



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, Commissioner of State Tax (Member)
2. Sri. RV Pradhamesh Bhanu, Joint Commissioner of Central Tax (Member)

AAR No.04/AP/GST/2022 dated: 21.03.2022

1	Name and address of the applicant	M/s. Krishna Institute of Medical Sciences Limited, Flat no.4-120/A, North Bypass Road, NH-5, Backside Agriculture Market Yard, Prasakam District, Ongole-523001, Andhra Pradesh.
2	GSTIN	37AACCK2540G2ZR
3	Date of filing of Form GST ARA-01	26.06.2021
4	Hearing (Virtual)	21.10.2021
5	Represented by	Sri K.V. Suresh Babu
6	Jurisdictional Authority - State	Assistant Commissioner (ST) Ongole-1 Circle, Nellore Division
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	a) Classification of any goods or services or both b) applicability of a notification issued under the provisions of this Act;

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. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and SGST Act, 2017 are in pari materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the APGST Act.
2. 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. Krishna Institute of Medical Science Limited (hereinafter referred to as applicant), registered under the AP Goods & Services Tax Act, 2017.

3. Brief Facts of the case:

The applicant, M/s Krishna Institute of Medical Sciences Limited is a public limited Company, and a multi-speciality hospital, rendering healthcare services and claiming exemption on the said service vide notification no. 12/2017 Central Tax Rate. Apart from healthcare services, the Company also makes pharmacy supplies based on doctors prescriptions to outpatients, which is taxable and accordingly the Company remits taxes on the same. The Company has been permitted to administer COVID-19 vaccine. The process of administering COVID-19 vaccination has been narrated below:

3.1 Administration of vaccination:

Vaccine administration is critical to ensure that vaccination is safe and effective. CDC (Centres for Disease Control and Prevention) recommends that all health care personnel who administer vaccines receive comprehensive, competency-based training on vaccine administration policies and procedures before administering vaccines. Comprehensive skills-based training should be integrated into existing staff education programmes such as new staff orientation and annual education requirements.

Government has constituted National Expert Group on Vaccine Administration for COVID-19 (NEGVAC). The NEGVAC will guide all aspects of the COVID-19 vaccine introduction in India.

For any new vaccine introduction, healthcare providers will be responsible for handling and administering the vaccine as well as be a major source of information for the community.

As per NEGVAC, the vaccination team consists of vaccination officers and vaccinator officer. Vaccinator officer is the one who is responsible for vaccination of beneficiary. The following health care professionals can only be the vaccinator officers:

- MBBS (Bachelor of Medicine, Bachelor of Surgery)
- BDS (Bachelor of Dental Surgery)
- AYUSH Doctors
- Staff Nurse (paramedics)
- Auxiliary Nursing Midwife (GNW/ ANM etc.)
- Pharmacist
- MBBS and BDS interns

Therefore, the vaccine has to be administered by a medical professional only as per NEGVAC.

3.2 Vaccine administered by the Company: The vaccination is administered by authorized medical practitioners i.e., doctors, nurses, etc. The beneficiary has to get registered as per the guidelines of the Ministry of Health and Family welfare (MoHFW) and he/she needs to visit designated authorized vaccination centre for getting vaccinated. The vaccination process involves,

Pre vaccine consultation such as eligibility of the person to get vaccination, i.e., enquiry about pregnancy check, existing health issues, etc. to identify whether the beneficiary is eligible for vaccination or not.

Vaccination process involves creating a record of the person and injecting the vaccine in the specified quantity as specified by the medical council, by authorized medical practitioner directly into the body of the persons.

Post vaccination process, wherein the medical practitioners request the person to be in observation for 10 to 15 minutes to evaluate the health condition of the vaccinated person. Subsequently, the person will be counselled for precautionary measures such as body pain, body temperature, etc., and the medical practitioners will recommend appropriate medicine.

In the context of above process, the applicant approached this Authority for clarification on the applicability of GST on administration of Covid vaccines by Hospital administration. The applicant had filed an application in form GST ARA-01 dated 26.06.2021 by paying required amount of fee for seeking Advance Ruling on the following issues, as mentioned below:

4. Questions raised before the authority:

The applicant seeks advance ruling on the following:

1. Whether administering of COVID-19 vaccination by hospitals is Supply of Good or Supply of Service?
2. Whether administering of COVID-19 Vaccine by clinical establishments (Hospitals) qualify as "Health care services" as per Notification No. 12/2017 Central Tax Rate dated 28.06.2017?
3. Whether administering of COVID-19 vaccination by clinical establishment is exempt under GST Act?

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

In response, no remarks are received from the jurisdictional officer concerned on the issue, for which the Advance Ruling sought by the applicant.

