


GUJARAT AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/106/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2020/AR/01)

Date: 30.12.2020

Name and address of the applicant	:	M/s Baroda Medicare Private Limited, Sunshine Global Hospital, 385/1, Plot No. 3, Manjalpur, Vadodars-390011, Gujarat.
GSTIN of the applicant	:	24AADCB2295A1Z7
Date of application	:	08.01.2020
Clause(s) of Section 97(2) of CGST/IGST Act, 2017, under which the question(s) raised.	:	(e) Determination of the liability to pay tax on any goods or services or both.
Date of Personal Hearing	:	24.09.2020 (through Video Conferencing)
Present for the applicant	:	CA Dhruvank Parikh

BRIEF FACTS:

M/s Baroda Medicare Private Limited, Sunshine Global Hospital, 385/1, Plot No. 3, Manjalpur, Vadodars-390011, Gujarat (herein after referred to as the “applicant” for the sake of brevity) is running hospitals primarily under the brand name “Sunshine Global Hospitals” and was incorporated in 2007. The applicant is operating as a multi-specialty hospital having its registered office at Sunshine Global Hospital, Nr. Shreyas Vidyalaya, Manjalpur, Vadodara - 390011 and having 2 other units at Vadodara and Surat, as detailed below:

Manjalpur Hospital:

- ✚ Sunshine Global Hospital, Manjalpur unit was incorporated in 2009.
- ✚ This is the Flagship Hospital of the Group with strong brand equity particularly for Trauma care.
- ✚ This unit is having dedicated Cardiac Unit with ‘State of Art’ Cath-Lab (Vascular Capabilities) with dedicated 10 Cardio ICU beds
- ✚ The unit is NABH Accredited
- ✚ Key Specialties of this unit: Cardiology, Orthopedics, Laparoscopy, Gynecology, Ophthalmology, General Surgery, General Medicine, Oncology, Neurology & Critical Care & other speciality services
- ✚ No of Consultants / Doctors: More than 100 (including visiting)
- ✚ No. of Operational Beds: 120

Surat Hospital:

- ✚ Largest Corporate Multi-Specialty Hospital in Surat was operationalized in 2014.
- ✚ This unit is having dedicated Cardiac Unit with 'State of Art' Cath-Lab
- ✚ The unit is NABH Accredited
- ✚ Key Specialties: Cardiology, Orthopedics, Joint Replacement, Arthroplasty, Gastroenterology, Gynecology, General Surgery, General Medicine & Critical Care & other speciality services
- ✚ No of Consultants / Doctors: More than 100 (including visiting)
- ✚ No. of Operational Beds: 150

Baroda Hospital:

- ✚ Promoter doctors started practice from this unit in 1988
- ✚ Strong Brand Equity with Goodwill of > 25 years
- ✚ Renowned for Orthopedic, General Surgery, Ophthalmology and Gynecology & other speciality services
- ✚ Equipped with OTs: 3, OPD Chambers: 4, Digital X-Ray
- ✚ No of Consultants / Doctors: Around 10
- ✚ No. of Operational Beds: 21

2. The applicant has sought for advance ruling in respect of following questions:

- (i) *Whether the supply of medicines, surgical items, implants, consumables and other allied services & items provided by the hospital through their hospital in-house pharmacy, as well as food, room on rent, other services to the in-patients is part of composite supply of health care treatment; and hence not taxable under CGST/SGST?*
- (ii) *Whether the supply of Occupational Health Check-up service (OHC) by the hospital i.e. nursing staff, Doctors, Paramedical staff on hospital's payroll working in different corporate for providing health check-up service, ambulance facility, and allied medical services to their employees and also the camps conducted for health check-up outside the hospitals, to be treated as Health Care service and hence not taxable under CGST/SGST?*

Statement of relevant facts having a bearing on the issue(s) raised and a Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the aforesaid question(s):

3. On the basis of actual interpretation of Legal Language and well specified norms and notifications pertaining to the class/category of service rendered by the assessee, the applicant has submitted the following:

