

**GUJARAT AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.**



ADVANCE RULING NO. GUJ/GAAR/R/2025/**29**
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2024/AR/28)

Date: -**12.08.2025**

| | | |
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| Name and address of the applicant | : | M/s. Suzuki Motor Gujarat Pvt Ltd., Survey No. 293, Block No. 334 & 335, Becharaji, Village Hansalpur, Tal. Mandal, Ahmedabad. |
| GSTIN of the applicant | : | 24AAUCS5797D2ZP |
| Jurisdiction Office | : | Office of the Assistant Commissioner of State Tax, Unit-12, Range-3, Division-1, Ahmedabad. |
| Date of application | : | 05.10.2024 |
| Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised. | : | (d), (e) |
| Date of Personal Hearing | : | 29.7.2025, 24.04.2025, 8.04.2025 |
| Present for the applicant | : | Shri Jigar Shah (Advocate), Ms. Priyanka Kalwani (Advocate) Shri Rajesh Meharchandani (AGM- Taxation), |

Brief facts

M/s Suzuki Motor Gujarat Pvt Limited, Survey No. 293, Block No. 334/335, Becharaji, Village Hansalpur, Tal. Mandal, Ahmedabad (for short - applicant), is registered with the department and their registration number is 24AAUCS5797D2ZP.

2. The applicant is engaged in the manufacture of passenger cars & its parts at their factory, which is located in Gujarat.

3. As part of the company policy/practice, the Applicant provides accommodation facility in a dormitory to its employees and student trainees near to the factory premises. The said facility though optional for its employees, is mandatory for student trainees. The applicant recovers a nominal amount from its employees and student trainees for providing such accommodation facility. The applicant further stated that

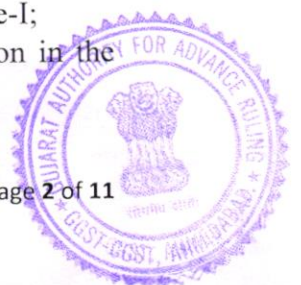
accommodation facility in the dormitory is provided only to the employees and student trainees and not to their family members. Further, if the employees choose not to use the accommodation facility, then in such cases, they have an option to opt out of the facility by submitting an exit form.

4. The applicant stated that in order to provide the accommodation facility in dormitory to its employees and student trainees, the applicant has entered into an agreement with third-party accommodation service provider [for short – ‘ASP’]. The accommodation service provider issues monthly invoice for providing the accommodation facility in the dormitory and recovers GST at the rate of 18% from the applicant.

5. The applicant believes that the accommodation facilities so provided to its employees do not qualify as 'supply' in terms of section 7 of the CGST Act and is therefore not liable to GST. Thus, no GST is liable to be discharged on the recoveries made by the applicant towards such accommodation facilities from the employees. However, in case where the said accommodation facility is provided to the student trainees, the same would qualify as 'supply' in terms of section 7 of the CGST Act and therefore, the applicant is liable to discharge GST on the recoveries being made from the student trainees for providing accommodation facility. The applicant further states that they are eligible to avail input tax credit (ITC) in respect of the GST paid to the accommodation service provider in terms of Section 16 of the CGST Act.

6. To substantiate their claim that the accommodation facility provided to employees does not qualify as supply and is in the nature of perquisite the applicant has made the following submission viz

- that there has to be a legal intention of both the parties to the contract to supply and receive the goods or services or both. In the absence of such intention, the services would not amount to *supply* within the meaning of section 7 of CGST Act;
- unless there is an intention to provide a service, the same shall not be treated as supply within the meaning of section 7 of the CGST Act;
- that it should involve *quid pro quo* i.e., the supply transaction requires something in return, which the person supplying will obtain, which may be in monetary terms/in any other form except in case of deeming provision as specified in Schedule-I;
- that the supply of goods or services or both shall be effected by a person in the course or furtherance of business;



