

**THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICE TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 26/ 2018

Dated : 13th November 2018

Present:

1. Sri. Harish Dharnia,
Additional Commissioner of Central Tax,
..... Member (Central Tax)
2. Dr. Ravi Prasad M.P.
Joint Commissioner of Commercial Taxes
..... Member (State Tax)

1.	Name and address of the applicant	M/s COLUMBIA ASIA HOSPITALS PRIVATE LIMITED The Icon, 2 nd Floor, No.8, 80 feet Road, HAL III Stage, Indiranagar, Bengaluru 560075
2.	GSTIN or User ID	291800000245ARO
3.	Date of filing of Form GST ARA-01	14.03.2018
4.	Represented by	Sri Naveen Rajapurohit, Chartered Accountant
5.	Jurisdictional Authority - Centre	Commissioner of Central Tax Bengaluru East Commissionerate, Bengaluru - 560071 (Range AED5)
6.	Jurisdictional Authority - State	NA
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of 1. Rs.5,000-00 under CGST Act vide CIN SBIN18022900312419 dated 23.02.2018 2. Rs.5,000-00 under KGST Act vide CIN SBIN18022900312419 dated 23.02.2018

ORDER UNDER SUB-SECTION (4) OF SECTION 98 OF CENTRAL GOODS AND SERVICE TAX ACT, 2017 AND UNDER SUB-SECTION (4) OF SECTION 98 OF KARNATAKA GOODS AND SERVICES TAX ACT, 2017 AND SECTION 20 OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017

1. M/s Columbia Asia Hospitals Private Limited, (called as the 'Applicant' hereinafter), having its registered office at The Icon, 2nd Floor, No.8, 80 feet Road, HAL III Stage, Indiranagar, Bengaluru 560075 has filed an application for Advance Ruling under Section 97 of CGST Act, 2017, KGST Act, 2017 read with Rule 104 of CGST Rules 2017 & KGST Rules 2017, in form GST ARA-01 discharging the fee of Rs.5,000-00 each under the CGST Act and the KGST Act.

2. The Applicant is a private limited company engaged in providing health care services categorizing them as In-patient (IP) and Out-patient (OP) services. The Company is also engaged in supply of medicines (pharmacy) to in-patients and out-patients. It also operates Restaurant / Canteen services in its premises which is used for supplying food and other eatable items to its patients and their attendants.
3. The question on which advance ruling is sought is as follows:
 - (a) "Whether two or more supplies of goods or services which are naturally bundled in which principal supply is exempt and others are taxable, can be treated as composite supply and if yes, principal supply being exempt supply, can the said composite supply be treated as exempt supply or the same cannot be treated as composite supply?"
 - (b) If not treated as composite supply, is registered person allowed to claim input tax credit of tax paid on procurement of capital goods, inputs and input services related to both taxable supply and exempted supply?"
4. The applicant furnishes some facts relevant to the stated activity:
 - a. The applicant states that he is a private limited company and is an international healthcare group operating a chain of modern hospitals across Asia. The Company is currently operating across six different states having eleven hospitals out of which six units are in the state of Karnataka. The Hospitals owned by the applicant are engaged in providing secondary and tertiary Healthcare services which in turn categorises as In-patient (IP) and Out-patient (OP) services.
 - b. In case of inpatient services, the patients get admitted in the hospital for an invasive or non-invasive procedure. During the course of such treatment, all the necessary medicines, medical and non-medical consumables, implants, etc. are supplied to the patients. At the time of discharge, the charges for all the goods and services supplied would be collected by raising a consolidated invoice.
 - c. In case of outpatient services, the patients would avail the healthcare services on out-patient basis without getting themselves admitted in the hospital. Such outpatient services include medical consultation, administration of medicine, dressing, etc. The hospitals also have an in-house Restaurant or Canteen services in its premises to meet the dietary and food requirements of its patients, their attendants and hospital staff.
 - d. With respect to health care services provided by the applicant company to in-patients, Company also provides food and medicines which are provided in conjunction with health care service. Under the pre-GST regime, the applicant company was not

required to discharge the service tax liability as Healthcare service was exempted from service tax vide Mega Exemption Notification No, 25/2012- Service Tax dated 20.06.2012. However, the applicant company was discharging VAT liability on medicines provided to both in-patients and out-patients.

- e. The applicant has taken support of the provisions of section 7(1), section 2(30), section 2(47) of the Central Goods and Services Tax Act which define the "supply", "composite supply" and "exempt supply" and states that as per entry no.74 of the Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017, healthcare services are exempted from GST. However, supply of medicines (pharmacy), consumables and supply of food are taxable at different rates under GST.
- f. With these facts, the applicant has sought an advance ruling on the matters already enumerated above.

