



**BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax**

D. No. 5-56, Block-B, R.K. Spring Valley Apartments, Eedupugallu, Vijayawada-521151

Present

1. **Sri D. Ramesh**, Additional Commissioner of State Tax...Member (State Tax)
2. **Sri M. Sreekanth**, Joint Commissioner of Central Tax...Member (Central Tax)

AAR No. 03/AP/GST/2020 dated: 17.02.2020

1	Name and address of the applicant	M/s CMC Vellore Association, 190 Rampuram, 189 Kothapalli, Gudipala Mandal, Chittoor-517002 Andhra Pradesh.
2	GSTIN	37AAATC1278N1ZF
3	Date of filing of Form GST ARA-01	16.08.2019
4	Date of Personal Hearing	23.10.2019
5	Represented by	Sri D. Theresa and Sri P.Venkataraju Authorized Representative
6	Jurisdictional Authority – State	Assistant Commissioner (ST), Chittoor-1 Circle, Chittoor Division
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	b) applicability of a notification issued under the provisions of this Act; and e) determination of the liability to pay tax on any goods or services or both;

ORDER

(Under Sub-Section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s CMC Vellore Association, (hereinafter referred to as applicant), registered under the Goods & Services Tax.
2. The provisions of the CGST Act and APGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the APGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or AP GST Act would be mentioned as being under the GST Act.



3. Brief Facts of the case:

M/s CMC Vellore Association is a non- profit organization governed by the Christian Medical College Vellore Association, registered under the Societies Registration Act XXI of 1860 and under Section 12AA of the Income Tax Act, 1961. CMC is a Society Registered with the Registrar of Societies Act XXI of 1860 with Registration No.5 of 1947,

Christian Medical College Vellore Association (Chittoor Campus), (herein called as CMC) have a multi-specialty tertiary care hospital providing health care services and categorized the patients as out-patients and In-patients for the administrative convenience. CMC is rendering medical services with professionals like doctors, nursing staff, lab technicians etc.

Medicines, Drugs, stents, Implants etc. are supplied through pharmacy to inpatients under the prescription of the doctors which are incidental to the health care services rendered in the hospital. The out-patients are those who visit the hospital for routine check-ups clinical visits whereas the in-patients are those who are admitted in to the hospital for the required treatment. The in-patients are provided with stay facilities, medicines, consumables, implants, dietary food and other surgeries/ procedures required for the treatment.

The Central store of the hospital procures stocks of medicines, implants, consumable etc. from various suppliers and distribute to its outlets such as in-patient pharmacy, operation theatre pharmacy and out-patient pharmacy based on the indent issued. The in-patient pharmacy and operation theatre pharmacy supply medicines, implants and consumables only to in-patients. Whereas the out-patient pharmacy attached to the hospital entertain the medical prescription of out-patients.

The medicines, consumables and implants used in the course of providing health care services to the patients admitted for diagnosis or treatment in the hospital or clinical establishment is naturally bundled in ordinary course of business. The patients are expected to receive health care services which include receiving the appropriate medicine, relevant consumables, or implants required to make sure that appropriate diagnosis or the best possible treatment of the health issues are conducted. If there is no supply of medicines, consumables or implants, it would be difficult to render the health care service which will ultimately have an impact in the survival of the patients. The healthcare service cannot be provided without the drugs/ consumables/stents. This being a composite supply the principal supply is predominant which is health care and therefore the same is to be considered for taxability under GST. The ancillary supplies such as room rent and dietary food provided to in-patients also shall be exempt and beyond the ambit of taxation.

4. Questions raised before the authority:

1. Tax liability on the medicines supplied to In-patients through pharmacy.
2. Tax liability on the medicines, drugs, stents, implants etc administered to in-patients during the medical treatment or procedure.

On Verification of basic information of the applicant, it is observed that the applicant falls under State jurisdiction, i.e. Assistant Commissioner, Chittoor-1 Circle, Chittoor Division. Accordingly, the application has been forwarded to the jurisdictional officers and a copy marked to the central tax authorities to offer their remarks as per the Sec. 98(1) of CGST /APGST Act 2017.



In response, remarks are received from the jurisdictional officer concerned stating that there are no proceedings lying pending or passed relating to the applicant on the issue, for which the Advance Ruling sought by the applicant.

5. Applicant's Interpretation of Law and Facts:

i) **Health care Services:** Health care services means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to resolve of to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

ii) **Clinical establishment:** The word 'clinical establishment' means a hospital, nursing home, clinic, sanatorium or any other institution by whatever name called, that offers services or facilities requiring diagnostics or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases.

