

ADVANCE RULING No. KER/ 57 /2019 Dt.05.09.2019

M/s. Baby Memorial Hospital Ltd, is a multi speciality hospital engaged in providing health care service to patients, supply of medicines and other allied services. In order to provide health care services, the applicant is maintaining facilities; like full fledged hospital with all infrastructure, Pharmacy, Clinical Laboratory, X Ray & Scanning facility, Ambulance services, dietary services etc. As a provider of health care service, the applicant undertakes inpatient and outpatient treatments. In this sector there is a conflict that, whether all services provided by a

hospital are to be bundled as a composite service or each service and supply of goods is to be treated as individual transactions. Hence the applicant requested advance ruling on the following:

- *Whether the applicant, a Multi Speciality Hospital is liable to pay GST on supply of medicines, drugs and other surgical goods from its pharmacy to inpatients?*
- *Whether the applicant, a Multi Speciality Hospital is liable to pay GST on supply of medicines, drugs and other surgical goods from its pharmacy to outpatients?*
- *Whether the applicant is liable to pay GST on supply of incidental services as X ray, Clinical laboratory etc rendered as part of health care service?*
- *Whether the applicant is liable to pay GST on supply of implants and artificial limbs made during course of treatment to patients?*

The authorized representative was heard. The applicant is a multi-disciplinary super specialty hospital providing health care services. They provide health care services to patients who are advised hospitalisation on the basis of registration. The health care services are provided as Out-Patients or In-Patients considering the gravity of illness. The hospital provides diagnosis and treatment to out-patients. The medicines are prescribed to them as part of treatment and care for illness. The supply of medicine are part of primary service, it will come under the category of health care services.

The in-patients are those who are admitted to the hospital for the required treatment. The in-patients are provided with stay facilities, medicines, consumables, implants, dietary food and other surgeries/ procedures required for the treatment. Supply of medicines cannot be distinguished as taxable or exempt on the basis of whether treatment is provided as outpatient or inpatient. It is pointed out that health care service is classifiable under 9993. During pre-GST scenario health care services were exempted from taxation. Under GST also health care services provided by a clinical establishment, an authorized medical practitioner or para medics are exempted vide Sl.No.74 of Notification No.12/2017-CT (Rate) Dt.28.06.2017. The medicines, consumables and implants used in the course of providing diagnosis or treatment to the patients would be part of 'composite supply' of health care services vide classification 9993. Composite supply would mean 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 applicant provides more than two taxable supplies such as medicines, implants, consumables etc as part of the health care treatment to the patients. Supplies of these services are part and parcel of the treatment and they are essentially required to provide health care services. Each item comes under different tax rates. Hence clarity is required to know whether these transactions to be taxed under separate heads or are liable for taxation as composite supply?

The issue is examined in detail. Health care services provided by a clinical establishment an authorized medical practitioner or para medics are exempted vide Sl.No.74 of Notification No.12/2017-CT (Rate) Dt.28.06.2017. The word 'clinical establishment' means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnostics or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India or a place established as an independent entity or as a part of an establishment to carry out diagnostic or investigative services of diseases.

The in-patient services are classified as exempted service under the sub-group 9993 11. Patients are only admitted to a hospital when they are extremely ill or have severe physical trauma. As far as an inpatient is concerned, hospital is expected to provide care to the patient which consists of visit and treatment by doctors, periodical visits by duty doctors, care by the nurses, provisions of medicines as prescribed by the doctor, supply of other consumables as required, conduct of pathological tests, if necessary, conduct of Xray/Scanning if necessary, supply of diet food etc under supervision till discharge from the hospital. The nature of the various services in a bundle of services will help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and other services combined with such service are in the nature of incidental or ancillary services which help in better utility of main service. Hence the medicines, implants, room provided on rent, dietary food advised by nutritionists etc used in the course of providing health care services to the patients admitted for diagnosis or treatment in the hospital or clinical establishment is undoubtedly naturally bundled in the ordinary course of business. The patients are expected to receive health care services by way of appropriate medicines as well as relevant consumables or implants required to make sure that an appropriate diagnosis or the best possible

treatment is given. Hence the medicine and allied goods supplied to inpatient are indispensable items and it is a composite supply to facilitate health care services.