- ✚ The genesis of Hospital heralds transparent and trustworthy doctor-patient relationship... and it has also put an end to long awaited quest for the multispecialty and tertiary centre in the area it which operates. Sunshine Global Hospital, has redefined the dimensions of healthcare services by providing comprehensive healthcare solution with compassionate care, innovative practices and patient centric services. It is a NABH accredited hospital providing quality care to the patients.
- ✚ TheHospital is committed to excellence & quality and has an established focus on the well-being of its patients by providing the right mix of cutting edge technology, warm & compassionate care, and the best medical professionals and procedures, in a cost effective way for offering the very best in private healthcare.
- ✚ They provide the highest standard of clinical skills and nursing care across an extensive range of specialties and attract world-class doctors and surgeons from the leading hospitals.
- ✚ The hospital offers a convenient location for patients and their visitors and is one of the fastest growing chains of multispecialty hospitals in South Gujarat.
- ✚ Delivering a wide-ranging array of medical services, we offer inpatient, outpatient, day care treatment, Surgery, emergency & trauma care in the surroundings.
- ✚ There are various specialty and super-specialty departments within the hospital. All these departments run daily. At any given time of the day, the patient can meet the specialist doctor and seek advice. The doctors are eminent practitioners who have a standing with the community.
- ✚ Medications being an integral part of therapy, the statutory regulations for scheduled drugs, quality, storage and administration are considered vital parameters for treatment. The mission of the pharmacy is to provide medications, other health care products, relevant information, professional services and to help people and society to make the best use of them. Every activity in the pharmacy is done with certain system and confidence, in order to give right touch of professionalism and care. The hospital has full-fledged pharmacy manned by licensed Pharmacists, which operate round the clock. Medicines are procured from standard companies and follow stringent quality control measures. It allows the patient to procure their medicines in the hospital premises itself, thus avoiding the need to hunt for these in the city at odd hours and

offer timely treatment. Medicines are supplied to patients as per the Doctor Prescription only.

✚ A patient consults a doctor and based on the prescription given by a doctor, the patient approaches the in-house pharmacy shows the prescription and purchases the medicines and the allied items from the pharmacy. Your Applicant believes that the patient has absolute freedom to follow the prescription or not to follow. Similarly, there is freedom to procure the medicines or allied items prescribed, either from the pharmacy run by the hospital or from medicine dispensing outlets located outside the hospital. The Hospital / the Applicant reserves no control over the patient's continuous treatment. As far as an outpatient is concerned, there is no difference with regard to procurement of medicine either from the dispensing outlet within the hospital or from outside the hospital. In both the places, medicines are dispensed based on prescription. Hence, there is no privilege for the hospitals that are dispensing medicine to outpatients. Therefore, pharmacy run by hospital dispensing medicine to outpatient or by standers or others is treated as an individual supply of medicine by your Applicant and your Applicant have never treated the same under the ambit of health care services and accordingly the Applicant discharges GST on the said supplies of medicines and allied items when supplied from in house pharmacy to out-patients (OPD). An Invoice (Ref No. PM2019-20/407631 dated 27th November, 2019) is also submitted. The Applicant doesn't have any doubt / confusion regarding the taxability of the said supplies.

✚ Presently the Applicant follows a practice wherein Patients are admitted to a hospital when they are ill or have severe physical trauma or require appropriate inpatient medical treatment. As far as, an inpatient (IPD) is concerned, the Applicant is expected to provide lodging, care, medical treatments, medicines food, other allied items & services as a part of treatment under supervision till discharge from the hospital. Inpatients (IPD) receive medical facility as per the scheduled procedure and have strict restriction to ensure quantity / quality of items for consumption.

✚ The hospital owns and runs a pharmacy. During the course of treating the in-house patients admitted in the hospital medicines, surgical items, implants, consumables and allied items are used. For proper care and watch by doctors/ nurses a room on rent and food from hospital canteen are provided to the in-house patients as a part of overall health care.

✚ **Medicine or allied goods dispensed to inpatient are essential items and your Applicant believes it to be a composite supply to facilitate**

health care services. Hence, the medicines dispensed to inpatients are incidental to the health care services rendered to the patient by the hospital. The Applicant believes that the healthcare services provided by hospital are exempt vide Notification No. 12/2017-CT(Rate) dated 28.06.2017 (Sl. No. 74) and, hence, considering that the medicines dispensed during the treatment is an extricable part of healthcare treatment, it should be considered exempt. The pharmacy/consumables are dispensed to inpatients on the basis of prescription given by admitting doctors and IP Medicine dispense slip is issued to the inpatients for their record/claim purpose. (Ref: PM2019-20/406471 dated 20/11/2019). When pharmacy is dispensed, deposit is taken from the patients which is settled at the time of raising final bill. When inpatients are well cured under proper supervision and discharged from the hospital, final bill is issued as per the pricing norms & standards along with detailed list of medicine/consumables dispensed as part of IP treatment and dues are settled accordingly wherein no GST is charged. (Ref No.: IM2019-20/30420 dated 27/11/2019)

