

**AUTHORITY FOR ADVANCE RULING, TAMILNADU
 INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,
 5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
 CHENNAI - 600 003.
 PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
 GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Shri T.G.Venkatesh, I.R.S., Additional Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Tmt K.Latha., M.Sc., (Agri), Joint Commissioner (ST)/ Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-3.

ORDER No. 22/AAR/2022 DATED: 30.06.2022

GSTIN Number, if any / User id		33AAECB5775C1ZW
Legal Name of Applicant		BE WELL HOSPITALS PRIVATE LIMITED
Registered Address/Address provided while obtaining user id		New no.2, Old no.5, Vijayaragava road first street, T.Nagar, Chennai-600017
Details of Application		GST ARA- 01 Application Sl.No. 41/2021/ARA dated: 25.11.2021
Concerned Officer		Centre: Chennai North Commissionerate. State: Mylapore Assessment Circle.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Service provision
B	Description (in Brief)	The applicant is a chain of multispeciality hospitals providing health care services through establishments in Tamilnadu and Puducherry.
Issue/s on which advance ruling required		Applicability of notification Determination of liability to pay tax on any goods or services or both

Question(s) on which advance ruling is required	<p>1. Whether the Supply of medicines and consumables used in the course of providing health care services to In-patients by pharmacy unit of Be well hospitals for diagnosis or treatment during the patient's admission in hospital would be considered as *Composite Supply of health care service as under GST and consequently avail exemption under Notification No.12/2017 CT (Rate) read with Section 8(a) of GST?</p> <p>2 Whether the supply of medicines and consumables used in the course of providing health care services to out-patients by pharmacy unit of the Be well hospitals for diagnosis or treatment would be considered as "Composite Supply" of health care services under GST and consequently avail exemption under Notification 12/2017 CT(rate) read with Section 8(a) of GST?</p>
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Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

BE WELL HOSPITALS PRIVATE LIMITED, New no.2, old no.5, Vijayaragava road First street, T.Nagar, Chennai-600017 (hereinafter called the Applicant) are registered under GST with GSTIN 33AAECB5775C1ZW. The applicant has sought Advance Ruling on the following questions:

1. Whether the Supply medicines and consumables used in the course of providing health care services to In-patients by pharmacy unit of Be well hospitals for diagnosis or treatment during the patients admission in hospital would be considered as "Composite Supply" of health care service as under GST and consequently avail exemption under Notification No.12/2017- CT (Rate) read with Section 8(a) of GST?

2 Whether the supply of medicines and consumables used In the course of providing health care services to out-patients by pharmacy unit of the Be well hospitals for diagnosis or treatment would be considered as "Composite Supply" of health care services under GST and consequently avail exemption under Notification 12/2017 CT(rate) read with Section 8(a) of GST?

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that they are a chain of multispecialty hospitals providing health care services through establishments in Tamil Nadu and Puducherry. The Be Well Hospitals were established in the year 2011 and headquarters is located in Chennai. The Applicant currently operates 11 hospitals in South India — 5 locations in Chennai, Pudukkottai, Sivakasi, Tuticorin, Erode, Nagercoil and Pondicherry. The Applicant has stated that their hospital is established with primary focus on providing access to affordable and quality health care services, including the locations which has limited access to quality healthcare. They are providing "Health care services" in the category such as Emergency care, Multispeciality care and Preventive care. The applicant has stated that in addition to the health care services, they also provide certain other healthcare related services such as healthcare consultancy, corporate services. They provide healthcare service to both domestic as well as international patients. International consultancy services are provided online without any travel assistance. Pharmacy

units in each clinical establishment at different locations, supplies medicine to both in-patients and out-patients. Pharmacy charges GST on MRP basis against all the supplies provided to the patients including supplies to inpatients. Currently the pharmacy units at different locations forms part of the clinical establishments in respective locations and have common GST registration for the various branches within Tamil Nadu.

2.2 Healthcare services provided by the applicant:

i. **Emergency Care:** Emergency Physicians providing first line care, attend Patients with illnesses or injuries requiring immediate medical attention. Investigations will be initiated and interventions are provided to diagnose and treat patients. The emergency staff coordinates Care with physicians from other specialties, and make decisions regarding a patient's need for hospital admission, observation or discharge. The Applicant offers services day and night so you can stay confident of quick and affordable care, Facilities available with applicant in order to facilitate the emergency care services includes 24 hours Emergency Physicians, BLS trained paramedical staff, Well-equipped triage, Observation bays, dedicated bay to handle patient needing isolation. Exclusive emergency procedure and dressing room, Round-the-clock pharmacy, diagnostic and ambulance services. The specialised emergency care services provided by Applicant includes: Multiple fracture injuries, Burns, Poisoning, Snake bites.

ii. **Preventive Health care:** Performing regular health check ensures a happier life for the individuals. Support in early detection of worrying changes if any at all, and addressing them with quick interventions. The Applicant has states that they have a range of health check programs right from the basic to the advanced and also have specialised ones for women and geriatric people.

