, as recommended by the GST Council in its 28th meeting, was made known to the trade and industry through the Press Note on Recommendations made during the 28th meeting of the GST Council, dated 21.07.2018. It had been clarified "*that scope of input tax credit is being widened, and it would now be made 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."*

3. Accordingly, it is clarified that the proviso after sub-clause (iii) of clause (b) of sub-section (5) of section 17of the CGST Act is applicable to the whole of said clause(b) of.....

We find that in view of the above clarification ITC of the GST paid on canteen charges is available to the applicant on the food supplied to the employees of the applicant company as under Section 46 of the Factories Act, it is mandatory to provide canteen facility to the employees.

20. In view of the above discussions, we, both the members pass the following ruling-

RULING

21. (a)Whether providing food to the employees at subsidized price as per terms and conditions of the employment contract, falls outside the scope of "supply" as the same is covered by Para 1, Schedule III of CGST Act, 2017?

Answer: Subsidized deduction made by the Applicant from the employees who are availing food in the factory/corporate office would not be considered a supply under the provisions of Section 7 (Para 1, Schedule III) of Central Goods and Service Tax Act, 2017.

(b)Whether the subsidized deduction made from the salary of employees who are availing facility of food in the factory can be considered as consideration of 'supply of service' by the Applicant to its employees in furtherance of business of the Applicant as per Section 7 r/w Schedule I of the Central Goods and Service Tax Act, 2017 and Uttar Pradesh Goods and Service Tax Act, 2017?

Answer: No

(c) In case answer to (b) is yes, whether GST is applicable on the amount deducted from the salaries of employees?

Answer: NA

(d) Whether the Applicant is eligible to take input tax credit on the GST charged by third party contractor for canteen services availed by it for its employees?

Answer: ITC on GST paid on canteen facility is admissible to M/s Shriram Pistons and Rings Limited under Section 17 (5)(b) of CGST Act on the food supplied to employees of the company subject to the condition that burden of GST have not been passed on to the employees of the company.

20. This ruling is valid only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.

(Vivek Arya)
Member of Authority for Advance Ruling

(Rajendra Kumar)
Member of Authority for Advance Ruling

To,

SHRIRAM PISTONS AND RINGS LIMITED,
A-4 to A-7, B-8/1 & 2, B 9 & 10, Industrial Area III,
Meerut Road, Ghaziabad- 201 003 (U.P.)

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.
3. The Commissioner, CGST & C. Ex, C.G.O. Complex-II, Kamla Nehru Nagar, Near Hapur Chungi, Ghaziabad. - 201002.
4. The Deputy/Assistant Commissioner, CGST & Central Excise, Division-III, sc-106, C Block, Shastri Nagar, Ghaziabad. - 201002.
5. Through the Additional Commissioner, Gr-I, Ghaziabad Zone-I, Ghaziabad, Uttar Pradesh to jurisdictional tax assessing officers.

Note: An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, Vibhuti Khand, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.