- ✚ As per section 2(30) of the CGST Act, 2017, “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;
- ✚ GST is not charged on the medicines, surgical items, consumables and allied items used for treating such in-house patients (IPD cases, i.e. Patients admitted in hospital). Further, for a room provided on rent and food provided from hospital canteen to the in-house patients is also not charged to GST.
- ✚ The applicant respectfully submitted that the medicines, surgical items and other allied items supplied through the pharmacy is incidental to the health services rendered in the hospital. The pharmacy is meant largely for dispensing medicine and consumables to the inpatients of the hospital.
- ✚ The Applicant submitted that the health care services by a clinical establishment, an authorized medical practitioner or Para-medicals have been exempted vide the Notification No.12/2017-Central Tax (Rate) dated 28th June, 2017 at serial No.74 heading 9993. As per the definitions given under the said Notification “‘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.” It is submission of the applicant that the health care services provided by a clinical establishment, an authorized medical practitioner or Para-medics are exempted vide Serial No.74 of Notification No.12/2017-Central Tax (Rate) dated 28th June, 2017. (Copy of Relevant portion of the notification is enclosed)

✚ Further, the Government of India vide Circular No.27/01/2018-GST dated 04/01/2018 has clarified that room rent in hospital is exempted. (Copy of the said circular is enclosed herewith)

✚ Further, the clarifications issued based on the approval of 25th GST Council Meeting held on 18-01-2018 [F.No.354/17/2018-TRU Dt.12-02-2018], clarifying that food supplied to the in-patients, as advised by the doctor/nutritionist, is a part of composite supply of health care and not separately taxable. (Copy of the said clarification is attached)

✚ The Applicant is of the view that the medicines, surgical items, implants, consumables and allied items supplied through hospital owned pharmacy to inpatients under the prescription of the doctors are incidental to the health care services rendered in the hospital and beyond the ambit of taxation being health care services being composite supply. Food supplied, room provided on rent to in-house patients, and other allied services provided during the course of treatment to Inpatient is also, according to the applicant, composite supply of health care treatment and being health care services exempt from GST and so not taxable.

✚ The Applicant relied on the following decisions of the Kerala Authority for Advance Ruling-

a) M/s. Ernakulam Medical Centre Pvt. Ltd. Advance Ruling No. KER/16/2018 Dt.19.09.2018 (Copy enclosed).

b) M/s. KIMS Healthcare Management Ltd. Advance Ruling No. KER/17/2018 Dt. 20.10.2018 (Copy enclosed). It is held in this decision that the supply of medicines consumables and implants used in the course of providing health care services to in-patients or diagnosis or treatment are naturally bundled and are provided in conjunction with each other, would be considered as “composite supply” and eligible for exemption under the category ‘healthcare services’.

Under the ambit of GST, healthcare services is broad enough and may refer to any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized 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. The words 'diagnosis,' and 'care' are broad enough to cover the Occupational Health Check Up Facilities.

Based on the above belief, the Applicant, requested to kindly answer the question in affirmative treating the entire transaction including pharmacy supplies to IPD patient as a composite one taking into consideration the belief of the Applicant based on legal propositions as presented above.

4. At the time of personal hearing held through Video Conferencing on 24.09.2020, the Authorised Representative of the applicant, CA Dhruvank Parikh reiterated the facts as stated in the application and as mentioned herein above and submitted additional submission as below:

- (i) They submitted the copy of invoices being prepared by the Applicant towards supply of Health Care services to the IPD Patients.
- (ii) Further with respect to the second question, the Applicant submitted that till date, no such agreements have been entered into but the same is the proposed activity of the Applicant and, hence, the applicant craves a leave for non - submission of any agreement as being asked for at the time of personal hearing. But the Ruling is quite essential to know the taxability of the same as the same is being proposed to be carried out by the Applicant.
- (iii) As regard the Nature of OHC services, they submitted that the companies operating in different sector consists of diverse industries producing different products and services. Many of such industries have machinery & objects that are harmful to individuals if exposed for a longer period of time, hence, it is important to screen all workers for occupational intervals.
- (iv) Some hazards are common for all industries like Hazardous substances, Dust, Machinery related accidents, trips, and falls, Physically demanding work, Heat and cold, etc.
- (v) The best way to avoid any accident to happen is to have preventive & safety processes in place & get an individual's health check done regularly. In many companies, it is becoming mandatory to have a

Pre-employment health check-up done even before hiring an employee.