Health Checks	Diagnostic tests related to health checks
Basic Health Check up	Blood Group, ECG, X-ray
Master Health Check up	Blood group, KFT, Lipid profile LFT, ECG, X-ray. USG Abdomen
Cardiac Health Check up	BKFT, Lipid profile, Na K+, ECHO, X-ray. HbA1C
Women Health Check up	Blood group, KFT, LFT Lipid profile, ECG, X-ray, TSH smear, USG Abdomen
Diabetic Health Check up	KFT, Lipid profile ACR, HbA1C Microalbuminuria
Senior citizen Health Check up	Blood group, KFT, lipid profile LFT, ECG, X-ray, Abdomen, Urinary incontinence screening test.

iii. Multispecialty Care: The Applicant has stated that they render various multispecialty health care service in the areas such as Anesthesiology, Dentistry, ENT, Fertility, Neurology & Neuro Surgery, Ophthalmology, Psychiatry, Urology, Cardiology, Dermatology and Cosmetology, Gastroenterology, Neonatology & Pediatrics, Gynecology and Maternity, Orthopedics, Respiratory medicine, Vascular Surgery, Critical Care, Diabetics, General Surgery, Nephrology, Oncology, Plastic Surgery, Rheumatology.

They have stated that they render the above mentioned health care services to two different categories of patients classified based on their purpose of visit and period of stay in the hospitals.

iv. In-patient health care services: The patients are admitted to the Applicant's hospital as in-patient. The patients are treated for the illness or injury for which they are admitted. During the process of providing health care services, the patients are also provided medicines, regular health monitoring, foods, implants etc.

v. out-patient' consultancy: The patients visit the hospital to avail consultancy related to his/her health. Doctors may prescribe some sample blood test, scans etc., to investigate the illness in detail. The patients can purchase the medicines prescribed by the Doctors at the hospital pharmacy or from any other outside pharmacy of their choice.

2.3 On interpretation of law the applicant has stated that Health care services provided by a clinical establishment or an authorized medical practitioner or paramedics are exempted vide Sl. No. 74 of Notification No.12/2017-C.T(Rate) dated 28.06.2017 as amended and SI. No. 74 of Notification No.II(2/CTR) 532(d-15)/2017 vide G.O (Ms) No 73 dated 29.06.2017. They have stated that there is no distinction between the provision of Health care services to both in-patients and out-patients from the above exemption notification. The intention of the government in granting exemptions to health care services, supplies to in-patients and out-patients incidental to the health care services are one and the same except in latter case the patient is not admitted to the clinical establishment for a considerable amount of time which does not change the substance of supply rendered by the clinical establishment. There is no segregation among doctors, physicians providing health care Services. Doctors need to work together providing service to both inpatients and out-patients regardless of their speciality though there is division of time between in-patient and out-patient services. Since

medicines and other allied items supplied to in-patient forms part of composite supply of health care services, accordingly similar supply of medicines and other allied items supplied to out-patients shall also constitute a composite supply. The applicant has stated that there is no clear distinction between in-patients and out-patients in GST law for the purpose of levy, since the nature of supplies service providers are same in case of both inpatients and out-patients there should not be any differences for the purpose of levy of GST based on duration of stay of the patients in clinical establishments. Further, it is also pertinent to mention that the definition of health care service as well as clinical establishment under Notification No. 12/2017 CT (Rate) dated 28.06.2017 issued under CGST Act, 2017 do not impose any specific restriction or condition to grant GST exemption only for IP patients. They have submitted that out patients do not buy medicines voluntarily without prescriptions. It is being purchased as part of the advice from doctor to get themselves cured from illness. Hence, it is a clear case of composite health care services, wherein the purchase of medicines is mandated to complete the nexus of health care. The sale of medicines and doctor consultancy cannot be separated as without consumption of medicines illness cannot be cured. Therefore, the intention of law is always to allow exemption on health care service, which shall also include sale of medicines to OP patients and IP patients based on the prescription issued by the doctor.

2.4 The Applicant has stated that the supplies of medicines and consumables used in the course of providing health care services to In-patients by pharmacy unit is a composite supply of health care services. They have stated that as per circular no. 32/06/2018 dated 12/02/2018 foods 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 hospital to out-patients (not admitted) or their attendants or visitors are taxable. The applicant has stated that here the word 'food' can be also extended to other similar supplies such as medicines, implants, room rent etc. The health care services provided to in-patients includes continuous monitoring of patient health, doctor consultancy, room services, nursing services, implants etc., which are rendered in a given point of time say, during the period patients is admitted to hospital. This is clearly covered by the definition of composite supply under GST and can be said to be a composite healthcare services. All these services are bundled together in providing the primary service of health care and it is billed as one single invoice though the hospital provides detailed breakup of the service fee, it is charged as bundled

service. The pharmacy also supplies medicine to the patients as a part of the said service. In view of the above facts, the applicant contends that inpatients treatment including pharmacy supplied them is composite health care services under GST and exempted by S. No 74 of Notification No. 12/2017 CT-(Rate) dated 28.06.2017. The applicant has relied on the following judgments and advance rulings

- Kerala High Court in the case of Nils Abbott Healthcare ODJ Ltd has mentioned that supplies made by two different persons cannot be clubbed together to constitute composite supply. Further, the clubbing of the Supplies may be considered for valuation purposes and not for the purpose of altering the nature of the supply, findings in relation to composite supply must take into account supplies effected at a given point in time on "as is where is basis".
- TamilNadu Advance Ruling Authority in M/s Royal Care Speciality Hospital Ltd it was held that – "Medicines, Consumables and implants used in the course of providing healthcare to inpatients by the applicant is a composite supply of inpatient services classifiable under SAC 999311"

