

2018-TIOL-37-AAR-GST

**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 5 / 2018
Dated: 21st March, 2018**

Present:

1. Sri. Harish Dharnia,
Joint Commissioner of Central Tax,
Bangalore West Commissionerate,
Bengaluru.

... Member (Central Tax)

2. Dr.RaviPrasad.M.P.
Joint Commissioner of
Commercial Taxes (Vigilance)
Bengaluru

... Member (State Tax)

1.	Name and address of the applicant	M/s SAYRE THERAPUETICS PRIVATE LIMITED Flat No. 1104, Sobha Cinnamon Apartment, Haralur Road, Somasundarapalya, Bengaluru 560102
2.	GSTIN or User ID	29AAVCS6145A1Z1/ 291700000106ARU
3.	Date of filing of Form GST ARA-01	18-12-2017
4.	Represented by	Dr.Ravindranath, Medical Director
5.	Jurisdictional Authority - Centre	
6.	Jurisdictional Authority - State	LGSTO - 15, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged Rs.10,000-00 CGST : Rs.5,000-00 and KGST: Rs.5,000-00 CIN: UTIB17122900020028 dated 05-12-2017

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

1. M/s Sayre Therapeutics Pvt. Ltd., Bengaluru, (the applicant) is a registered taxable person registered under the Central Goods and Services Tax Act, Karnataka Goods and Services Tax Act and Integrated Goods and Services Tax Act. The applicant is involved in the diagnosis, pre and post counselling, therapy and prevention of diseases by providing tests that are sophisticated and relevant.

2. The applicant is a healthcare company dealing with oncology and immunology therapy and diagnostics related products. They in-licenses medicines, secures regulatory approvals post clinical studies and then commercialises novel drugs, devices and molecular diagnostics in therapeutic areas, i.e. oncology and auto-immune disorders, thereby transforming patient care. The applicant is specifically working in precision diagnostics detecting the origin of the cancer. They have collaborated with other diagnostic company to provide advanced genetic diagnostic tests that help in prevention and management of cancers and blood disorders. In all these diagnostic tests, the Medical team is involved in the complete cycle of testing process beginning with patient counselling.
3. The applicant has filed FORM GST ARA-01 seeking advance ruling claiming that the services provided by them are covered under health care services and hence nil rated supply. He has made payment of fee applicable for seeking advance ruling and hence the application is admitted.
4. Dr.Ravindranath, Medical Director of the applicant concern appeared and presented the following -
 - (a) That the business enterprise is a concern specifically working in precision diagnostics dealing with oncology and immunology therapy and diagnostics related products.
 - (b) One of the tests made available in India by them through their tie-up with the US Company, is a microarray based gene expression test that aids in identifying challenging tumours, including metastatic, poorly differentiated and undifferentiated cancers. This test assumes significance, as current day precision therapy can be effective only if the site of origin is known. Similarly, they have collaborated with a molecular diagnostic company from Germany to provide advance genetic diagnostics tests that help in prevention and management of cancers and blood disorders. In all these diagnostic tests, the Medical team of the applicant is involved in the complete cycle of testing process beginning with patient counselling to sharing the results and post-test counselling. Thus, the applicant is involved in diagnosis, pre- and post-counselling, therapy and prevention of diseases by providing tests that are sophisticated and relevant.
 - (c) The Entry No. 74 of Notification 12/ 2017- Central Tax exempts health care services at clinical establishment, an authorised medical professional or paramedics. As per clause (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.
 - (d) Hence, all treatment or diagnosis or care for illness, injury, deformity, abnormality or pregnancy by a clinical establishment is covered. Such services provided by doctors and paramedics either provided as an employee (clinical establishment) or in their individual capacity is exempt. The clinical establishment as per clause(s) means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that officers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent

entity or a part of an establishment to carry out diagnostic or investigative services of diseases.

- (e) As per sub-section (47) of section 2 of the Central Goods and Services Tax Act, exempt supply means supply of any goods or services or both which attracts nil rate of tax which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes a non-taxable supply.
- (f) Based on the above notification, services provided by the applicant meets the requisite criteria and qualifies as health care services and hence is nil rated supply.

FINDINGS & DISCUSSION:

5. We have considered the submissions made by the Applicant in their application for advance ruling as well as during the personal hearing on 09.01.2018. We have also considered the question / issue on which advance ruling is sought for by the applicant, relevant facts having bearing on the question, the statement containing the applicant's understanding of law in respect of the question.

6. The Applicant, filed the instant application on 08.12.2017 seeking advance ruling on the taxability of the services provided by them. They are involved in the diagnosis, pre & post counseling therapy and prevention of diseases by providing sophisticated and relevant tests i.e. Tissue of Origin Test, BRCA1 & BRCA2 gene mutation test, CentoDx Plus test & Myeloid Panel test in collaboration with various research centres across the globe, wherein the medical team of the applicant is involved in complete cycle of testing process. The medical team of the applicant consult the counterparts to determine the particular test relevant to the particular patient, provides comprehensive counseling services to the patient / their families, collects the samples from the patients, transport the samples for the relevant test, collect the test result, discuss with the oncologist and clarify the queries, based on which the oncologist recommend the treatment options to the patient.

7. Health care services provided by clinical establishments, an authorised medical practitioner or para-medics are exempted vide SL.No.74 of the Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017. Therefore the issue/s before us to decide are

- a. Whether the Applicant qualifies as clinical establishment?
- b. Whether the services provided by the applicant qualifies to be health care services?

8. We proceed to answer the questions as under:

Clause 2(s) of the Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017 defines clinical establishment as under:

"clinical establishment" means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised

system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases;

9. In the instant case the applicant offers services / facilities requiring diagnosis such as patient counselling, suggesting the relevant test for the patient, collecting samples, obtaining the result of the test, sharing the test results and post counselling. The medical team of the applicant discusses with the oncologist / pathologist, takes samples of required tissues and send it for the tests to **US/Germany**, with regard to the oncology / auto immune deceases. They play the role of referral / physician and also advice doctors for line of treatment to the establishment. They provide the said services in "**Allopathy**" system of medicines, recognised in India. Therefore they qualify to be a **clinical establishment**.

10. Clause 2(zg) of the Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017 defines "Health Care Services" as under:

(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;

11. In the instant case the Applicant is involved in providing the services of diagnosis, pre & post counseling, therapy and prevention of diseases by providing tests that are sophisticated and relevant. The medical team of the applicant is involved in the complete cycle and hence they facilitate the diagnosis process and therefore the services provided by the applicant qualify to be health care services.

12. In view of the foregoing, we rule as under :

RULING

The applicant qualifies to be a clinical establishment and the services offered / provided by the Applicant qualify to be Health Care Services. The intra-state supply of said services attract NIL rate of central tax as per SL.No.74 of the Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017.


(Harish Dharnia)
Member


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

Place : Bengaluru,
Date : 21.03.2018