- (vi) Thus, occupational health checks can be required for variety of staff at various stages of their occupation, starting before a new person is assigned to particular job. These are generally used for the following purposes:

a) to establish that candidates are able to meet the physical requirements of the job prior to assignment

b) to prevent work related injuries, diseases and potential health hazards.

c) to monitor health status at periodic intervals when the job involves occupational hazards and exposure such as toxins or other substances.

d) to arrange immediate treatment as and when required which may involve getting ambulance services in case patient needs ICU or Ventilator or immediate hospital admission and other allied medical services.

e) to establish that employees are able to return to work after a prolonged absence for health reasons.

f) to establish the conditions under which employees with illnesses, injuries or disabilities are able to continue working.

- (vii) These are the services which are provided by any clinical establishment through their Nursing staff, Doctors, Paramedical staff, etc., at their place to look after any medical emergencies, medical treatment, Health check-up of organization staff.

- (viii) The primary purpose is to offer timely health check-up, medical treatments, and other allied medical services as and when required by the Organization towards their staff needs in the workplace and allow the employer to make changes to improve worker health and safety. "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'.

- (ix) The back ground of the same is evident from the Finance Act, 1994 wherein vide Notification No.24/2010-STdated 22ndJune, 2010, service tax was made applicable vide Section 65(105)(zzzzz) of the Finance Act, 1994 by providing that "*Taxable service*" means any

service provided or to be provided by any hospital, nursing home or multi-specialty clinic,-

- (i) to an employee of any business entity, in relation to health check-up or preventive care, where the payment for such check-up or preventive care is made by such business entity directly to such hospital, nursing home or multi-specialty clinic; or*
 - (ii) to a person covered by health insurance scheme, for any health check-up or treatment, where the payment for such health check-up or treatment is made by the insurance company directly to such hospitals, nursing home or multi- specialty clinic."*
- (x) Subsequently in exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, on being satisfied that it is necessary in the public interest so to do, the Central Government exempted the taxable service referred to in sub-clause (zzzzz) of clause (105) of section 65 of the Finance Act, from the whole of the service tax leviable thereon under section 66 of the said Act vide Notification No. 30/2011-Service Tax dated 25thApril, 2011. Since the date of granting of the said exemption by the Government, the Hospitals are not required to levy / pay service tax on the said activity being carried out by them.
- (xi) Even with the introduction of Negative List in the Service Tax regime, Sr. No.2 of Notification No. 25/2012-ST dated 20thJune, 2012 was drafted in a way similar to Entry No. 74 of Notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017, the text of which is reproduced as under:

"Health care services by a clinical establishment, an authorized medical practitioner or Para-medics. Even the definition of 'Health Care Services' remains the same in GST regime as compared to Finance Act, 1994 wherein the Health Care Services has been defined to mean any service by way of diagnosis or treatment or care in India for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicine 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.