2.5 The applicant has also submitted that the supplies of medicines and consumables used in the course of providing health care services to out-patients by pharmacy unit is a composite supply of health care services. The applicant has made references to the definition of Healthcare services, clinical establishment under the Notification 12/2017. The applicant has also placed reference on the definition of composite supply and mixed supply under the GST Act. The applicant has compared the supplies made by them with definition of composite supply as below to ascertain whether the said supplies would qualify as composite supplies in the table below:

Sl.No	Conditions of composite supply	Healthcare services rendered to put-patients	Fulfilment of condition
1	Supply consists of two or more taxable supplies	Supply of medicines and consumables in the course of providing healthcare services to out-patients to diagnosis or treatment are all taxable supplies individually.	Fulfilled

2	Supplies should be naturally bundled and in conjunction with each other	The supply of medicines and consumables are in connection with the provision of healthcare services. The said supplies are connected to and dependent on rendering of health care services by the applicant. Its dependency proved that such supplies are naturally bundled with provision of healthcare services.	Fulfilled
3	One among the multiple supply should be a principal supply	The supply of medicines and consumables will not exist without healthcare services. Thus, the predominant element of supply becomes supply of healthcare services.	Fulfilled

The applicant has stated that from the definition of principal supply under the Act and the analysis mentioned above it is clear that the supplies made by them is a composite supply. They have stated that the definition of mixed supply is a residuary one which includes all combination of supplies which is not a composite supply. The applicant is of the view that their supplies are composite supply.

2.6 The applicant vide their letter (received on 10.01.2022) submitted the following documents:

- Additional written submissions: The applicant reiterated the facts mentioned in their submission made along with the Advance Ruling application.
- Statutory provisions
- M/s CMC Vellore Association – TN -AAR order
- M/s Royal care Speciality Hospital, TN-AAR order
- BSNL Ltd & Another vs UOI and other, 2006 (3) SCC 1

- Commissioner of Customs Imports), Mumbai v Dilip Kumar and company and others (2018) 9 SCC 1

The applicant vide email dated 18.01.2022 submitted copies of inpatient bills.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the applicant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media. The applicant consented and the hearing was held on 19.01.2022. The Authorized Representative Mr. Harish & Mrs. Shraya Shree appeared for the hearing and reiterated the submissions. The CGST Member asked the AR the following questions:

i. whether the pharmacy is only for in/out patients of the hospital or is it open to General public as well.

The AR replied that it is open to general public too.

ii. whether separate accounting/stock is maintained with respect of in patients and out patients.

The AR replied that its all mixed up and no separate stocks are maintained.

The State Member asked the AR whether it is mandatory for the out patients to buy from in house pharmacy. The AR replied that it is not mandatory.

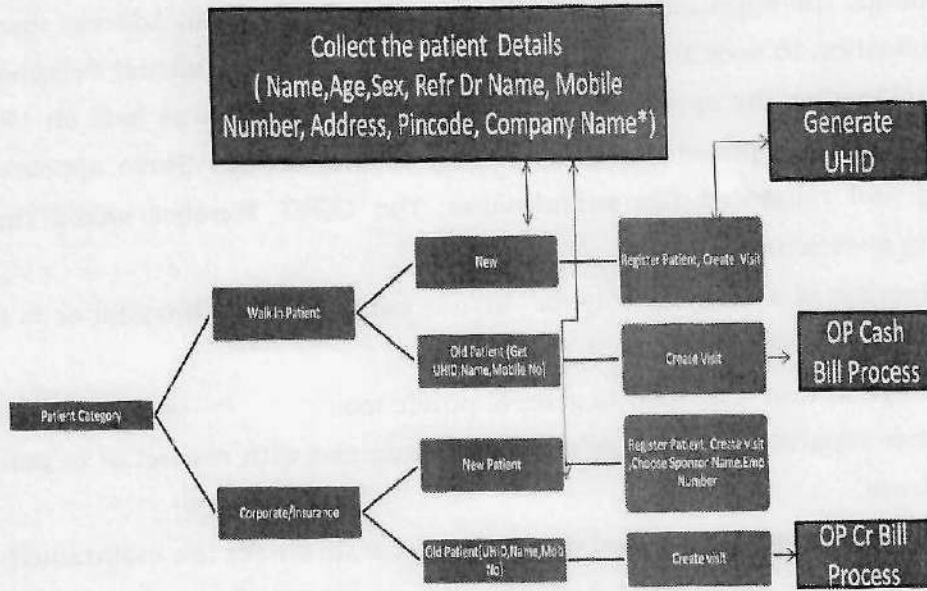
The applicant was asked to submit the following documents:

1. Flowchart showing full sequence of admissions, diagnosis, treatments and discharge along with the billing for same for a sample in patient
2. Documents supporting the full sequence of treatment extended to the out-patients along with supporting billing.
3. Modus of operation of pharmacy- whether separate accounting/stock is maintained with respect of in patients and out patients.
4. Trial balance and statement of accounts for the hospital and pharmacy.
5. Present practice followed with supporting bills/invoices.

