

JHARKHAND AUTHORITY OF ADVANCE RULING

GOODS AND SERVICES TAX

DIVISIONAL OFFICE OF STATE TAX, CIVIL COURT COMPOUND,

NEAR JAIPAL SINGH STADIUM, RANCHI, 834001

Advance Ruling Order No. JHR/AAR/2018-19/03, Dated 14th September, 2018

Sri Pradhuman Badri Prasad Meena, Joint Commissioner,	Member (Central Tax)
Sri Ram Chandra Prasad Barnwal, Joint Commissioner	Member (State Tax)
Name and address of the applicant	TATA MOTORS LIMITED Registered Address: General Office, H.S. Road, Telco, East Singhbhum, Jharkhand-831010
GSTIN of the applicant	20AAACT2727Q1ZA
Application No. and Date	Advance Ruling/ SGST & CGST/2017-18/AR/03
Clause(s) of Section 97(2) of ((CGST/SGST/UGST Act, 2017)) under which the question(s) raised	(v) determination of the liability to pay tax on any goods or services or both
Date of Personal hearing	02-08-2018
Present for the applicant	Mr. Dhanu Kumar (Authorized Representative)

Note: Under Section 100 of the JGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of JGST Act 2017, within a period of 30 days from the date of service of this order.

The applicant M/s TATA Motors Ltd (hereinafter referred to a "TML") having GSTIN No. ((20AAACT2727Q1ZA,)) is engaged in the business of manufacturing commercial and passenger vehicles. The applicant M/s TML is providing various amenities like Accommodation, Telco

Township, Hospital, etc. to their employees in its manufacturing facility at Jamshedpur in the State of Jharkhand for the purpose of facilitating smooth conduct of its business.

2. M/s TML is running a Hospital for providing Medical Support services to its employees and other people residing in Jamshedpur for sustainability and better health treatment. The hospital is primarily engaged in providing Health Care Services through its Outdoor Patient Department (OPD) and Indoor Patient Department (IPD). A detailed list of services provided by the hospital is given Annexure-A. To facilitate the purpose of providing Health Care Services, the hospital is purchasing necessary Machine & Equipment for various Tests and Scans, Ambulance for transportation of patients, and machines for supply during the course of Treatment of patients.

3. The services provided by the Hospital are of the following categories of people:-

- a) Employee of TML and their dependents.
- b) Non-Employees (Employee of other Associated Business Entities) and their dependents.
- c) Non-Employees resident (Cash Patients).

4. There is no consideration for services provided to people in category (a) mentioned above, being part of employment contract. Whereas, the consideration of services provided to people in category (b) is collected from their respective Associated Business Entities at the end of every month and the consideration from people in category (c) is collected in form of cash.

List of services provided by the Hospital:-

Sl. No	Description of Services	Category of people availing the Services	Consideration received against provision of Services
1	Doctor's Consultancy	a) Employee of TML b) Non-Employees (Employee of other Associated Business Entities) c) Non-Employees (Cash Patients)	a) No consideration b) Billed to Associated Business Entities on Monthly basis c) Billed to Individuals
2	Tests and Scans (Blood Test, Urine Test, X-Ray, USG etc.)	a) Employee of TML b) Non-Employees (Employee of other Associated Business Entities)	a) No consideration b) Billed to Associated Business Entities on Monthly basis

		c) Non-Employees (Cash Patients)	c) Billed to Individuals
3	Admission Charges, Bed Charges, Operation Charges, Sundry Charges, etc.	a) Employee of TML b) Non-Employees (Employee of other Associated Business Entities) c) Non-Employees (Cash Patients)	a) No consideration b) Billed to Associated Business Entities on Monthly basis c) Billed to Individuals
4	Medicine dispensation to In-Patients (Hospitalization)	a) Employee of TML b) Non-Employees (Employee of other Associated Business Entities) c) Non-Employees (Cash Patients)	a) No consideration b) Billed to Associated Business Entities on Monthly basis c) Billed to Individuals
5	Medicine dispensation to Other Patients (Non-Hospitalization)	a) Employee of TML b) Non-Employees (Employee of other Associated Business Entities) c) Non-Employees (Cash Patients)	a) No consideration b) Billed to Associated Business Entities on Monthly basis c) No medicines supplied to cash patients
6	Preventive Health Checkup	a) Employee of TML b) Non-Employees (Employee of other Associated Business Entities) c) Non-Employees (Cash Patients)	a) No consideration b) Billed to Associated Business Entities on Monthly basis c) Billed to Individuals
7	Ambulance Services	a) Employee of TML b) Non-Employees (Employee of other Associated Business Entities)	a) No consideration b) Billed to Individual c) Billed to Individual