- (xii) Considering the above definition of Health Care Services, there is no disparity when provided by a Clinical Establishment to a patient inside the clinical Establishment or outside the said establishment, in a corporate entity as the basic intention of the Board is to grant exemption on the Health Care Services. It is to bring to the notice of this authority that across the country none of the Hospitals or clinical establishments were paying Service Tax on the Corporate Health Check-ups offered by them during the service tax regime.
- (xiii) The conditions to claim exemption are as below on fulfilment of which the Applicant believes to get exemption from GST:
 - i.) The services supplied must be 'Health Care Services' which holds true in case of the proposed activity of the Appellant, and
 - ii.) The said Health Care Services must be supplied by either the Clinical Establishment or authorized medical practitioner or para-medics. Even this condition is being satisfied in the proposed activity as the Applicant is a Clinical Establishment who is going to carry out the impugned proposed activity.
- (xiv) Thus, Health care services are exempt from service tax for the period post negative list 01.07.2012. Health care services were selectively taxed for the period 01.07.2010 to 01.05.2011 and thereafter, health care services were exempt from service tax. Post negative list regime with effect from 01.07.2012, health care services rendered by clinical establishments are totally exempt as provided herein above. In such circumstances, the Appellant believes that if the answer to this question is answered in negative it will defeat the entire purpose of granting exemption to the Health Care Services. Even when the contract is proposed to be made with a Corporate Entity for carrying out medical check-up of their employees, the nature of activity is not going to be changed and should equally be treated at par with Health Care services provided in Clinical Establishment as the place of rendering services is not vital. Thus, the words 'diagnosis,' and 'care' under the Healthcare service under Entry No.74 of Notification No. 12/2017 are broad enough to include the Occupational Health Check Up Facilities as well which are provided by a clinical

establishment, an authorised medical practitioner or para-medical staff.

- (xv) Hence, the Applicant prayed this authority to support the belief of the Applicant by answering the second question in affirmative on the basis of legal provisions of the law and belief presented herein above by the Applicant.

DISCUSSION & FINDINGS:

5. We have carefully gone through the facts of the case, written and oral submissions made by the applicant in their application for advance ruling as well as at the time of personal hearing and the applicable provisions of the GST Laws in this regard. 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.

6. The Applicant has submitted that they are running hospitals primarily under the brand name “Sunshine Global Hospitals”. The applicant is operating as a multi-specialty hospital having its registered office at Sunshine Global Hospital, Nr. Shreyas Vidyalaya, Manjalpur, Vadodara - 390011 and having 2 other units at Vadodara and Surat. The said hospitals own and run pharmacies and are rendering medical services with professionals like doctors, nursing staff, lab technicians etc.. The applicant further submitted that during the course of treating the in-house patients admitted in the hospitals, medicines, surgical items, implants, consumables and other allied items are provided by them such patients. For proper care and watch by doctors/nurses, a room on rent and food from Hospital Canteens, under the supervision of dietician is also provided to the in-house patients as a part of overall health care. Out patients, (OPD patients) are also treated by the Hospitals. These OPD patients buy medicines, surgical items, implants, consumables and other allied items for their use.

6.1 The Applicant has also submitted that the Occupational Health Check-up services (OHC) are also provided by the hospital i.e. nursing staff, Doctors, Paramedical staff on hospital’s payroll working in different corporate for providing health check-up service along with ambulance facility, and allied medical services to their employees. They also conduct the camps for health check-up outside the hospitals.

7. In view of the above, they have raised two questions before this authority which are taken up one by one for discussion, as below:-

Question No.1: Whether the supply of medicines, surgical items, implants, consumables and other allied items provided by the hospital through their hospital in house pharmacy, as well as food, room on rent, other services to the in-patients is part of composite supply of health care treatment; and hence not taxable under CGST/SGST?

7.1 The applicant has a multi-specialty hospital providing health care services to both out-patients and in-patients. The in-patients are provided with stay facilities, medicines, consumables, surgical implants, dietary food and other surgery items required for treatment. During the course of such treatment after admission into the hospital, the in-patients are also provided rooms on rent. It is, thus, seen that in patients are provided a comprehensive treatment which includes room, nursing care, medicines, consumables, implants etc. The doctors, who treat the in patients, themselves prescribe the medicines and consumables and implants which are used in their treatment and diagnostics. The inpatients are charged for all of these when they are admitted to the hospital which provides services to the in patients.

7.2 Section 2(30) of CGST ACT and SGST ACT states:

(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;

In the case at hand, the applicant, being a hospital, undertakes services of diagnosis, treatment which comprises of providing bed/ICU/room, nursing care, diagnostics including lab investigations and treatment surgical or otherwise under the directions of the Doctors. The hospital provides medicines, consumables, implants, etc. to the In-patients in the course of treatment on the directions of medical doctor for which the In-patient is billed together by the hospital. The hospital cannot provide health services including diagnostic, treatment surgery etc. without the help of medicines to be taken during treatment, implants and consumables used during their stay in the hospital. Only on using these medicines, consumable and implants as required and prescribed by the doctors and administered during their stay will the treatment be complete. Hence, supply of medicines, implants and consumables are natural bundled with the supply of health services. In this case, supply of health services is the principal supply as that is the reason the in-patients get admitted to hospital instead of buying the medicines or consumables and using on themselves. Therefore, supply of medicines, consumables and implants to the In-patients in the course of their treatment is a composite supply of health services. The term “composite supply” is defined in Section 2(30) of the CGST Act, 2017 reads as under:-

“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.”