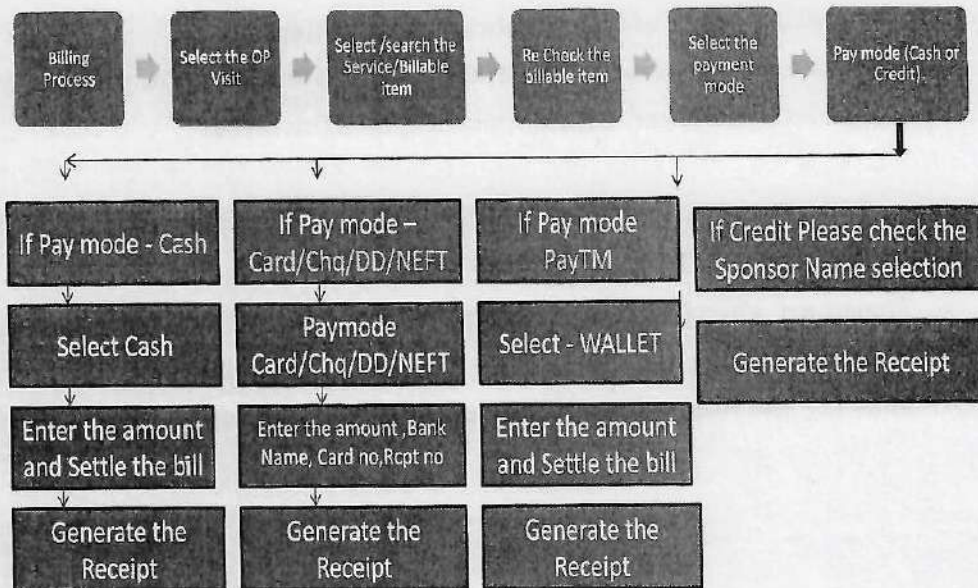
3.2 In furtherance to the hearing held on 19.01.2022, the applicant submitted the following documents on 02.02.2022.

- Flowchart showing full sequence of admissions, diagnosis, treatments and discharge along with the billing for same for a sample in patient, flowchart showing the full sequence of treatment extended to the out-patients

HMS- Patient Registration (OP/IP)



HMS - OP-Billing Process



HMS – IP Process



Registration -> Admission

- Admission, Selection of patient category (Cash/Sponsor)
 - If Sponsor → Choose Sponsor Name
 - Choose → Ward Location → Bed Number
 - Enter Basic Complaints in Admission Record
 - Label Printing from MRD – Medical Records
 - Check the Insurance Approval , Advance Receipt for cash /credit patient
 - Ward Service / Lab Order / Dr Visit Creation
 - Daily Billing Updation
 - Check for Pharmacy Bill updates , If Sponsor patient the pharmacy Bill value will be updated in IP Bill
 - Check for pharmacy Bill updates , for cash patient
 - Check for the daily bill updates in Doctor Visit Creation in Ward Module , Lab Order in Ward Module
- IF SPONSOR / INSURANCE : APPROVAL DECLINED
Note :All Sponsor(Credit) pharmacy bill to be converted in to cash bill and collect the Bill Amount before Discharge
- Vacate the Room :

HMS – IP Process



IP Process ...

- Instruct Team – to Type Discharge Summary
 - Bill Re Check
 - IF SPONSOR PATIENT :ENTER THE APPROVAL AMOUNT IN INSURANCE MODULE TO DISCHARGE THE SPONSOR PATIENT
 - **Note:**
IF Sponsor patient approved amount is < Bill Amount - NOT TO DISCHARGE
IF Cash Patient Bill Amount + Pharmacy amount not collected – NOT TO DISCHARGE
- Generate the Bill , Issue the Summary Bill to patient .

HMS- Patient Billing by Ward Management- IP



Double Check the Patient UHID, IP No Name, Sex from the Patient Case Sheet											
Select the Patient details from HMS	<table border="1"> <thead> <tr> <th>Reg No</th> <th>DateOfReg</th> <th>UHID</th> <th>Patient Name</th> <th>Sex</th> </tr> </thead> <tbody> <tr> <td>AMB-IP003555</td> <td>07-11-2021</td> <td>AMB-7593</td> <td>GAYATHRI S</td> <td>F</td> </tr> </tbody> </table>	Reg No	DateOfReg	UHID	Patient Name	Sex	AMB-IP003555	07-11-2021	AMB-7593	GAYATHRI S	F
Reg No	DateOfReg	UHID	Patient Name	Sex							
AMB-IP003555	07-11-2021	AMB-7593	GAYATHRI S	F							
CREATE the Ward Request - HMS	Lab Investigation , Radiology , Scan Medicine Order, Dr Visit										
Before Discharge the patient	Inform Patient for Not Used Medicine Return to Pharmacy										
Patient Feedback	Patient Feedback Form Google Review										
CLEAN the Room in HMS for discharge and next Admission	Ward – Room Cleaning										