		c) Non-Employees (Cash Patients)	
8	Mortuary	a) Employee of TML b) Non-Employees (Employee of other Associated Business Entities) c) Non-Employees (Cash Patients)	a) No consideration b) No consideration. However, Billed to Individual, if the Dead Body is brought from outside. c) No consideration. However, Billed to Individual, if the Dead Body is brought from outside.
9	Funeral Truck (Hearse)	a) Employee of TML b) Non-Employees (Employee of other Associated Business Entities) c) Non-Employees (Cash Patients)	a) No consideration b) Billed to Individual c) Billed to Individual

5. The applicant sought Advance Ruling on the following questions/issues:-

(i) Whether Doctor's Consultancy as mentioned in SI No. 1 of Annexure-A to the various categories of people specified in SI No. 1 is taxable under GST or not?

(ii) Whether Tests and Scans as mentioned in SI No.2 of Annexure-A to the various categories of people specified in SI No.2 for IPD and /or OPD cases is taxable under GST or not?

(iii) Whether Admission charges, Bed Charges, Operation Charges, Sundry Charges, etc as mentioned in SI No.3 of Annexure-A to the various categories of people specified in SI No.3 is taxable under GST or not?

(iv) Whether Medicine Dispensation to In-Patients as mentioned in SI No.4 of Annexure-A to the various categories of people specified in SI. No.4 for IPD cases is taxable under GST or not?

In case medicine are subject to GST, whether GST needs to be paid on supplies to Non-Employees for consideration only (with ITC on inward supplies) or GST needs to be paid on supplies made to employees without consideration as well?

(v) Whether Medicine Dispensation to other patients as mentioned in SI No. 5 of Annexure-A to the various categories of people specified in SI No.5 for OPD cases is taxable under GST or not?

In case medicine are subject to GST, whether GST needs to be paid on supplies to Non-Employees for consideration only (with ITC on inward supplies) or GST needs to be paid on supplies made to employees without consideration as well?

(vi) Whether Preventive Health Check-up as mentioned in SI No.6 of Annexure-A to the various categories of people specified in SI No. 6 is taxable under GST or not?

6. As per Section 97(2) of the Central Goods & Services Tax Act, 2017 (herein after referred to as the 'CGST ACT, 2017) and Jharkhand Goods and Services Tax Act, 2017 empowers the Advance Ruling authority to decide the issue, which are as follow:-

(a) classification of any goods or services or both;

(b) applicability of a notification issued under the provisions of this Act;

(c) determination of time and value of supply of goods or services or both;

(d) admissibility of input tax credit of tax paid or deemed to have been paid;

(e) determination of the liability to pay tax on any goods or services or both;

(f) whether applicant is required to be registered;

(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 term.

7. From the aforesaid provisions of Advance Ruling it is observed that the Applicant is eligible to seek Advance Ruling under sub-para (e) i.e. "Determination of the liability to pay tax on any goods or services or both", of Section 97(2) of the Central Goods & Services Tax Act, 2017.

8. The Applicant with regard to each question given in Annexure-B in so far it relates to TML Employees and their dependents inter-alia submitted that:-

8.1 The medical facility availed by employees in Applicant's (TML) run hospital is as per terms of employment contract and part of CTC.

8.2 As this is a part of facility for employee in terms of contract of employment, it cannot be treated as service provided by employer to employee and hence not subject to GST. This view is also supported by Press release issued by CBEC on 10.07.2017.

8.3 Accordingly all the facilities provided by the hospital to the employees and their dependents (All Question of Annexure-'B with regard to Employees) should not attract GST.

8.3a Supply of Drugs and Medicines is a Taxable Supply under the GST Act and the rates are accordingly prescribed under Chapter 30 and Heading 9804 of the GST Tariff.

8.3b Human Health Care and Social service is also a Taxable Supply under the GST Act and the rates are accordingly prescribed under the Heading 9993 of the GST Tariff.

8.3c However, by virtue of SI No. 74 of Notification NO. 12/2017-Central Tax (Rates), dated 28.06.2017 "Health Care Services" are exempted from levy of GST.

8.4 The definition of the term "Health Care Services" and "Clinical Establishment" as given in the said notification is reproduced below:

As per clause 2(zg) of the notification "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;

As per clause 2 (s) of the notification "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;

8.5 The Applicant with regard to each question given in Annexure-B in so far it relates to Non-Employees inter-alia submitted that:-

1. Doctor's Consultancy services provided in the hospital is an activity for diagnosis or treatment or care for illness, injury, etc. Hence, it is covered by the definition of Health Care Services and accordingly not chargeable to GST.