- that though the ASP is issuing invoice to the applicant, the beneficiaries of the accommodation facility are the employees of the applicant;
- that the applicant only acts as a facilitator between the employees and the ASPs and does not retain any profit margin while recovering the amounts from its employees;
- that the nominal amount recovered by the applicant from employees towards the accommodation facility, is only towards the expenditure/costs for providing such accommodation;
- that the employment agreement entered between the applicant and the employees is for receipt of employment services and not for providing accommodation services;
- that the applicant submits that the basic requirements of qualifying as a 'supply' under GST are not satisfied in the instant case;
- that 'consideration' as defined u/s 2(31)(a) of the CGST Act is one of the essential elements of 'supply' to fall within the ambit of section 7 of the CGST Act;
- any amount received towards the accommodation facility i.e., nominal amounts recovered from the employees is not 'consideration' since it is not premised on the enforcement of any reciprocal obligation, and cannot be linked to a 'supply' for the purpose of levy of GST;
- that the applicant deducts a pre-determined amount from the employee's salary as recovery of expenses; that there is no reciprocity of any activity or transaction i.e., there is no quid pro quo (there is no implied or express reciprocity) and direct and immediate link or nexus between the accommodation services provided by the accommodation service providers to the applicant and the nominal amounts recovered by the applicant from the employees in terms of the company policy;
- that in the absence of an identifiable supply, the activity of recovering nominal amounts from the employee's salary towards the provision of accommodation would not constitute 'consideration' for a supply;
- that the applicant further relies on the
 - ruling of GAAR in the case of M/s Cadmach Machinery Pvt Ltd.¹;
 - ruling of GAAR in the case of M/s Dishman Carbogen Amcis Limited²;
- that any facility provided by the employer to its employees in terms of the employer-employee relationship, would be treated as perquisite and is not leviable to GST; that this was clarified in the Press Release issued by CBIC dated 10.07.2017;
- that the accommodation facility provided by the applicant to its employees is in the nature of perquisite provided by the employer to the employee;
- that they wish to rely on CBIC circular No. 172/04/2022-GST dated 06.07.2022;
- the applicant relies on the decision/ruling of the
 - GAAR in the case of M/s. Tata Autocomp Syatems Limited³;
 - GAAR in the case of M/s. Zentiva Pvt Limited⁴;
 - GAAR in the case of M/s. Troikaa Pharmaceuticals Limited⁵;
 - GAAR in the case of M/s Zydus Lifesciences Limited⁶;
 - GAAR in the case of M/s SRF Limited⁷.
 - GAAR in the case of M/s Suzuki Motors Gujarat Pvt Ltd ⁸.
 - GAAR in the case of M/s Dormer Tools India Pvt Ltd ⁹
 - GAAR in the case of M/s Kohler India Corporation Pvt Ltd ¹⁰
 - GAAR in the case of M/s EIMCO Elecon India Ltd. ¹¹
 - GAAR in the case of M/s Cadila Pharmaceuticals Ltd. ¹²
 - GAAR in the case of M/s AIA Engineering Ltd. ¹³

¹ 2022 (4) TMI 1337

² 2021 (8) TMI 836

³ 2023 (7) TMI 142

⁴ 2023 (6) TMI 224

⁵ 2022 (9) TMI 200

⁶ 2022 (10) TMI 304

⁷ 2022 (10) TMI 305

⁸ 2024 (2) TMI 848

⁹ 2024 (6) TMI 222

¹⁰ 2024 (1) TMI 703

¹¹ 2023 (9) TMI 164

¹² 2023 (4) TMI 29



- GAAR in the case of M/s Troikaa Pharmaceuticals Ltd.¹⁴

7. On the second issue regarding the accommodation facility provided by the applicant to student trainees, the applicant has made the following submission viz

- that as per section 7(1) of CGST Act, the term 'supply' includes 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;
- that the student trainees are not on the payroll of the applicant and are appointed on a contractual basis and hence the accommodation facility provided to the student trainees, in the course or furtherance of business of the applicant, qualifies as a supply of accommodation services. It is further submitted that accommodation facility provided to student trainees by the Applicant will not qualify as a "perquisite" in terms of the Circular No. 172/04/2022-GST dated 06.07.2022 as student trainees are not 'employees' of the applicant.
- that the recovery of accommodation charges made from the student trainees will be liable to GST.