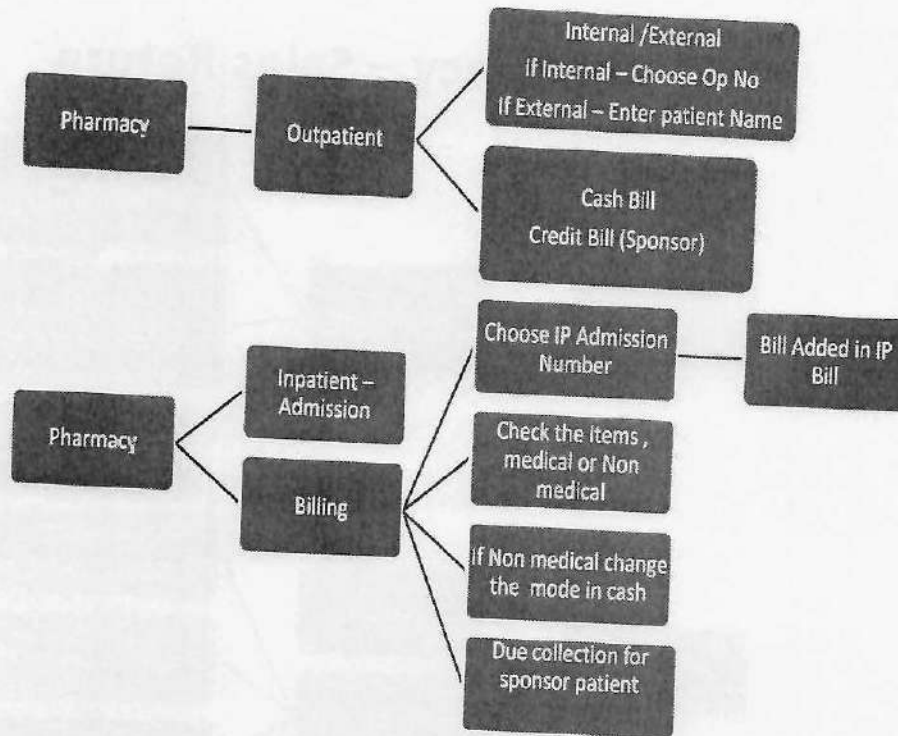
Pharmacy- HMS



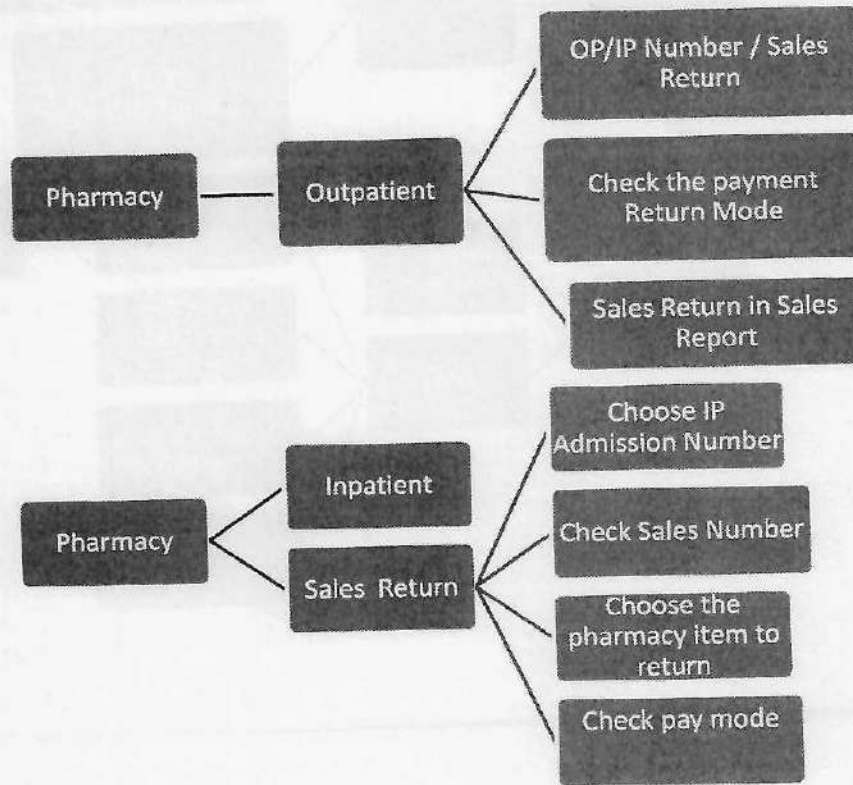
Item Master -> Item Creation -> Item Approval

- GRN Entry – Goods Receipt Note Entry
- Sales – OP (Internal/ External)
- Sales –OP(External – No Credit Allowed)
- Sales –IP(Internal)
- Sales Return (OP/IP)
- Sales Return (IP – Before Discharge) to be done
- Store Indent - Pharmacy
- Store Indent Approval (Unit Head)
- Item Transfer from Store to Request store
- Item Acceptance (Received Store)
- Item Consumption