7.3 This view is strengthened by the **Circular No.32/06/2018-GST dated 12.02.2018**, which is reproduced below:

Sr. No.	Issue	Clarification
5	<p>Is GST leviable in following cases:</p> <p>(1) -----</p> <p>(2) Retention money: Hospitals charge the patients, say, Rs.10000/- and pay to the consultants/ technicians only Rs.7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc. Will GST be applicable on such money retained by the hospitals?</p> <p>(3) Food supplied to the patients: Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC. If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST.</p>	<p>Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt. [Sl. No. 74 of notification No. 12/2017-CT(Rate) dated 28.06.2017 as amended <i>refers</i>].</p> <p>(1) -----.</p> <p>(2) Healthcare services have been defined to mean 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[para 2(zg) of notification No. 12/2017-CT(Rate)]. Therefore, hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt.</p> <p>(3) Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.</p>

7.4 The ‘Explanation to classification of services’ states:

“SAC 9993 Human Health and social care services

99931- Covers ‘Human Health Services’

999311 Inpatient services

This service code includes:

i. surgical services delivered under the direction of medical doctors to inpatients, aimed at curing, restoring and/or maintaining the health of a patient.

ii. gynaecological and obstetrical services delivered under the direction of medical doctors to inpatients, aimed at curing, restoring and/or maintaining the health of a patient.

iii. psychiatric services delivered under the direction of medical doctors to inpatients, aimed at curing, restoring and/or maintaining the health of a patient.

iv. other hospital services delivered under the direction of medical doctors to inpatients, aimed at curing, restoring and/or maintaining the health of a patient. These services comprise medical, pharmaceutical and paramedical services, rehabilitation services, nursing services and laboratory and technical services, including radiological and anaesthesiological services, etc.”

Thus, Inpatient services means services provided by hospitals to inpatients under the direction of medical doctors aimed at curing, restoring and/or maintaining the health of a patient and the service comprises of medical, pharmaceutical and paramedical services, rehabilitation services, nursing services and laboratory and technical services. A complete gamut of activities required for well-being of a patient and provided by a hospital under the direction of medical doctors is a composite supply of service and is covered under ‘Inpatient services’ classifiable under SAC 999311.

7.5 Health care services provided by a clinical establishment or an authorized medical practitioner or para medics are exempted vide Sl. No 74 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as amended. For ease of reference, the relevant entry is given below:

Sl. No.	Chapter, Section, Heading. Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
74	Heading 9993	Services by way of- (a) health care services by a clinical establishment,	Nil	Nil

		<p><i>an authorised medical practitioner or par-medics.</i></p> <p><i>(b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.</i></p>		
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“Clinical establishment” is defined in the said notification under 2(s), which states that

“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 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.

And ‘health care services’ is defined under 2(zg) as:

(zg) “health care services” means any services 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;

From a joint reading of the ‘Explanation of service’ pertaining to ‘Inpatient services’ and the exemption above, it is evident that the exemption is applicable to a “Clinical Establishment”, when services by way of diagnosis or treatment or care for illness, etc. are undertaken by such establishment under the directions of a medical doctor. The applicant hospital is a Clinical Establishment and for the health care services as defined in the Notification above provided including the supply of medicines, implants and consumables, rooms, food etc. they are exempt under Sl. No 74 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017.

