

Service tax on factory canteens

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When canteen facility is provided by the employers to their employees and if any amount is collected from the employees, the employer is providing a service to the employees. Services provided by the employees to the employers alone are in the negative list and not vice versa. But, the below exemption under S.No. 19 of Notification 25/2012, could be claimed as such canteens, though having air conditioning facility, may not be having licence to service liquor.

19. Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having (i) the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year, and (ii) a license to serve alcoholic beverages;

But, as per notification 2/2013 ST Dated 01.03.2012, with effect from 01.04.2013, the above exemption is applicable only for the following categories of restaurants.

19. Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year;”;

As most of the staff canteens would be having the air-conditioning facility, this exemption cannot be claimed after 01.04.2013. Hence, such employers would be liable to pay service tax on the recoveries made from their employees towards canteen facility, from 01.04.2013.

Such service tax can be paid through cenvat credit, if the employer is otherwise a manufacturer of excisable goods or provider of taxable services. After paying the service tax, there is no question of availing cenvat credit of it, as it is an output service provided.

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