5. Applicant's Interpretation of Law:

A. The relevant provisions of the Act/ Rule/ notifications have been reproduced below for reference:

1 Definition of Goods:

The definition of good has been given under GST Act vide Section 2(52),

"goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

2 Definition of Services:

The definition of service has been given under GST Act vide Section 2(102):

"services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

3 Definition of Composite Supply:

The definition of Composite supply has been given under GST Act vide Section 2(30):

"composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

4. As per S. No. 74 of Notification No. 12/2017 Central Tax Rate dated 28th June 2017,

"Services by way of – a) health care services by a clinical establishment, an authorised medical practitioner or para-medics;

b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above" are exempted from GST.

5. The definition of "healthcare service" stated in Notification No. 12/2017 Central Tax Rate dated 28th June 2017, is defined as

"healthcare service" 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 restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma;"

6. Further the definition of "authorized medical practitioner" stated in Notification No. 12/2017 Central Tax Rate dated 28th June 2017, is defined as

"a medical practitioner registered with any of the councils of the recognised system of medicines established or recognised by law in India and includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force"

B. Analysis of the provisions of the Act:

Whether the supply of vaccination by hospitals is goods or service?

If it is to categorize vaccination as sale of goods, we need to understand that vaccination is not supplied as a tangible product to the persons who intends to get vaccinated as a preventive measure. The vaccine vial consists of multiple doses which can be vaccinated to many persons and for such measurement, vaccination need to be carried by a technically competent person. The vaccination which is served to the

person is one of the key medicines apart from the other consumables used during the vaccination process.

Vaccine vial is not made available for sale by pharmacy/ hospitals and the beneficiaries are not at liberty to get it vaccinated by themselves or by other than a medical professional. Further, the beneficiaries are visiting authorized hospital with pre scheduled appointment to get vaccination from a medical practitioner as a preventive measure through vaccination which is directly injected into the body of the beneficiaries by the authorized medical practitioners as part of medication process. Accordingly, in our view, administering of vaccine should not be considered as supply of goods.

The activities which are undertaken during vaccination process has been described above. The supplies involved during the vaccination process are:

S No.	Step	Components involved	Good or Service
1	Documentation and records maintenance	Service involved in verifying the documentation, processing and maintaining	Service
2	Pre-consultation	Consultation service by medical professional	Service
3	Disinfecting the skin by using Alcohol and cotton by a medical professional	Cotton, alcohol and services by medical professional	Both
4	Injecting the vaccination to the person	Usage of Syringe, composition of drug and services by medical professional	Both
5	Consultation including medical advice	Post vaccination observation and consultation by medical professional	Service

By above process it is understood that vaccination involves combination of supply of goods and services. In such scenario, we need to test check to identify whether it is composite supply or mixed supply as per GST Act.

A supply will be regarded as a 'composite supply' if the following elements are present:

S. No.	Elements	Present or not
a	The supply should consist of two or more taxable supplies	<input checked="" type="checkbox"/>
b	The supplies may be of goods or services or both	<input checked="" type="checkbox"/>
c	The supplies should be naturally bundled	<input checked="" type="checkbox"/>
d	They should be supplied in conjunction (event, time or contract) with each other in the ordinary course of business	<input checked="" type="checkbox"/>
e	One of the supplies being a principal supply (Principal supply means the predominant supply of goods or services of a composite supply and to which any other supply is ancillary)	<input checked="" type="checkbox"/>

On review of vaccination process and key parameters of the composite supply, it is evident that the various components of supplies during the vaccination process are interdependent to each other and the supply cannot be performed without the other components and it is evident that each supply does not have its significance unless it is combined which is the feature of naturally bundled.

The only objective of the person who is desired to get vaccinated is to build the immunity against the chronic virus and get himself protected from harmful virus. The person is vulnerable to COVID-19 virus without vaccination. The vaccination process cannot be self-administrated without support of medical practitioner and the same is not available for purchase and get it processed by a different medical practitioner, i.e., the vaccination can be taken at a designated healthcare establishment considering complexity involved in the process and existing regulations.

In the process of vaccination high level care and responsibility has been assigned to the medical professionals by regulatory authority with the sole objective to prevent the public from illness i.e., COVID-19 virus.

Once, it has been considered as service, whether the supply of services is taxable or exempt?

As per Sl. No. 74 of Notification no. 12/2017, Healthcare services by clinical establishment or authorized medical practitioners or para medics are exempt. As per para (zg) of the said notification read with HSN Code 999312, the definition of Healthcare services includes,

General medical services consisting of the prevention, diagnosis and treatment by doctors of medicine of physical and/or mental diseases, such as:

- i. Consultations
- ii. Physical check-ups, etc.

Note: These services are not limited to specified or particular conditions, diseases or anatomical regions. They can be provided in general practitioners' practices and also delivered by outpatient clinics, at home, in firms, schools etc. or by phone, Internet or other means.

The entire process of vaccination is for the care of people, i.e., the beneficiaries are being consulted/ vaccinated as a preventive measure to develop immunity against the chronic illness, which is to be considered as healthcare service and exempted under Notification No. 12/2017 Central Tax Rate.

We humbly request you to please provide clarification on whether the administering of vaccination by the Company is exempt under GST Act.

