

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, 1st Floor, No.1, Greams Road, Chennai-600 006.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s. 98 OF THE
GOODS AND SERVICES TAX ACT 2017.**

Members present are:

1. Ms. Manasa Gangotri Kata, IRS , Joint Commissioner/Member,
Office of the Commissioner of GST & Central Excise, Chennai 34
and
2. Thiru Kurinji Selvaan.V.S., M.Sc., (Agri.), M.B.A., Joint Commissioner (ST)/
Member Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6

ORDER No.46 /ARA/2019 Dated 26.09.2019

GSTIN Number, if any / User id		33AAGCR1968R1Z0
Legal Name of Applicant		M/s. ROYAL CARE SPECIALITY HOSPITAL LTD.
Trade Name of the Applicant		M/s. Royal CARE SPECIALITY HOSPITAL LTD.
Registered Address / Address provided while obtaining user id		No. 1/520, Neelambur, SulurTaluk, coimbatore, 641 062.
Details of Application		Form GST ARA – 001 Application SI.No.14 Dated 26.03.2019
Concerned Officer		State: The Assistant Commissioner(ST), Singanallur Assessment Circle. Commercial Taxes Building 2 nd Floor, Dr. Balasundaram Road, Coimbatore – 641 018. Centre: Coimbatore Commissionarate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Provision of services.
B	Description (in brief)	Provision of Health Care Services
Issue/s on which advance ruling required		1. Applicability of a notification issued under the provisions of this Act 2. Admissibility of input tax credit of tax paid or deemed to have been paid 3. Determination of the liability to pay tax on any goods or services or both

Question(s) on which advance ruling is required	<ol style="list-style-type: none"> 1. Whether the medicines, consumables, Surgical and implants used in the course of providing health care services to patients admitted to the Hospital for diagnosis or treatment would be considered as "Composite Supply" of health care services under GST and consequently exemption under Notification No.12/2017 read with section 8 (a) of GST? 2. Whether ITC is eligible for obligatory services provided to In-patients through outsourcing <ol style="list-style-type: none"> a. Washing and Sewage Removal - 100% b. House Keeping and Lease Rent on Machinery - On Proportionate basis.
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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 -600006 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 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.

M/s. ROYAL CARE SPECIALITY HOSPITAL Limited, No. 1/520, Neelambur, Sulur Taluk, Coimbatore 641 062 (hereinafter referred as the 'Applicant') is a multi-specialty tertiary care hospital providing health care services. They are registered under GST with GSTIN: 33AAGCR1968R1Z0. They have sought an Advance Ruling on the following questions:

1. Whether the medicines, consumables, surgical and implants used in the course of providing health care services to patients admitted to the Hospital for diagnosis or treatment would be considered as "Composite Supply" of health care services under GST and consequently exempt under Notification No.12/2017 read with section 8 (a) of GST?

2. Whether ITC is eligible for obligatory services provided to In-patients through outsourcing;
 - c. Washing and Sewage Removal – 100%
 - d. House Keeping and Lease Rent on Machinery – On Proportionate basis.

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 TNSGST Rules 2017.

2.1 The applicant has stated that they are engaged in the health care service sector providing comprehensive patient care of International quality standards across all strata of the community with cutting edge technological equipment and by renowned medical specialists. They intend to create a sustainable health care system for the people of this region which shall be one of the most contemporary healthcare facilities with the latest infrastructure to deliver treatment as per the latest advances in modern medicine. They have categorized the patients as Out-Patients and In-patients for the administrative convenience. The out-patients are those who visit the hospital for routine check-ups or clinical visits. The in-patients are those who are admitted into the hospital for the required treatment. The in-patients are provided with stay facilities, medicines, consumables, surgical and implants, dietary food and other surgeries/procedures required for the treatment.