2. Test and Scan services provided in the hospital is an integral part for diagnosis or treatment or care for illness, injury, etc. Hence, it is covered by the definition of Health Care Services and accordingly not chargeable to GST.

Moreover, "Medical Laboratory and Diagnostic Imaging services" are covered under the HSN/SAC 999316 as Human Health Services.

3. Admission Charges, Bed Charges, Operation Charges, Sundry Charges, etc. recovered from patients is towards miscellaneous facility provided in the hospital which is directly linked to treatment of illness, injury, etc. Hence, is covered by the definition of Health Care Services and accordingly not chargeable to GST.

Also Circular No.32/06/2018-GST, dt. 12.02.2018 vide SI. No. 5 supports their above view.

4. Medicine Dispensation to In-Patients is in the course of treatment or care for illness, injury, etc. Hence it is covered by the definition of Health Care Services and accordingly not chargeable to GST.

5. Medicine Dispensation to Other Patients after the consultancy from Doctor's is also in the course of treatment or care for illness, injury, etc. Hence it is covered by the definition of Health Care Services and accordingly not chargeable to GST.

6. Preventive Health Check-up is a preliminary investigation process for diagnosis of illness. Hence it is covered by the definition of Health Care Services and accordingly not chargeable to GST.

8.6 As per Section 2(30) of the Central Goods and Services Tax (CGST) Act, 2017, the term "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.

8.7 As per Section 2(107) of the Central Goods and Services Tax (CGST) Act, 2017, the term "taxable person" means a person who is registered or liable to be registered under section 22 or section 24.

8.9 As per Section 2(47) of the Central Goods and Services Tax (CGST) Act, 2017, the term "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.

8.10 As per Section 2(90) of the Central Goods and Services Tax (CGST) Act, 2017, the term "principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

8.11 The authority may also consider that dispensing of medicines during the course of treatment is a supply of goods and accordingly not covered under the term "Health Care Services" by Virtue of Exemption Notification 12/2017-Central Excise (rate), dt.28.06.2017.

Further the applicant submitted that if the authority is not considering dispensing of medicine during the treatment of patient as "Health Care Service", the same will be treated as "Composite Supply" by virtue of the definition of Composite supply as supply of medicine is done post consultation only and is supplied in conjunction of the latter in the ordinary course of business. Further, supply of medicine and supply of health care services are taxable supply as both are listed in the GST Tariff with rate of tax other than "Nil" rate. It is also pertinent to note that the principal supply is the health care services (i.e. consultation) without which the medicine is neither prescribed nor dispensed.

8.12 Hence, the composite supply of "Health Care Services" covering dispensation of Medicine and Doctor's Consultation and / or Test is an exempt supply.

9.0 Personal Hearing Proceedings:-

9.1 Personal Hearing of the applicant as well as the concerned jurisdictional officer was conducted and concluded. The applicant reiterated the points as submitted wide their written submission dated 02-08-2018.

10.0 Findings & Discussion:-

10.1 We have considered the submissions made by the Applicant in their application for Advance Ruling as well as the submissions made by the jurisdictional officer during Personal Hearing. We also considered the questions/issues on which Advance Rulings have been sought for by the applicant, relevant facts having bearing on the questions/issues raised, the applicant's understanding/interpretation of law in respect of the issue.

10.2 The applicant sought Advance Ruling on the six questions i.e. -

1. Whether Doctor's Consultancy as mentioned in SI No. 1 of Annexure-A to the various categories of people specified in SI No.1 is taxable under GST or not?
2. Whether Tests and Scans as mentioned in SI No.2 of Annexure-A to the various categories of people specified in SI No.2 for IPD and /or OPD cases is taxable under GST or not?
3. Whether Admission charges, Bed Charges, Operation Charges, Sundry Charges, etc as mentioned in SI No.3 of Annexure-A to the various categories of people specified in SI No.3 is taxable under GST or not?
4. Whether Medicine Dispensation to In-Patients as mentioned in SI No.4 of Annexure-A to the various categories of people specified in SI No.4 for IPD cases is taxable under GST or not? In case medicine are subject to GST, whether GST needs to be paid on supplies to Non-Employees for consideration only (with ITC on inward supplies) or GST needs to be paid on supplies made to employees without consideration as well?
5. Whether Medicine Dispensation to other patients as mentioned in SI No. 5 of Annexure-A to the various categories of people specified in SI No.5 for OPD cases is taxable under GST or not? In case medicine are subject to GST, whether GST needs to be paid on supplies to Non-Employees for consideration only (with ITC on inward supplies) or GST needs to be paid on supplies made to employees without consideration as well?
6. Whether Preventive Health Check-up as mentioned in SI No.6 of Annexure-A to the various categories of people specified in SI No. 6 is taxable under GST or not?