7.6 We also agree with the applicant’s contention that room rent for patients in hospital is exempted in lieu of Circular No.27/01/2018-GST dated 04.01.2018 and the food supplied to the in-patients, as advised by the doctor/nutritionist, is a part of composite supply of health care and not separately taxable. Their reference to the clarifications issued vide Circular No.32/06/2018-GST dated 12.02.2018 based on the approval of 25th GST Council Meeting held on 18-01-2018 [F.No.354/17/2018-TRU Dt.12-02-2018], is proper. The relevant text of the Circular No. 27/01/2018-GST dated 4.1.2018, which amply clarifies that room rent is exempted under Notn. No. 22/2017 CT(Rate), is reproduced under for ease of reference:

S. No.	Questions/Clarifications sought	Clarifications
4	<p>1. Whether for the purpose of entries at Sl. Nos. 34(ii) [admission to cinema] and 7(ii)(vi)(viii) [Accommodation in hotels, inns, etc.], of notification 11/2017-C.T. (Rate), dated 28th June, 2017, price/declared tariff includes the tax component or not?</p> <p><u>2. Whether rent on rooms provided to in-patients is exempted? If liable to tax, please mention the entry of CGST Notification 11/2017-C.T. (Rate)</u></p> <p>3. What will be the rate of tax for bakery items supplied where eating place is attached - manufacturer for the purpose of composition levy?</p>	<p>1. Price/declared tariff does not include taxes.</p> <p><u>2. Room rent in hospitals is exempt.</u></p> <p>3. Any service by way of serving of food or drinks including by a bakery qualifies under section 10(1)(b) of CGST Act and hence GST rate of composition levy for the same would be 5%.</p>

8. In view of the above, we hold that medicines, surgical items, implants, consumables and other allied items provided by the hospital through their hospital in house pharmacy used in the course of providing health care services as well as supply of food and room on rent to in-patients admitted to the hospital for diagnosis, or medical treatment or procedures is a composite supply of In Patient Healthcare Service. Supply of inpatient health care services by the applicant hospital as defined in Para 2(zg) of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended, is exempted from CGST as per Sl. No. 74 of the above notification.

9. Now, we take up 2nd question for discussion, as below:-

Question No. 2: *Whether the supply of Occupational Health Check-up service (OHC) by the hospital i.e. nursing staff, Doctors, Paramedical staff on hospital's payroll working in different corporate for providing health check-up service, ambulance facility, and allied medical services to their employees and also the camps conducted for health check-up outside the hospitals, to be treated as Health Care service and, hence, not taxable under CGST/SGST?*

10. As per the Applicant, the Occupational Health Check-up services (OHC) are also provided by the hospital i.e. nursing staff, Doctors, Paramedical staff on hospital's payroll working in different corporate for providing health check-up service along with ambulance facility, and allied medical services to their employees. They also conduct the camps for health check-up outside the hospitals.

11. Thus, we find that the Applicant's hospital is providing health services to employees of the business entities, in relation to Occupational Health Check-up' (OHC) or preventive care along with ambulance facility, and allied medical services. Payment thereof is being made by such business entity directly to the applicant's hospital. In this case, service provider is the hospital of the applicant and the service receiver is the business entity, who have made payments directly to the applicant.

12. With the change in the style of functioning of the business organizations, health check-up is a routine facility provided by the employers to their employees. The main purpose is to ensure that the productivity of the organization is not adversely affected due to ill health of its employees. Such activities, commonly known as corporate health check-up schemes, are undertaken by designated hospitals in order to detect any medical indicator or to ensure timely diagnosis of any disease so that prophylactic measures can be taken. In such cases, the hospital providing these services, charge the employer i.e. the business organization and it constitutes expenditure for the latter.

13. In this regard, the applicant submitted that they believe that if the answer to this question is answered in negative it will defeat the entire purpose of granting exemption to the Health Care Services. Even when the contract is proposed to be made with a Corporate Entity for carrying out medical check-up of their employees, the nature of activity is not going to be changed and should equally be treated at par with Health Care services provided in Clinical Establishment as the place of rendering services is not vital. Thus, the words 'diagnosis,' and 'care' under the Healthcare service under Entry No.74 of Notification No.12/2017-CT (Rate) are broad enough to include the Occupational Health Check Up Facilities as well which are provided by a clinical establishment, an authorised medical practitioner or para-medical staff.

14. Now, we examine as to whether the above services of the Occupational Health Check Up Facilities provided to business entities are covered under Sr. No.74, Heading No. 9993 of Notification No.12/2017-CT(Rate) dated 28.06.2017, which exempts services provided by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics.

