


GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/69/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2020/AR/02)
Date: 17.09.2020

Name and address of the applicant	:	M/s Sterling Accuris Wellness Pvt. Ltd. (Legal Name), Sankalp Sterling Accuris Wellness Pvt. Ltd. (Trade Name), 101, 109 Sankalp SquareII, 1 st Floor, Nr. Jalaram Railway Crossing , Ellisbridge, Gujarat
GSTIN/ User Id of the applicant	:	24AAVCS1174P1ZL
Date of application	:	09.01.2020
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(b) Applicability of a notification issued under the provisions of the Act. (e) Determination of the liability to pay tax on any goods or services or both. (g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that item.
Date of Personal Hearing	:	17.08.2020 (Through video conference)
Present for the applicant	:	Shri Ashish Shrimal CFO

M/s. Sterling Accuris Wellness Pvt. Ltd. (Legal Name), Sankalp Sterling Accuris Wellness Pvt. Ltd. (Trade Name), 101, 109 Sankalp SquareII, 1st Floor, Nr. Jalaram Railway Crossing , Ellisbridge, Gujarat having a GSTIN : 24AAVCS1174P1ZL, is a company filed an application for Advance Ruling under Section 97 of CGST Act, 2017 and Section 97 of the GGST Act, 2017 in FORM GST ARA-01 discharging the fee of Rs. 5,000/- each under the CGST Act and the GGST Act.

2. M/s. Sterling Accuris Wellness Pvt. Ltd. an applicant submitted that at the outset they are clinical establishment engaged purely in diagnostic services such as clinical biochemistry, micro biology, Hematology, clinical pathology etc. They are rendering services through qualified Pathologist, qualified laboratory technician, paramedical technician and Doctors. As per Sr. No. 74 of Notification No. 12/2017-CT (Rate) dated 28.06.2017 and Sr. No. 77 of Not. No. 09/2017-CT (Rate) dated 28.06.2017 has exempted health care services.

3. The applicant submitted that they have entered into Memorandum of Understanding (MOU) with M/s. Inforetell Techsolutions and Service Pvt. Ltd. and

Dr. Deepak Saxena, signatory on behalf of Ms. Krupali Patel PHD student of the University of Bonn, Germany (Herein after referred to as the “Client”)

4. The applicant submitted that they are solely responsible for supply of pathology or diagnostic services to the client researcher and non-researcher both for their research purpose which has been very well mentioned in the proposed Memorandum of Understanding (MOU). As per the Memorandum of Understanding (MOU), scope of service has been highlighted as under:

- “Accuris will collect the samples for investigations directly from Indian Institute of Public health Gandhinagar (IIPHG) by coordinating with client and will send those samples to Accuris’s laboratory
- Sample will come in batches of 50 each
- Accuris shall conduct MRSA PCR testing with MECC & MECA for IIPHRan these samples and will provide the reports on standard format with NABL accredited citation of lab at the time of processing of samples.
- Post receipt of the reports by clients, clients will be responsible to share/forward/deliver the same to the respective patient.”

5. The applicant sought the Advance Ruling on the following question:

1. Whether the applicant i.e. M/s. Sterling Accuris Wellness Pvt. Ltd is liable to pay GST on pathology or diagnostic services supply to the client who is researcher.

2. Whether any particular thing done by the applicant with respect to services amounts to or results in a taxable supply of services within the meaning of them.

3. Whether any pathology or diagnostic services supplied to clinical research organization including govt. body for their business activities (including survey of particular thing pertaining to health care service) amount to or results in taxable supply of services.

Applicant’s interpretation of law and/or facts

6. The applicant submitted that Notification No. 12/2017-CT (Rate) dated 28.06.2017 exempts health care service vide Sr. No.74 which is reproduced as “Health Care Services by a Clinical Establishment or Authorised Medical Practitioner or Para Medics”.

7. The applicant submitted that they are clinical establishment and is providing services through Qualified Pathologist, trained Para Medics etc.; that they are supplying pathology or diagnostic services to its clients which is covered in the definition of Health Care Services and accordingly it is exempt. Since they

satisfying all the conditions as specified in Notification No. 12/2017-CT (Rate) dated 28.06.2017, hence services provided to the Clinical Research Organization (Inforetell) should be exempt.

8. The applicant submitted that Circular No. 32/06/2018-GST provides clarification on certain services (covered in Sr. No.5 of the circular) which are taxable under GST even when they are provided by a Clinical Establishment. The services covered by such circular do not cover the services for which they have sought the Advance Ruling. Therefore, according to the applicant, proposed supply of services for which the applicant has been sought for Advance Ruling not going to be taxable supply of pathology or diagnostics services in such case considering all the relevant facts and laws as mentioned above.

Personal Hearing

9. Personal hearing in the matter was held on 16-08-2020. Authorised representative of the company appeared on behalf of the applicant and re-iterated the submission made in the Application.

DISCUSSION & FINDINGS

10. We have considered the submissions made by the applicant in their application for advance ruling as well as the arguments/discussions made by their representative. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

11. At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 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 GGST Act.

12. Now, we take up the first question that whether pathology or diagnostic services provided to the client researcher is liable to pay GST or otherwise.