Pharmacy - Sales



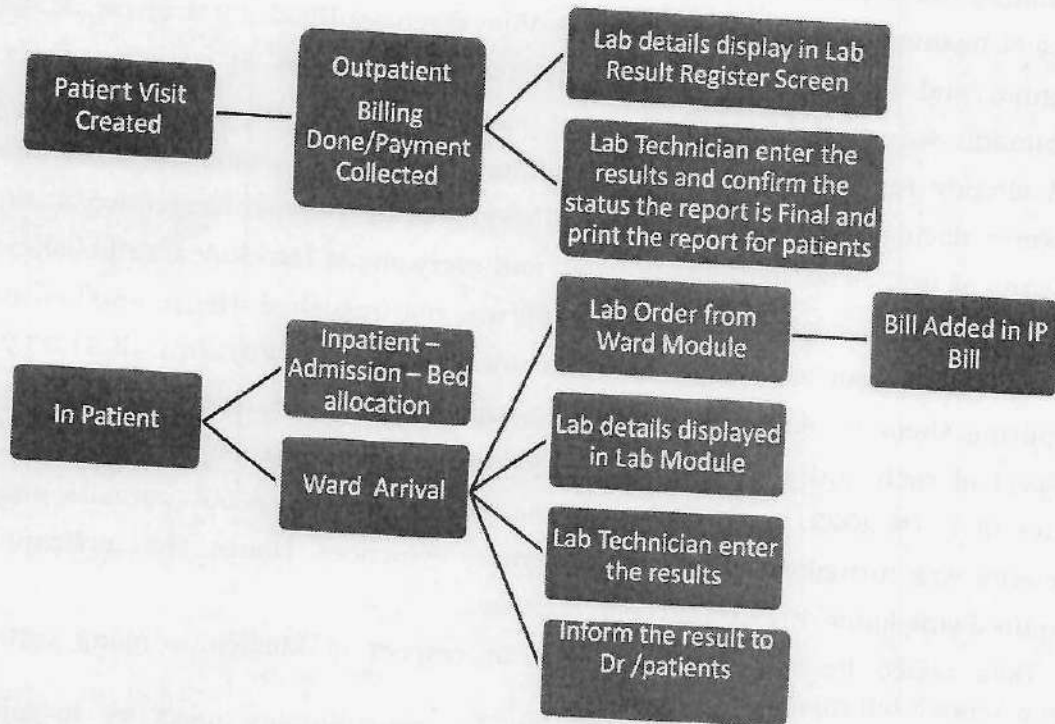
Pharmacy – Sales Return



Pharmacy – Stock Transfer



Laboratory



- Modus of operation of pharmacy- whether separate accounting/stock is maintained with respect of in patients and out patients.

The applicant has stated that no separate stock is maintained with respect to inpatients and out-patients. There is only a single stock for the pharmacy. In bill/invoice from the pharmacy alone, under the caption OP/IP bill no., the number of the bill will be preceded by the letters OP/IP. There is no separate accounting maintained for inpatients and out-patients. Financial statement furnished would show that single accounting is maintained for pharmacy and hospital together.

- Financial statement as on 31st March 2021 furnished
- Sample bills /invoices for inpatients and out-patients furnished.

3.3 . A notice was issued to the applicant dt.28.03.2022, asking them to furnish the addresses of each and every clinical establishments in respect of which ruling is sought and documents supporting the full sequence of treatment extended to the in patients as well as out-patients for each and every one of the clinical establishments

of the applicant for which ruling is sought. Applicant vide their letter dt.01.04.2022 submitted the addresses for which ruling is sought. It was stated that the Principal place of business is New No.2, Old no.5, Vijayaraghava Road, First Street, T.Nagar, Chennai and the rest 10 clinical establishments located at various places in Tamilnadu were all additional places of business. It was also submitted that they had already furnished flow charts explaining the whole sequence of treatment. However documents supporting the full sequence of treatment extended to the in-patients as well as out-patients for each and every one of the clinical establishments of the applicant for which ruling is sought was not furnished. Hence another notice dt.31.03.2022 was issued to the applicant vide RC No.779/2021 dt.31.03.2022 requiring them to submit documents supporting full sequence of treatment in respect of each and every one of their clinical establishments. Further vide their letter dt.11.04.2022, the process of treatment extended to out patients and In-patients was furnished without documentary evidences. Hence, the applicant was required vide letter dt.19.04.2022 to furnish

1. Bills raised by in-house pharmacy in respect of Medicines along with the consolidated bill raised on in-patient;
2. Bills raised by in-house Pharmacy for consumables used by in-patients supporting with the consolidated bill raised on the in-patient; and
3. Bills raised by in-house pharmacy on out-patient who avail consultation (registered with the clinic establishment as OP)
4. Details of the current practice followed as to whether the supplies are considered as composite supply or otherwise and the rate of GST at which the Patients (both in-patient and out- patient) are charged.

3.4. In response the applicant vide their letter dt.25.04.2022, submitted the relevant bills and submitted that they have one common pharmacy at each location to cater to both In-patients and Out-patients; that out patients are charged GST as per the item category as mentioned in supplier's invoice which are currently treated as separate supply; that as the Principal place of business located at New No.2, Old no.5, Vijayaraghava Road, First Street, T.Nagar, Chennai is their corporate office and no billing is done from that location to patients. They had submitted list of documents as tabulated below:

Sl.No	Name of the clinical establishments	Details of IP bills	Remarks	Details of OP bills
1	New No 2. Old No.5, Vijayaraghava road-Tnagar,Chennai-Principal place of business		Corporate office, billing is not done for patients from this location	Corporate office, billing is not done for patients from this location

2	Tuticorin	Detailed bill for two in-patients		2 sets of OP bills furnished- Pharmacy bill pertains to Be Well Hospitals No.5a vijayaraghava road
3	Pudukottai	Detailed bill for two in-patients		2 sets of OP bills furnished
4	Virudhunagar	NIL		NIL
5	Erode	Detailed bill for two in-patients		2 sets of OP bills furnished
6	Poonamallee-Chennai	Detailed bill for two in-patients		2 sets of OP bills furnished
7	No.5A Vijayaraghava Road, TNagar, Chennai	Detailed bill for two in-patients		2 sets of OP bills furnished- Bill No.OPB-CA-028349- Xray chest charges mentioned
8	Nagercoil-Kanyakumari	Detailed bill for two in-patients		2 sets of OP bill furnished- pharmacy bills not legible
9	Ambattur-Tiruvallur	Detailed bill for two in-patients		2 sets of OP bill furnished
10	Annanagar-Chennai	Detailed bill for two in-patients		2 sets of OP bills furnished
11	Kilpauk-Chennai	Detailed bill for two in-patients	1.Consumable charges mentioned in bill No.ANR-IPB01819- details of consumables not available	2 OP bills submitted

4. The Centre jurisdictional authority has observed as follows:
- (i) In respect of inpatients: It has been observed that as per Notification no.12/2017-CT(Rate) dt. 28.06.2017 and the explanatory notes to the scheme of classification of services to SAC999311, health care services rendered by a clinical establishment is exempted from GST. It has been stated that the supply of taxable goods and service like 'medicines and consumables' used in the predominant supply of 'health care service', is found to be in the form of composite supply as defined under Section2(30) of the CGST Act, 2017 and the predominant supply of 'health care service' is classified as exempted supply in terms of Notification no.12/2017, as the said 'composite supply appears to be exempted supply under GST Act.
- (ii) In respect of out-patients, it has been stated that CBIC vide Circular no.32/06/2018-GST dt. 12.02.2018 has clarified that 'other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.

