



Recoveries from employee for canteen, bus-transportation, notice-pay not liable to GST

In the matter of Emcure House

Maharashtra AAR holds that canteen recovery, notice pay recovery, recoveries made towards providing bus transportation facility to employee is not liable to GST; Notes that, canteen facility to employees is a welfare measure mandated by Factories Act which is “not at all connected to the functioning of their business of developing, manufacturing and marketing pharmaceutical products...not a transaction made in the course or furtherance of business...cannot be considered as a "supply" under Section 7 of the CGST Act”; Along similar lines, in case of provision of bus transportation facility, the Authority takes into account that the applicant is not providing bus transportation facility to its employees, in fact the applicant is a receiver of such services whilst opining that “arranging bus transportation facility for their employees is not an activity which is incidental or ancillary to...nor...in the course of or in furtherance of developing, manufacturing and marketing of pharmaceutical products as it is not integrally connected to the business...”; As regards notice pay recoveries made from the employees on account of not serving the full notice period, Infers “there is no consideration within the meaning of Sec. 2(31)(b) of the CGST Act, 2017 flowing from an act of forbearance in as much as there is no breach of contract, as a question of any consideration for forbearance would arise in case of breach..”; Relies up MPAAAR decision in case of Bharat Oman Refineries and Madras HC ruling in GE T&D India Ltd.