As per Section 2(30) of the CGST/SGST Act, 2017, "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. As per Section 2(90) of the CGST/SGST Act, 2017, "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. Section 8 of the CGST/SGST Act, 2017 prescribes the tax liability on composite and mixed supplies. Section 8 reads as follows;

"The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:— (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and (b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax."

This authority has already given a Ruling in the case of M/s. KIMS Healthcare Management Ltd, M/s. Rajagiri Healthcare and Education Trust, M/s. Ernakulam Medical Centre Pvt Ltd, M/s. Kinder Women Hospital and Fertility Centre Pvt Ltd, M/s. Kindorama Healthcare Private Ltd, Starcare Hospital Kozhikode Private Ltd etc to the effect that the supply of medicines and allied items provided by the hospital through the pharmacy to the in-patients is part of composite supply of health care treatment and not separately taxable.

Regarding issue on the liability to pay GST on supply of incidental services as X ray, Clinical laboratory etc rendered as part of health care service, this authority has already given a Ruling in the case of M/s. Medivision Scan and Diagnostic Research Centre Pvt Ltd, that as per SRO.No.371/2017 vide sl.no.74 (Notification No.12/2017-CT (Rate) dtd.28-06-2017), services by way of diagnosis come under the category of health care services covered under SAC 9993 in connection with health care services provided by a clinical establishment and are, therefore, exempted.

Regarding the issue on the supply of artificial body parts / devices such as heart valve, artificial kidney, artificial joints, coronary stents etc which are implanted in the body essentially by means of a surgical procedure can be classified as a composite supply where the principal supply is of healthcare services. Supply of goods like wheel chairs, tricycles etc to the patients will not come under the classification of health care services. In case of artificial body parts / devices which are worn / attached / fitted / fastened to the body for which a surgical procedure may or may not be required; the nature / taxability of supply has to be determined on a case to case basis considering the facts and circumstances of each case. Hence a general ruling regarding the nature or taxability of such supplies cannot be issued.

In view of the observations stated above, the following rulings are issued: . '

- *Whether the applicant, a Multi Speciality Hospital is liable to pay GST on supply of medicines, drugs and other surgical goods from its pharmacy to inpatients?*

The supply of medicines, drugs and other surgical goods from its pharmacy to in-patients are in the course of providing health care services which are naturally bundled and are provided in conjunction with each other, would be considered as "Composite Supply" and eligible for exemption under the category 'health care services'.

- *Whether the applicant, a Multi Speciality Hospital is liable to pay GST on supply of medicines, drugs and other surgical goods from its pharmacy to outpatients?*

The supply of medicines, drugs and other surgical goods by the hospital from its pharmacy to out-patients as part of health care services is a taxable supply of goods and thereby GST is applicable.

- *Whether the applicant is liable to pay GST on supply of incidental services as X ray, Clinical laboratory etc rendered as part of health care service?*

As per SRO.No.371/2017 vide sl.no.74 (Notification No.12/2017-CT (Rate) dtd.28-06-2017), services by way of diagnosis come under the category of health care services covered under SAC 9993 and thereby exempted.


- *Whether the applicant is liable to pay GST on supply of implants and artificial limbs made during course of treatment to patients?*

The supply of artificial body parts / devices such as heart valve, artificial kidney, artificial joints, and coronary stents etc which are implanted in the body essentially by means of a surgical procedure can be classified as a composite supply where the principal supply is of healthcare services. In case of artificial body parts / devices which are worn / attached / fitted / fastened to the body for which a surgical procedure may or may not be required; the nature / taxability of supply has to be determined on a case to case basis considering the facts and circumstances of each case.

The supply of goods like wheel chairs, tricycles etc to the patients cannot be considered as a composite supply where the principal supply is health care services and accordingly will be liable to GST as individual supply of goods.



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To

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