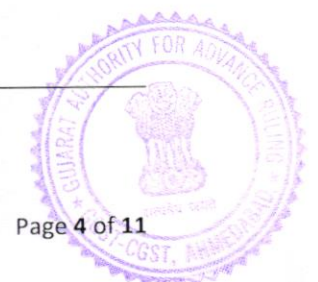
8. On the third issue regarding admissibility of ITC in respect of accommodation facility provided to employees, the applicant has made the following submission viz

- that as per sub section (1) of section 16 read with sub section (60) and (17) of section 2, the applicant is eligible to claim ITC of the GST paid on procurement of accommodation services, since such input services are used or intended to be used in the course or furtherance of the business;
- that the ITC of the GST paid on procurement of accommodation services is not restricted in terms of section 17(5) of the CGST Act;
- that they would like to rely on the below mentioned ruling wherein GAAR held that the applicant is eligible to avail ITC of the GST paid on the transportation facility and canteen facility provided to its employees;
 - M/s Zentiva Private Limited 2024 (6) TMI 224;
 - M/s Tata Autocomp Systems Ltd 2023 (7) TMI 142;
 - M/s EIMCO Elecon India Limited 2023 (9) TMI 164;
 - M/s Dormer Tools India P Ltd. 2024 (6) TMI 222
 - M/s Kohler India Corporation Pvt Ltd. 2024 (1) TMI 703;
 - M/s Cadila Pharmaceuticals Ltd. 2023 (4) TMI 298;
 - M/s AIA Engineering Ltd. 2023 (4) TMI 297;
 - M/s Tata Motors Ltd. 2022 (12) TMI 1363;
- that the Applicant is eligible to avail ITC on procurement of the accommodation facility for the employees and the said ITC is not restricted/blocked under Section 17(5)(g) of the CGST Act;

9. On the fourth issue regarding admissibility of ITC in case of accommodation facility provided to student trainees, the applicant has made the following submission viz

¹³ 2023 (4) TMI 297

¹⁴ 2022 (9) TMI 200



- that accommodation services availed are used in the course or furtherance of business of the applicant;
- that in addition to that, it is humbly submitted that in the present case, the input services are being procured for providing outward supply of accommodation services to the student trainees and therefore, on this ground alone, the ITC on GST paid for accommodation services is eligible to the Applicant in terms of Section 16(1) of the CGST Act;

10. In view of the foregoing, the applicant has filed this application seeking advance ruling on the following questions viz

- 1) Whether GST is liable to be discharged on the amount recovered by the Applicant from its employees towards the accommodation facility provided to them?
- 2) Whether GST is liable to be discharged on the amount recovered by the Applicant from student trainees towards the accommodation facility provided to them?
- 3) Whether the Applicant is eligible to avail input tax credit of the GST charged by the third-party service provider for the accommodation facility provided to its employees?
- 4) Whether the Applicant is eligible to avail input tax credit of the GST charged by the third-party service provider for the accommodation facility provided to student trainees?

11. Personal hearing was held on 24.04.2025 wherein Shri Jigar Shah (Advocate), Ms. Priyanka Kalwani, (Advocate) and Shri Rajesh Meharchandani, AGM (Taxation) of the applicant appeared and reiterated the facts as stated in the application. In the additional submissions dated 15.4.2025, while reiterating the averments already made in the application, they also submitted illustrative copies of employment agreements pertaining to fixed term employees, company trainees and student trainees marked as Annexure A.