13. We observe that applicant is clinical establishment engaged in diagnostic services such as clinical biochemistry, micro biology, Hematology, clinical pathology etc.; rendering services through qualified Pathologist, qualified laboratory technician, paramedical technician and Doctors; that they are solely responsible for supply of pathology or diagnostic services to the client researcher and non-researcher both for their research purpose; that they have entered into Memorandum of Understanding (MOU) with M/s. Inforetell Techsolutions and Service Pvt. Ltd. and Dr. Deepak Saxena, signatory on behalf of Ms. Krupali Patel PHD student of the University of Bonn, Germany (Herein after referred to as the "Client").

14. On going through the memorandum of Under Standing (MOU) with M/s. Inforetell Techsolutions and Service Pvt. Ltd. and Dr. Deepak Saxena, signatory on

behalf of Ms. Krupali Patel PHD student of the University of Bonn, Germany, the following are observed that:

2. Scope of Service

- Accuris shall collect the samples for investigation directly from Indian institute of Public Health, Gandhinagar (IIPHG) by co-ordinating with client and will send those samples to Accuris's laboratory for Processing
- Samples will come in batches of 50 each.
- Accuris shall conduct MRSA PCR testing with MECC & MECA for IIHPR on these samples and will provide the reports on standard format with NABL accredited citation of lab at the time of process of samples.

4. Responsibility :

- Client shall ensure not to use the brand name, logo or any trademark and copyright of the Accuris for any other purpose except for business related activities.
- Similarly, Accuris shall ensure not to disclose after signing this MOU, any data whose ownership lies with the Researcher (Ms. Krupali Patel) for any purpose.

6. Confidentiality :

- The reports and the observations will be kept confidential and Ms. Krupali and Dr. Deepak will have the ownership of reports.
- The data generated can be used only for the academic and research purpose based on mutual agreement.

14.1 From the terms and conditions of the MOU it is observed that Accuris will collect the samples and conduct MRSA PCR testing with MECC & MECA for IIHPR on the said samples for the client who is researcher. The reports and data generated can be used only for the academic and research purpose by the researcher client. The applicant in his application has claimed that their activity of pathology and diagnostic service is health care service and exempted from payment of GST under Sr. No. 74 of Notification No. 12/2017-CT(Rate) dated 28.06.2017. To examine the eligibility of subject Notification in respect of the service provided by the applicant we refer Sr. No. 74 of Notification No. 12/2017-CT (Rate) dated 28.06.2017 which is read as under:

74. *Heading 9994*

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*

Definition of “clinical establishment” and “health care services” is given in the said Notification as under:

- (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;

14.2 Health care services have been defined in clause (zg) of the Notification No. 12/2017-CT (Rate) dated 28.06.2017. Now we have to determine whether the service of conducting MRSA PCR testing with MECC & MECA for IIHPR to their client for academic and research purpose cover under the definition of "health care service" or not. To cover the applicant service under the above clause (zg) following conditions are required to be satisfied:

- (i) Service should be of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy
- (ii) Service should be in relation to any recognized system of medicine in India
- (iii) Service provided by way of transportation of the patient to and from a clinical establishment

First condition

The applicant conducting the MRSA PCR testing with MECC & MECA for IIHPR to their client for academic and research purpose. It means that the said tests are not for diagnosis of illness, injury, deformity, abnormality or pregnancy of patients but solely used for academic and research purpose. Hence first condition is not satisfied.

Second condition

The applicant conducting the test for the client Ms. Krupali Patel PHD student (researcher) of the University of Bonn, Germany. This indicates that test is being conducted by the applicant for the client not for any recognized system of medicine of India. Hence second condition is not satisfied.

Third condition

There is nothing on record that applicant is providing service transportation of the patient to and from a clinical establishment.

15. In view of the above, we conclude that the MRSA PCR testing with MECC & MECA are done by applicant for purely academic and research purpose are not covered under Sr. No. 74 of Notification No. 12/2017-CT (Rate) date 28.06.2017. Hence, the applicant is liable to pay GST on the services provided to the client.

16. Now we take up the second question that any particular thing done by the applicant with respect to services amounts to or results in a taxable supply of services within the meaning of them. The said question is very vague and no facts

are on record in respect of the said question. Therefore, we Members of the authority are not in position to give Ruling. Hence, we restrict ourselves to deliver any Ruling on the said question.

17. Now we take up the third question that any pathology or diagnostic services supplied to clinical research organization including govt. body for their business activities (including survey of particular thing pertaining to health care service) amount to or results in taxable supply of services. The applicant has nothing submitted in their application about the type and nature of the said Service. It appears that the applicant has just posed a hypothetical question without any facts on records. Hence, we Members of the authority restrict ourselves for Ruling on the said question.

18. In view of the foregoing, we rule as follows :

RULING

1. Whether the applicant i.e. M/s. Sterling Accuris Wellness Pvt. Ltd is liable to pay GST on pathology or diagnostic services supply to the client who is researcher.

Ans. The applicant is liable to pay GST on pathology or diagnostic services supply to the client who is researcher in view of the above discussion.

2. Whether any particular thing done by the applicant with respect to services amounts to or results in a taxable supply of services within the meaning of them.

Ans. No Ruling as per the above discussion.

3. Whether any pathology or diagnostic services supplied to clinical research organization including govt. body for their business activities (including survey of particular thing pertaining to health care service) amount to or results in taxable supply of services.

Ans. No Ruling as per the above discussion.

(SANJAY SAXENA)
MEMBER

(MOHIT AGRAWAL)
MEMBER

Place: Ahmedabad

Date: 17.09.2020.