10.3 In view of the above the issues before us to decide whether the services i.e. Doctor's Consultancy, Tests and Scans, Admission charges, Bed Charges, Operation Charges, Sundry

Charges, etc, Medicine Dispensation to In-Patients, Medicine Dispensation to other patients and Preventive Health Check-up provided by the applicant to the various categories of people, are taxable under GST or not.

10.4 The services provided by the applicant falls under the category of the service "Health Care Services".

10.5 The definition of the term "Health Care Services" and "Clinical Establishment" as given in the said notification is reproduced below:

As per clause 2(zg) of the Notification issued under Union Territory Goods & Service Tax Act, 2017 of the "Health Care Services"

"means 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;"

As per clause 2 (s) of the notification issued under Union Territory Goods & Service Tax Act, 2017 "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;

10.6 Pertaining to the services provided by the Applicant to their Employees and their dependents ,it is observed that the Applicant run hospital is as per terms of employment contract and part of CTC.As this is a part of facility for employee in terms of contract of employment, it cannot be treated as service provided by employer to employee and hence may not subject to GST. This view is also supported by Press release issued by CBEC on 10.07.2017.

10.6a Supply of Drugs and Medicines is a Taxable Supply under the GST Act and the rates are accordingly prescribed under Chapter 30 and Heading 9804 of the GST Tariff.

10.6b Human Health Care and Social service is also a Taxable Supply under the GST Act and the rates are accordingly prescribed under the Heading 9993 of the GST Tariff.

10.6c But vide SI No. 74 of Notification NO. 12/2017-Central Tax (Rates), dated 28.06.2017 "Health Care Services" are exempted from levy of GST.

10.7 Pertaining to the services provided by the Applicant to Non-Employees, it is observed that-

10.7a Doctor's Consultancy services provided in the hospital is an activity for diagnosis or treatment or care for illness, injury, etc. Hence, it is covered by the definition of Health Care Services and accordingly not chargeable to GST.

10.7b Test and Scan services provided in the hospital is an integral part for diagnosis or treatment or care for illness, injury, etc. Hence, it is covered by the definition of Health Care Services and accordingly not chargeable to GST.

10.7c Admission Charges, Bed Charges, Operation Charges, Sundry Charges, etc. recovered from patients is towards miscellaneous facility provided in the hospital which is directly linked to treatment of illness, injury, etc. Hence, it is covered by the definition of Health Care Services and accordingly not chargeable to GST.

10.7d Medicine Dispensation to In-Patients is in the course of treatment or care for illness, injury, etc. Hence it is covered by the definition of Health Care Services and accordingly not chargeable to GST.

10.7e Medicine Dispensation to Other Patients after the consultancy from Doctor's is also in the course of treatment or care for illness, injury, etc. Hence it is covered by the definition of Health Care Services and accordingly not chargeable to GST.

10.7f Preventive Health Check-up is a preliminary investigation process for diagnosis of illness. Hence it is covered by the definition of Health Care Services and accordingly not chargeable to GST.

11.0 As per Chapter 41.7B-1 of Finance Bill 1994 "Care" is defined as,-

"The care can be preventive care or post treatment care. The term preventive care means the measures taken to prevent disease from occurring rather than curing them, it means care of individual who does not require hospitalization but due to various reasons he cannot be cared at home. The care may be required for a long period for the persons who are critically ill. Services in taking care include services of providing medicaments/food on regular basis, range of therapies, monitoring of parameters like blood pressure, diabetics, pulse rate etc."

From the above it is observed that the Preventive Health Care comes within the ambit of "Care". Hence GST is not chargeable.

12. The activities undertaken by the applicant fall under "Health Care Services" as defined clause 2(zg) of the Notification issued under Union Territory Goods & Service Tax Act, 2017. "Health Care Services" are exempted from levy of GST vide Circular No. 354/ 17/2018-TRU dated 12.02.2018.

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The "Health Care Services" provided by the applicant is exempted from payment of GST as laid down vide circular no-32/6/2018-GSTdt- 12-02-18.

Pradhuman Badri Prasad Meena	Sri Ram Chandra Prasad Barnwal
Member	Member
(Central Tax)	(State Tax)

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