Taxability of health care services:

Health care services provided by a clinical establishment, an authorized medical practitioner or para medics are exempted vide Sl.No.74 of Notification No.12/2017-CT (Rate) dated 28.06.2017. (Section 11 of the CGST Act grants the power to the Government of India to exempt goods or services or both of any specified description from the whole or part of the tax leviable thereon through the issuance of notification.

Based on the approval of 25th GST council meeting held on 18.01.2018 (F.No.354/17/2018-TRU date 12.02.2018), it was clarified that food supplied to the inpatients as advised by the doctor/ nutritionist is a part of composite supply of health care and not separately taxable. Other supplies of food by hospital to patients not admitted are taxable. The same principle is applicable in the case of dispensing of medicines also.

The applicant referred to an order of Authority of Advance Ruling, Kerala No Ker/16/2018 dt: 19.9.2018, which reads as under:

i) The supply of medicines and allied items provided by the hospital through the pharmacy to the in-patients is part of composite supply of health care treatment and hence not separately taxable.

ii) The supply of medicines and allied items provided by the hospital through the pharmacy to the out-patients is taxable.

In GST scenario health care services by a clinical establishment, an authorized medical practitioner or para medics have been exempted vide classification 9993.

6. Record of Personal Hearing:

The authorized representatives of the applicant, CA Theresa D, FCA and CA P. Venkataraju, FCA appeared for Personal Hearing on 23.10.2019 and they reiterated the submission already made in the application.



7. Discussion and Findings:

We have examined the issues raised in the application. The taxability, classification of the services, applicable rate of tax, eligibility of exemption etc., for the goods and services supplied or to be supplied, as governed under the provisions of respective GST Acts are examined.

The applicant as stated in the application renders health care services to in-patients in the form of supply of medicines, drugs, stents, implants etc being administered during the medical treatment or procedure. Now we examine the issue at hand i.e., whether the above mentioned supplies to in-patients through pharmacy is liable to tax or not. Primarily the health care services provided by the applicant are exempt under Sl.No. 74 Heading 9993 vide Notification No 12/2017 – Central Tax (Rate) Date: 28.06.2017.

The health care services as explained in (zg) of para 2 of Notification no. 12/2017 – Central Tax (Rate) Date: 28.06.2017, defines service by way of diagnosis, or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India. In common parlance, when one looks into the definition, 'the treatment or care' extended by hospital can be thought of devoid of medicines, relevant consumable, or implants, by no stretch of imagination. The supply of medicines and the consumables are integral part of the treatment extended to the in-patients by the hospital. Hence, we are of the opinion that the services rendered by the applicant is a composite supply as defined under section 2(30) of CGST Act, 2017 in which the principal supply is health care, being predominant and the supply of medicines, drugs, implants, stents, and other consumables, come under ancillary supplies and accordingly tax liability has to be determined under section 8 of CGST Act, 2017. Since the entry of "*Services by way of – a) health care services by a clinical establishment, and authorised medical practitioner or para-medics;*" at Sl.No. 74 Heading 9993 vide Notification No 12/2017 – Central Tax (Rate) Date: 28.06.2017 is nil rated, the supply of medicines, drugs, implants, stents, and other consumables are exempted from liability under GST.

Even the Circular No.32/06/2018-GST (F.No.354/17/2018-TRU) date: 12.02.2018 released on the approval of the CGST council 25th meeting clarifies the issue on the similar lines stating that the food supplied to in-patients is part of composite supply of health care and not separately taxable, whereas other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable. In this context, we are of the opinion that the same principle is applicable to the medicines, drugs, stents, implants etc administered to in-patients during the medical treatment or procedure.

In view of the observations stated above, the following ruling is issued.

RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

Question: Tax liability on the medicines supplied to In-patients through pharmacy.

Answer: The supply of medicines supplied to In-patients through pharmacy are not liable to tax, being a part of the composite supply of health care services under Sl.No. 74 Heading 9993 vide Notification No 12/2017 – Central Tax (Rate) Date: 28.06.2017 which are nil rated.




Question: Tax liability on the medicines, drugs, stents, implants etc administered to in-patients during the medical treatment or procedure.

Answer: Not liable to tax as explained above

**Sd/- D. RAMESH
MEMBER**

**Sd/-M.SREEKANTH
MEMBER**

//t.c.f.b.o//


Assistant Commissioner (ST)
Assistant Commissioner (State Tax)
O/o. Chief Commissioner of State Tax,
Andhra Pradesh, Vijayawada.

To

1. M/s CMC Vellore Association, 190 Rampuram, 189 Kothapalli, Gudipala Mandal, Chittoor-517002 Andhra Pradesh. **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Chittoor-1 Circle, Chittoor Division
(By Registered Post)
2. The Superintendent, Central Tax, Chittoor -1 Range, Tirupathi CGST Division.**(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada.
2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. **(By Registered Post)**

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.