4.1 The applicant states that as per definition of "composite supply", it can be inferred from the word "taxable supply" included in the definition of composite supply that it covers only such supplies which are subject to GST and not the exempt supplies. Therefore, in the instant case, though two or more supplies are naturally bundled, i.e. healthcare services, being exempt supply, the same cannot be treated as composite supply.

5. Considering the above conjecture, the applicant is discharging GST liability on supply of medicines and food provided to both in-patients and out-patients as a separate line item which are clearly identifiable on the face of the invoice and availing input tax credit on inputs used in providing such supply of medicines. Further, no credit of input tax charged on goods and services used in supplying the food/ any other article for human consumption or drinks is availed pursuant to the Notification No.46/2017-Central Tax (Rate) dated November 14th, 2017. With regard to healthcare services, since this being an exempt service under GST, the applicant is not charging GST on the value of such healthcare services. Simultaneously, the applicant is not availing input tax credit if GST paid on inputs or input services or capital goods used for providing such exempted (Healthcare) services. He has attached a sample copy of invoice for both in-patient and out-patient service in support of his claim. The applicant stated that there are certain services used in common to provide both taxable and exempted services. As per section 17(2) of CGST Act, 2017, the applicant is entitled to avail credit of input tax paid on procurement of such goods and/or services on proportionate basis to the extent attributable to outward taxable supplies of medicines and consumables.

6. The applicant states that under pre-GST regime, the applicant company was required to reverse the CENVAT credit availed on input material and input services consumed in the manufacture of the exempted products or provision of exempted services under rule 6 of CENVAT Credit Rules, 2004. However

there was no requirement to reverse the amount of CENVAT credit availed in capital goods.

7. As per section 16(1) of the CGST Act, "Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person". Thus, the applicant claims, it can be concluded that there is no bifurcation made under CGST Act between input tax credit availed on inputs, input services and capital goods.

8. Further, as per Section 17(2) of the CGST Act, "Where the goods or services or both are used by the registered person partly for effecting taxable supplies, including zero-rated supplies, under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies". Thus, as per section 17(2) read with section 16(1) of the CGST Act, one can infer that, a restriction has been imposed on the registered person not to avail the credit of CGST paid on procurement of inputs, input services and capital goods which are attributable to supply of exempted services.

9. Based on the facts above, the applicant requests this Authority to clarify if,-

- 1) the Healthcare services provided, which is an exempt service along with other taxable supplies to in-patients and out-patients, can be construed as Composite supply?
 - a. If yes, is supply of pharmacy goods, consumables and canteen services forms part of such composite supplies, not liable to tax?
 - b. Valuation of IP pharmacy, if the same is treated as part of composite supply?
- 2) the said supply cannot be construed as a composite supply, is it correct to discharge GST liability only on supply of medicine, consumables and food that are supplied in conjunction with healthcare services and simultaneously availing input tax credit on GST paid on inputs and input services procured for providing supply of medicines and consumables?
- 3) the input tax credit of GST paid on inputs, input services and capital goods which are attributable to healthcare services shall need to be reversed as the same are towards exempted services?
- 4) the GST paid on inputs, input services and capital goods that are used for both healthcare services and other taxable services (i.e. supply of

medicines and consumables other than food, as there is a specific restriction for not availing input tax credit for supply of food or article of human consumption or drink) shall be allowed on proportionate basis towards taxable supplies?

10. The applicant has also produced a copy of the Circular No.32/06/2018-GST dated 12th February 2018 in support of his claims and also for reference.

11. FINDINGS & DISCUSSION:

The contention of the applicant is examined.

11.1 Sub-section (1) of Section 7 which is related to the scope of supply clearly states as under:

“(1) For the purposes of this Act, the expression “supply” includes—

- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;*
- (b) import of services for a consideration whether or not in the course or furtherance of business;*
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration; and*
- (d) The activities to be treated as supply of goods or supply of services as referred to in Schedule II.”*

The applicant company is providing healthcare services, services of providing food, supply of medicines, etc. to the patients, both in-patient and out-patients for a consideration in the course of or furtherance of its business and hence the supply amounts to “Supply” under section 7(1) of the Central Goods and Services Tax Act, 2017.

11.2 Sub-section (30) of section 2 of the Central Goods and Services Tax Act, 2017 defines “Composite Supply” as under:

“(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.”

The definition of composite supply must be read with the definition of taxable supply and exempt supply.