12. In In pursuance to the change in Member (State), fresh personal hearing was held on 29.7.2025, wherein Shri Jigar Shah (Advocate), Ms. Priyanka Kalwani, (Advocate), Ms. Aanchal Trivedi (Advocate) and Shri Rajesh Meharchandani, AGM (Taxation) of the applicant appeared and reiterated the facts as stated in the application.



13. Assistant Commissioner of State Tax, Unit 11, Ahmedabad, vide his letter dated 24.4.2025, made the following submissions, viz

- that GST is generally not liable to be discharged on nominal amounts recovered from employees for accommodation;
- that GST is liable to be discharged on nominal amounts recovered from student trainees for accommodation;
- that ITC is not available on accommodation for employees as it is hit by section 17(5)(b)(i); that it is akin to personal consumption; that it is available only if the provision of such accommodation is obligatory, as far as employees are concerned;
- that ITC is not available in respect of student trainees, as it is hit by section 17(5), *ibid*.

Discussion and findings

14. At the outset, we would like to state that the provisions of both the CGST Act and the GGST 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 provisions under the GGST Act.

15. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.

16. Before advertng to the submissions made by the applicant, we would like to reproduce the relevant sections, circular, press release etc., for ease of reference:

- **Section 7. Scope of supply:-**

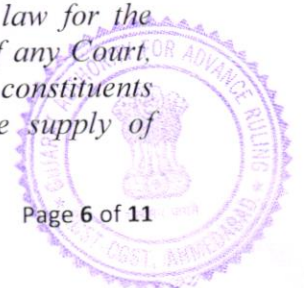
(1) For the purposes of this Act, the expression –

"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;

[(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation .-For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of



activities or transactions inter se shall be deemed to take place from one such person to another;]

(b) import of services for a consideration whether or not in the course or furtherance of business; [and]

(c) the activities specified in Schedule I, made or agreed to be made without a consideration; ³[****]

(d) ⁴[****].

[(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.

(3) Subject to the provisions of [sub-sections (1), (1A) and (2)], the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as -

(a) a supply of goods and not as a supply of services; or

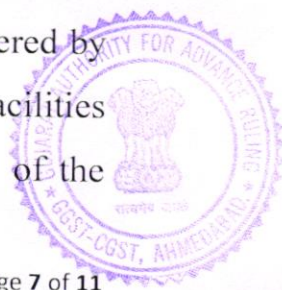
(b) a supply of services and not as a supply of goods.

• **Circular No. 172/04/2022-GST**

| S. No | Issue | Clarification |
|-------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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 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. The facts having been enumerated *supra* we do not intent to repeat the same for the sake of brevity.

18. The first issue to be decided is whether the amount recovered by the applicant from the **employees** who are availing accommodation facilities would be considered as a 'supply' under the provisions of section 7 of the



CGST Act, 2017. Now, in terms of Section 7 *ibid*, supply means all forms of 'supply' of goods/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. The exception being Schedule I, which includes the activities made or agreed to be made without a consideration and Schedule III, which includes activities which shall be treated neither as a supply of goods or services.

19. Now in terms of circular No. 172/04/2022-GST dated 6.7.2022, it is clarified 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 is provided in terms of a contract between the employer and employee. We find that factually there is no dispute that the dormitories accommodation facility is provided by the applicant as part of the company policy. In view of the foregoing, we hold that the nominal deduction, made by the applicant from the employees who are availing accommodation facility would not be considered as a 'supply' under the provisions of section 7 of the CGST Act, 2017. However, the aforementioned finding is only in respect of **permanent employees**.

20. Moving on to the second question as to whether GST is liable to be discharged on the amount recovered by the applicant from student trainees towards the accommodation facility provided to them. As far as this question is concerned, even the applicant agrees that the accommodation facility provided to student trainees will be considered as supply as these student trainees are not on the payroll of the applicant and since they are not employees, the facility so provided cannot be termed as a perquisite.

Input Tax Credit (ITC)

[in respect of **permanent employees** of applicant]

21. The third question on which the applicant has sought ruling is whether ITC of GST charged by the ASP for the accommodation facility provided to its employees and student trainees can be availed by the applicant.