Therefore, medicines and consumables used in the course of 'health care services' to out-patients are not eligible to avail exemption under Notification no.12/2017 read with Section 8(a) of the GST Act.

5. The State jurisdictional authority has stated that no proceedings are pending relating to the applicant.

6. We have carefully examined the submissions of the applicant in their application, their oral and written submissions during the Personal Hearing, their further submissions after the PH and the submissions of the centre and State Jurisdictional Officer. The questions on which advance ruling is requested are as follows:

1. Whether the Supply medicines and consumables used in the course of providing health care services to In-patients by pharmacy unit of Be well hospitals for diagnosis or treatment during the patients admission in hospital would be considered as "Composite Supply" of health care service as under GST and consequently avail exemption under Notification No.12/2017- CT (Rate) read with Section 8(a) of GST?

2 Whether the supply of medicines and consumables used In the course of providing health care services to out-patients by pharmacy unit of the Be well hospitals for diagnosis or treatment would be considered as "Composite Supply" of health care services under GST and consequently avail exemption under Notification 12/2017 CT(rate) read with Section 8(a) of GST?

The above questions being on applicability of notification and determination of liability to pay tax on any goods or services or both, are found to be falling within the purview of Section 97(2) of the CGST Act,2017 and are admitted for consideration.

7.1 The applicant is a chain of multispecialty hospitals providing health care services through establishments in Tamil Nadu and Puducherry. The Applicant currently operates 11 hospitals in South India — 5 locations in Chennai, Pudukkottai, Sivakasi, Tuticorin, Erode, Nagercoil and Pondicherry. The Principal place of business is located at New No.2, Old no.5, Vijayaraghava Road, First Street, T.Nagar, Chennai, which is their corporate office. They have stated that

there are pharmacy units in these hospitals forming part of the clinical establishments in respective locations which has common GST registration for the various branches in Tamilnadu. They are providing "Health care services" in the category such as Emergency care, Multi-specialty care and Preventive care. They have stated that they render the above mentioned health care services to two different categories of patients classified based on their purpose of visit and period of stay in the hospitals. Medicines and consumables are supplied during the treatment.

(i) In-patient health care services: The patients are admitted to the Applicant's hospital as in-patient. The patients are treated for the illness or injury for which they are admitted. During the process of providing health care services, the patients are also provided medicines, regular health monitoring, foods, implants etc. In-patients are billed on a composite basis for Hospital service & Pharmacy consumables & Medicines and so GST is not charged for pharmacy items issued to them. They are currently treated as part of Composite supply.

(ii) Out-patient's consultancy: The patients visit the hospital to avail consultancy related to his/her health. Doctors may prescribe some sample blood test, scans etc., to investigate the illness in detail. The patients can purchase the medicines prescribed by the Doctors at the hospital pharmacy or from any other outside pharmacy of their choice. Out patients are charged GST as per the item category as mentioned in their supplier invoice. They are currently treated as separate supply.

7.2 The health care services rendered to In-patients is first taken up for discussion. On perusal of documents submitted by the applicant, it is observed that in-patients are provided with stay facilities, medicines, consumables and other surgeries/procedures required for the treatment. From the In-patient final bill and related bills furnished by the applicant, it is seen that, in case of In-patients the final bill charged includes Consumables, Consultation charges, Lab profile test, Lab profile charges, Serology charges, Procedures, Medical records, Registration charges, Bio-chemistry charges, Hospital Services such as Room rent, OT charges and Pharmacy charges. From the pharmacy bill for In-Patients enclosed with the detailed bill, it is evident that the medicines, consumables, etc are procured from IP pharmacy for administering the same to in-patient and such medicines are billed without any discount, i.e., at MRP. It is seen that in patients are provided a comprehensive treatment which includes room rent, nursing care, medicines,

consumables etc. The in- patients are charged for all of these when they are admitted to the hospital which provides services to the in patients.

7.3 Section 2(30) of CGST ACT and TNGST 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 chain of hospitals 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 and consumables 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 and consumables used during their stay in the hospital. Only on using these medicines and consumable as required and prescribed by the doctors and administered during their stay will the treatment be complete. Hence, supply of medicines and consumables are naturally 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 and consumables to in patients in the course of their treatment till the patient is discharged is a composite supply of health services. However once the patient is discharged, the composite supply comes to an end and the review of the patient subsequent to discharge cannot be considered as part of the composite supply.

7.4 This view is strengthened by the Circular No 32/06/2018-GST dt 12.02.2018 which is given below:

(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 recognized 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

7.5 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 till the patient gets discharged. A complete gamut of activities required for well-being of a patient from admission till discharge, 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.