15. For better understanding the exemption, we need to understand the term **“Health care services”** used in the said notification. The said notification defines Health Care services as under:

(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;

15.1 During the course of personal hearing, the applicant has elaborated the activities related to the Occupational Health Check-up facilities which are reproduced under:

- (i) Some hazards are common for all industries like Hazardous substances, Dust, Machinery related accidents, trips, and falls, Physically demanding work, Heat and cold, etc.
- (ii) The best way to avoid any accident to happen is to have preventive & safety processes in place & get an individual's health check done regularly. In many companies, it is becoming mandatory to have a Pre-employment health check-up done even before hiring an employee.
- (iii) Thus, occupational health checks can be required for variety of staff at various stages of their occupation, starting before a new person is assigned to particular job. These are generally used for the following purposes:
 - a) to establish that candidates are able to meet the physical requirements of the job prior to assignment
 - b) to prevent work related injuries, diseases and potential health hazards.
 - c) to monitor health status at periodic intervals when the job involves occupational hazards and exposure such as toxins or other substances.
 - d) to arrange immediate treatment as and when required which may involve getting ambulance services in case patient needs ICU or Ventilator or immediate hospital admission and other allied medical services.
 - e) to establish that employees are able to return to work after a prolonged absence for health reasons.
 - f) to establish the conditions under which employees with illnesses, injuries or disabilities are able to continue working.

The above narration indicates that the primary purpose of Occupational Health Check-up is:

- i) Whether the person is fit for employment to the particular post
- ii) Prevention of work related injuries, diseases and potential health hazards.

- iii) Monitoring the health status of the employees
- iv) Arrangement of treatment if the need arises
- v) Checking of fitness of the employee for the purpose of resumption to duty
- vi) Assessment of the work conditions with a view to ascertain that a particular employee can work under such conditions or otherwise.

15.2 The above activities are by no stretch of imagination covered under the scope of 'healthcare services' as defined above. Thus, the "health care services" do not include the services of the Occupational Health Check Up Facilities, which is commonly known as corporate health check-up schemes, provided to business entities by the applicant as same are provided in order to detect any medical indicator or to ensure timely diagnosis of any disease so that prophylactic measures can be taken. Said Corporate health check-up services are not provided for diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy of any patient. Health check-up is being undertaken in routine of the healthy Persons just to keep their employees fit and healthy in future. Payment thereof is being made by the business entities who have engaged the applicant for said services and not by the person concern whose health check-up is being carried out by the applicant. Thus, said services are being provided to the business entities and not to any patient. Hence, same are not covered under exempted "Health care services".

16. In view of the above, we hold that the applicant will be liable to pay GST @ 18% (CGST @9% +SGST@9%) on the payment received directly from the business entity for health services provided to employees of the business entities in relation to Occupational Health Check-up' (OHC) or preventive care along with ambulance facility, and allied medical services under "Human health and social care services", in terms of S. No. 31 of the Table of the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017.

17. In light of the foregoing, we rule as under –

R U L I N G

Question 1: Whether the supply of medicines, surgical items, implants, consumables and other allied services & items provided by the hospital through their hospital in house pharmacy, as well as food, room on rent, other services to the in-patients is part of composite supply of health care treatment; and hence not taxable under CGST/SGST?

Answer: The supply of medicines, surgical items, implants, consumables and other allied items provided by the hospital through their hospital in house pharmacy used in the course of providing health care services as well as supply of food and room on rent to in-patients admitted to the hospital for diagnosis, or medical treatment or procedures is a composite supply of In Patient Healthcare Service. Supply of inpatient health care services by the applicant hospital as defined in Para 2(zg) of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended, is exempted from CGST as per Sl. No. 74 of the above notification.

Question 2 :Whether the supply of Occupational Health Check-up service (OHC) by the hospital i.e. nursing staff, Doctors, Paramedical staff on hospital's payroll working in different corporate for providing health check-up service, ambulance facility, and allied medical services to their employees and also the camps conducted for health check-up outside the hospitals, to be treated as Health Care service and hence not taxable under CGST/SGST?

Answer: The applicant will be liable to pay GST @ 18% (CGST @9% +SGST@9%)on the payment received directly from the business entity for health services provided to employees of the business entities in relation to Occupational Health Check-up' (OHC) or preventive care along with ambulance facility, and allied medical services under "Human health and social care services", in terms of S. No. 31 of the Table of the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017.

(SANJAY SAXENA)
MEMBER

(MOHIT AGRAWAL)
MEMBER

Place: Ahmedabad

Date: 30.12.2020.