Sub-section (108) of section 2 defines a taxable supply as under:

“(108) “taxable supply” means a supply of goods or services or both which is leviable to tax under this Act;”

Sub-section (47) of section 2 defines an exempt supply as under:

“(47) “exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;”

Since the healthcare services are exempt from tax under section 11, the same are exempt supplies. But the definition of taxable supplies includes those supplies of goods which are leviable to tax and chosen to be exempted under section 11 and hence the exempt supplies also fall under the category of taxable supplies and hence the supply of goods and services supplied by the applicant company in conjunction with the healthcare services fall under the definition of “composite supply” as the services of supply of food and medicines to the patients are as advised by the doctor or nutritionists. But in case where the supply of food is not as advised by the doctor or nutritionists and is supplied to the patients, then such supply of food cannot be treated as “naturally bundled” supplies and supplies made in conjunction with each other and hence are separate supplies and needs to be treated not as composite supplies. But as far as medicines supplied to the inpatients are concerned, they form part of the healthcare services supplied to the concerned patients and hence are part of the composite supplies of health care services where the principal service is “healthcare services” and is exempt from tax vide Notification No.12/2017- Central Tax (Rate) dated 28.06.2017. However supplies of medicines or food and drinks to persons other than patients, like attendants of the patients and when supplied to the patients not as advised by the doctor or nutritionists, then such supplies would not form part of the composite supplies and would attract applicable tax. This is also clarified in the Circular No.32/06/2018-GST dated 12th February, 2018.

11.3 In case of outpatients, the doctors prescribe the medicines and the patients, if they are free to purchase the medicines from any pharmacist (need not be from the same hospital), then such purchase of medicines from the pharmacies of the applicant cannot be treated as a part of the composite supplies as they are independent of the healthcare services provided by the applicant. Similar treatment also needs to be provided in case of food and drinks supplied to patients. But in case where the supply of medicines and food and drinks form part of the supply of healthcare services and there is no choice for the patients to choose them separately, then they would form a composite supply with healthcare services being the principal supply.

11.4 The applicant has raised a question on valuation of the items of medicines and food and drinks when they form a part of the composite supply, the same needs to be answered as under:

- (a) In case where the medicines and articles of food and drinks form part of the single price including the supply of healthcare services, then there is no need for separate valuation of the same; and
- (b) In case where the same do not form a part of the composite supply but still are supplied for a single price, then they would constitute a mixed supply and the entire price received would be liable to be taxed at the highest rate applicable to the goods or service supplied as per section 8 of the CGST Act, 2017. The sub-section (74) of section 2 defines a "mixed supply" as under:

"(74) 'mixed supply' means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply."

Even here, there would not be any question of valuation of supply of medicines or food or drinks as they are supplied at a single price.

- (c) In case where supplies of medicines, food and drinks and healthcare services are not supplied for a single price and form separate and independent supplies, then such supplies are to be taxed separately at the rates applicable to such supply of goods or services. Here the valuations of the individual supplies are to be valued on the basis of the provisions of section 15 of the CGST Act.

11.5 Sub-section (1) of section 16 of the Central Goods and Services Act 2017 reads as under:

"(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person."

Since the applicant is using the inputs and input services in the course or furtherance of his business, credit of such tax paid on such inward supplies can be claimed by him.

11.6 Sub-section (2) of section 17 of the Central Goods and Services Act 2017 reads as under

"(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies."


As per this provision, the amount of credit claimed as per sub-section (1) of section 16 needs to be restricted to so much of input tax as is attributable to the supplies which are taxable under the CGST Act. The healthcare services being an exempted supply, either as an individual supply or as a composite supply, credit of input tax claimed which is attributable to such supplies of healthcare services needs to be reversed. The reversal of input tax credit claimed shall be made as per the provisions of section 17 of the CGST Act 2017 read with Rule 42 of the Central Goods and Service Tax Rules, 2017.

12. In view of the foregoing, we rule as follows

R U L I N G

1. The two or more supplies of goods or services or both which are naturally bundled in which the principal supply is exempt and others are taxable can be treated as a composite supply of the principal supply if such principal supply is not a non-taxable supply as per sub-section (78) of section 2 of the Central Goods and Service Tax Act, 2017 and such composite supply with the principal supply being exempt supply would be treated as an exempt composite supply.
2. The applicant is eligible to claim credit of input tax credit only on for such taxes paid on the inputs, input services and capital goods which are attributable to the supplies of goods or services which are taxable under the provisions of the Central Goods and Services Tax Act, 2017 and not attributable to exempt supplies of goods or services under the Central Goods and Services Tax Act, 2017.


(Harish Dharnia)
Member


(Dr. Ravi Prasad.M.P.)
Member

Place : Bengaluru,
Date : 13.11.2018

To,

The Applicant

Copy to :

The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.

The Commissioner of Commercial Taxes, Karnataka, Bengaluru.

The Commissioner of Central Tax, Bangalore East Commissionerate, Bengaluru.

The Asst. Commissioner, LVO - , Bengaluru.

Office Folder.