7.6 Health care services provided by a clinical establishment or an authorized medical practitioner or para medics are exempted vide Sl No 74 of Notification no 12/2017-C.T.(rate) dated 28.06.2017 as amended and Sl No 74 of Notification No.II(2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29.06.2017. For ease of reference, the relevant entry is given below:

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
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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 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;

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 provided as defined in the Notification above provided to inpatients from admission till discharge including the supply of medicines, implants and consumables, they are exempt under Sl No 74 of Notification no 12/2017-C.T. (rate) dated 28.06.2017 as amended and Sl No 74 of Notification No.II (2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29.06.2017.

8.1. Now coming to the second question viz., Whether the supply of medicines and consumables used In the course of providing health care services to out-patients by pharmacy unit of the Be well hospitals for diagnosis or treatment would be considered as "Composite Supply" of health care services under GST and

consequently avail exemption under Notification 12/2017 CT(rate) read with Section 8(a) of GST, Applicant has submitted that while providing health related services to the out-patients, medicines and consumables are supplied to them as per the prescription of the Doctor who attends the patient; that it is expected of the hospitals to provide medicines and consumables to out-patient in the ordinary course of business even if the patients are not mandated to procure them from the hospitals. In this regard, it is observed that the pharmacy is an outlet to dispense medicines and consumables based on the prescriptions. In the case of Out-patients, it is only of advisory nature and as the applicant themselves had stated, the patients are not mandated to buy from the hospital pharmacy only. They have the freedom to either buy from the hospital or other pharmacies of their choice unlike in-patients, where the medicines and consumables should be issued by the hospital pharmacy to ensure proper treatment.

8.2 On scrutiny of the bills and invoices submitted by the applicant, it is observed that a Cash Bill is raised for consultation and registration and the pharmacy bill is separately raised. This proves that the consultation and supply of medicines are not naturally bundled and hence the supply of healthcare along with supply of medicines cannot be considered as a 'composite supply'. Further in respect of hospital unit said to be situated at Virudhunagar, no bills have been furnished. In respect of hospitals situated at Tuticorin, Pharmacy bill has been issued from the hospital situated at No.5a, Vijayaraghava Road, T.Nagar, Chennai, which goes to prove that the medicines were not necessarily sold from the same hospital where the consultancy service was rendered. The details of invoices submitted in respect of the hospital situated at Tuticorin are as follows:

Sl.No	Patient details	Bill for consultation & Place of supply	Pharmacy bill & Place of supply
1	Uthira kani	TUT-OPB-CA-023447/08.04.2022 Tuticorin. Medicine has been prescribed at Tuticorin Hospital UH ID no.TUT-34605	TUT-Sal 036236/ 08.04.2022. Bill raised by pharmacy at No.5A, Vijayaraghava road, T.Nagar, Chennai. UH ID no.TUT-34605
2	Marieshwaran	TUT-OPB-CA-023443/08.04.2022	TUT-Sal 036234/ 08.04.2022.

		Tuticorin. Medicine has been prescribed at Tuticorin Hospital UH ID no.TUT-32347	Bill raised by pharmacy at No.5A, Vijayaraghava road, T.Nagar,Chennai. UH ID no.TUT-32347
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8.3 In the case of in-patients, the hospital is expected to provide provide lodging, care, medicine and food as part of treatment under supervision till discharge from the hospital. But in the case of out-patients, there is no such expectation on the hospital and the out-patient just walks in for consultation and advise. Hence it is clear that the service of supply of medicines and consumables and consultation of out-patients is not inextricably linked and not naturally bundled. Therefore pharmacy run by hospital dispensing medicine to outpatient or bye standers or others can be treated as individual supply of medicine and not covered under the ambit of health care services. Hence such supply of medicines and allied goods are taxable. Further 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**] it was clarified that food supplied to the inpatients as advised by the doctor/nutritionist is a part of composite supply of health care and not separately taxable. Other supplies of food by hospital to patients not admitted are taxable. The same principle is applicable in the case of dispensing of medicines also.

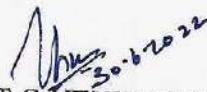
9. To sum up, the Supply of medicines and consumables used in the course of providing health care services to In-patients by pharmacy unit of Be well hospitals for diagnosis or treatment during the patients admission in hospital till discharge is to be considered as "Composite Supply" of health care service under GST and consequently exemption under Notification No.12/2017- CT (Rate) read with Section 8(a) of GST is available for such supplies based on the discussions above. However the supply of medicines and consumables used in the course of providing health care services to Out-patients by pharmacy unit of Be well hospitals for diagnosis or treatment during the patients admission in hospital cannot be considered as "Composite Supply" of health care service as under GST and are taxable as individual supplies as established in the discussion above.

10. In view of the above, we rule as under:-

RULING

1. Supply of Medicines and consumables used in the course of providing health care services to in-patients admitted to the hospital for diagnosis, or medical treatment or procedures till discharge is a composite supply of In Patient Healthcare Service, provided the consolidated bill raised in the name of the patient indicates the supply of medicines and consumables during the course of provision of health care services, as defined in Para 2(zg) of Notification no 12/2017-C.T. (rate) dated 28.06.2017 as amended and Notification No.II (2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29.06.2017 as amended and the same is exempted from CGST and SGST as per Sl No 74 of the above notifications respectively.
2. Supply of Medicines and consumables used in the course of providing health care services to Out-patients admitted to the hospital for diagnosis, or medical treatment or procedures is not a composite supply and is hence taxable to GST.


Smt. K.LATHA
Member (SGST)


Shri T.G. VENKATESH
(Member CGST)



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// BY SPEED POST WITH ACK.DUE //

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2. The Principal Secretary/Commissioner of Commercial Taxes/Member,
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