22. The relevant extracts of section 17(5), *ibid*, which deals with blocked credit, is reproduced below, for ease of reference, viz

Section 17. Apportionment of credit and blocked credits.-

(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:-

[a].....

[aa].....

[ab].....

(b) ³[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;

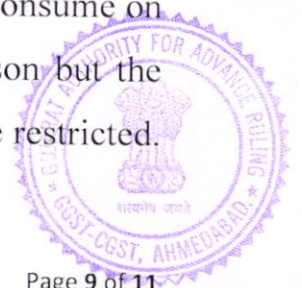
(ii) membership of a club, health and fitness centre; and

(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.]

(g) goods or services or both used for personal consumption;

As is evident, the ITC in respect of the accommodation facility provided by the applicant is not blocked under section 17(5), *ibid*. We find that the Assistant Commissioner, Sales Tax, Unit 11, Ahmedabad, vide his letter has submitted that the ITC is blocked in terms of section 17(5)(b)(i), except when it is provided under statutory obligations. We do not agree with this since [a] the services do not find a specific mention under section 17(5)(b)(i) and [b] the accommodation services provided to employees, cannot be termed as services used for personal consumption. We find that personal consumption means that goods or services used for non business purposes like personal use or consumption by partners, directors, proprietors, etc., would not be eligible for ITC. Further, we find that section 17(5)(g), *ibid*, blocks the ITC when the 'immediate and ultimate' use or consumption of any item is for personal benefit of the person (employee or director or any person who can consume on behalf). We find that if the immediate benefit is for the said person but the ultimate benefit is for the supplier company, the credit would not be restricted.



In view of the foregoing, we hold that ITC will be available to the applicant in respect of accommodation facility provided to its employees. Having said so, it is further held that the ITC on GST charged by the ASP will be restricted to the extent of cost borne by the appellant only. Our view is substantiated by the Ruling of the Gujarat Appellate Authority for Advance Ruling order No. GUJ/GAAAR/Appeal/2022/23 dated 22.12.2022 in the case of M/s. Tata Motors Ltd, Ahmedabad.

Input Tax Credit (ITC)

[in respect of **student trainees** of applicant]

23. The last question of the applicant is whether the applicant is eligible to avail ITC of the GST charged by the ASP for the accommodation facility provided to student trainees. We find that the Assistant Commissioner, Sales Tax, Unit 11, Ahmedabad, vide his letter has submitted that the ITC is blocked in terms of section 17(5). We have given recorded our reasons for not agreeing with the aforementioned view. We have already held in the paragraphs above that the applicant is liable to pay GST even on the nominal amount recovered from the student trainees. We have further held above, that ITC in respect of the services rendered by ASP is available in respect of the permanent employees. Since, in the case of the student trainees, the applicant is bearing the entire cost meaning that GST is being discharged even on the nominal amount deducted from the student trainees, we find that they are eligible for ITC in respect of the accommodation service provided to student trainees.

21. In the light of the foregoing, we rule as under:

RULING

- 1) GST is not liable to be discharged on the portion of the amount recovered by the applicant from its **permanent employees** towards the accommodation facilities provided to them.
- 2) GST is liable to be discharged on the portion of the amount recovered by the applicant from **student trainees** towards the accommodation facilities provided to them.



3) The applicant is eligible to avail ITC in respect of the GST charged by the ASP for the accommodation facilities provided to **permanent employees**. Further ITC is restricted to the extent of the cost borne by the applicant for providing accommodation services to its permanent employees, but disallowing proportionate credit to the extent embedded in the cost of services recovered from such employees.

4) The applicant is eligible to avail ITC in respect of the GST charged by the ASP for the accommodation facilities provided to **student trainees**.


(Sushma Vora)

Member (SGST)

Place: Ahmedabad

Date: 12 08.2025





(Vishal Malani)

Member (CGST)