6. Virtual Hearing:

The proceedings of Hearing were conducted through video conference on 21.10.2021, for which the authorized representative, Sri K.V.Suresh Babu attended and reiterated the submissions already made.

7. Discussion and Findings:

We have examined the issues raised in the application and the submissions made by the authorized representative at the time of Hearing. The issue at hand is to decide whether administering of COVID-19 vaccination by hospitals is Supply of Goods or Supply of Service. Subsequently, the applicant seeks clarification whether administering of COVID-19 Vaccine by clinical establishments (Hospitals) qualify as "Health care services" as per Notification No. 12/2017 Central Tax Rate dated 28.06.2017 and eligible for exemption.

To begin with, we discuss the primary question, whether administering of Covid -19 vaccine by hospitals is 'supply of goods or services or both goods and services'. Basically, two activities are involved in this transaction, 'sale of vaccine' under 'supply of goods' and 'administering of vaccine' under 'supply of service'. When it comes to administering of the vaccine by hospitals, it involves a combination of two supplies, which are naturally bundled, i.e., 'supply of vaccine' and the 'service component' followed by way of administering the same. It is moreover, in the nature of Composite Supply, which is defined in the Act as under,

"Composite supply: a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;"

In the present case, both the supplies are intrinsically connected with each other, and it is viewed as a single package by the recipient, where he purchases the vaccine and gets it administered subsequently. In order to determine, which of the above two, is the principal supply, it would rather depend upon the normal or frequent practices followed in the area of business or the perception of the consumer / recipient as well. Generally, the primary requirement of the recipient would be the receipt of the vaccine, basing on his choice i.e., Covishield or Covaxin. Thus, the supply of goods constitutes the major supply. The proper administration of the vaccine by the technically qualified personnel as prescribed by the guidelines of the government becomes the ancillary supply, which involves 'service charge'. Hence the taxability of the total transaction in the instant case is based on the tax rate of the principal supply i.e., sale of vaccine @ 5 %.

Now, we discuss the next part of the query, whether the administration of Covid-19 vaccine by clinical establishments (hospitals) would qualify as "Health Care Services" as per Notification No.12/2017 Central Tax (Rate) dt. 28.06.2017.

Sl. No.	Chapter, Section, Heading,	Description of Services	Rate (per cent.)	Condition
74	Heading 9993	Services by way of- (a) health care services by a clinical establishment , an authorised medical practitioner or para-medics; (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.	Nil	Nil

Definitions. - For the purposes of this notification, unless the context otherwise requires,

*(s) "clinical establishment" means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring **diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy** in any recognised 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;***

*(zg) "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 restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma;"*

In this regard the dominant intention of the recipient is the receipt of the vaccine followed by its administration. In the instant case, there is no doubt that the applicant qualifies to be a clinical establishment but, the supply transaction is predominantly of sale of goods and not the service component of healthcare.

It has been settled by various Advance Ruling Authorities that inpatient services are covered under the healthcare services extended by the clinical establishments, which are exempt under GST. By no stretch of imagination, the receipt of vaccine can be considered as inpatient services rendered by the hospitals in this regard.

Finally, we arrive at the conclusion that exemption is not allowed in the instant case as claimed by the applicant under 'health care services' provided by the 'clinical establishment'. The taxability of the supply is under 'composite supply', wherein the principal supply is the 'sale of vaccine' and the auxiliary supply is the service of 'administering the vaccine' and the total transaction is taxable at the rate of principal supply i.e, 5%. The service charge of administering the vaccine as prescribed by the Central Government from time to time is applicable and inclusive of the total value of the composite supply.

With the foregoing, we rule as under.

RULING

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

Question: Whether administering of COVID-19 vaccination by hospitals is Supply of Good or Supply of Service?

Answer: It is a **Composite supply**, wherein the principal supply is the 'sale of vaccine' and the auxiliary supply is the service of 'administering the vaccine' and the total transaction is taxable at the rate of principal supply i.e, 5%.

Question: Whether administering of COVID-19 Vaccine by clinical establishments (Hospitals) qualify as "Health care services" as per Notification No. 12/2017 Central Tax Rate dated 28.06.2017?

Answer : Negative

Question: Whether administering of COVID-19 vaccination by clinical establishment is exempt under GST Act?

Answer: Negative

SD/-D. Ramesh
Member

Sd/-RV Pradhamesh Bhanu
Member

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


Deputy Commissioner (ST)

DEPUTY COMMISSIONER (ST)
O/o. Chief Commissioner of State Tax,
Government of A.P., Vijayawada

To

1. M/s. Krishna Institute Medical Science Limited, Flat No. 4-120/A, North Bypass Road, NH-5, Backside Agriculture MarkeYard, Prasakam District, Ongole- 523001, AndhraPradesh **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Nellore Circle, Ongole-1 Division.
(By Registered Post)
2. The Superintendent, Central Tax, CGST Nellore-3 Range, Nellore Division.
(By Registered Post)

Copy submitted to

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