2.2 Healthcare services provided by a clinical establishment, an authorized medical practitioner or para- medics, are exempted from the tax. The word 'clinical establishment' means a hospital, nursing home, clinic, sanatorium or any other institution that offers service 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 a part of an establishment to carry out diagnostic or investigative services of diseases. For all such treatments, medicines, consumables and implants are necessary for the inpatients admitted in the hospital and who are under the care of the Hospital till discharge. The supply of such medicines, consumables, Surgical and implants used in the course of providing health care services to in-patients for diagnosis or treatment are naturally bundled and are provided in conjunction with each other, would have to be considered as "Composite supply" and should be made eligible for

exemption under the category 'health care service' in terms of Notification No.12/2017 Central tax (rate) dt. 28.06.2017.

2.3 In all the recent other state AARs, it has been clarified that food supplied to in-patients as advised by the doctor/nutritionist is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients not admitted are taxable. The same principle is applicable in the case of dispensing of medicines. The AAR pointed out that as far as in-patients are concerned, the hospital is expected to provide lodging, care, medicine and food as part of treatment under supervision till their discharge. In-patients receive medical facility as per the scheduled procedure and have strict restriction to ensure quality/quantity of items for consumption. Hence, the medicines or allied goods supplied to inpatients are indispensable items and are a composite supply to facilitate healthcare services and are not taxable.

2.4 All the obligatory services stated below are meant for the hospital and hence the ITC on such services are eligible inputs for the hospitals as follows:

- a) Washing and Sewage Removal – 100%
- b) House Keeping and Lease Rent on Machinery – On Proportionate basis.

They get tax invoices for the above services meant for hospital. These expenses are totally associated with Hospital Services and In-patient care. All the expenses indicated are GST suffered and hence the ITC for such obligatory services shall be given 100% for Washing and Sewage Removal and Proportionate basis for House Keeping and Lease Rent on Machinery, as the hospital discharges GST for the medicines supplied to out-patients and pays taxes for other items. Without this support services, the Hospitals cannot be neat and clean in the interest of the patients visiting the hospital for various illness.

3.1 The applicant was heard on 18.06.2019. They furnished a written submission. They stated that they have a separate inpatient pharmacy and out-patient pharmacy with separate records/accounting. For in-patients, all the medicines, implants etc, are issued only through the In-Patient Pharmacy. They are charging GST on Out-Patient Pharmacy but not on inpatient pharmacy. All such supplies are billed together with Health care services which is exempt. They stated that there are common input services for both exempt supplies and Out-patient pharmacy such as housekeeping, cleaning, maintenance etc. They state that they should be able to avail ITC as per Formula in Rule 42 of GST Rules. They

undertook to submit a sample treatment records for medicines and implants and GST3B & 1 for a month within a week's time. They stated that no medicines or implants from outside are permitted for in-patients.

3.2 In the written submissions furnished during the personal hearing, the applicant submitted copies of the application already filed, sample bills, AAR Rulings of Kerala AAR in the case of M/s. Star Care Hospital Kozhikode Private Limited and M/s. Kinder Women's Hospital and Fertility Centre Private Limited. The bills furnished are for various inward/outward supplies, with/without GST. Few of the same are listed below:

- 1) In-patient final bill (Bill of Supply) No. FB 2019-2422 dt.11.6.2019 for Rs.13668/- for the supply of services and goods- No GST charged
- 2) In-patient final bill (Bill of Supply) No. FB 2019-2416 dt.11.6.2019 for Rs.75,745/- for the supply of services and goods- No GST charged
- 3) In-patient final bill (Bill of Supply) No. FB 2019-2419 dt.11.6.2019 for Rs.3,03,709/- for the supply of services and goods- No GST charged
- 4) Pharmacy Receipt Nook 019-9739 dt.24.04.19 for Rs/39/- for the supply of goods – No GST charged
- 5) Invoice No.OP019-18101 dt.15.5.2019 for the supply of medicines. GST charged.
- 6) Invoice No.OP019-30349 dt.14.6.2019 for the supply of medicines. GST charged.
- 7) Bill No.OP19-26050 dt.11-6-2019 forRs.350/- towards consultation fee charged to an outpatient- No GST charged.
- 8) Bill No.19-25619 dt.11.6.2019 for Rs.915/- towards laboratory fee charged to an outpatient – No GST charged.
- 9) Inward supply Invoice No.58 dt.15-4-2019 for Rs.26880/- for the purchase of goods. GST charged
- 10)Inward supply invoice No.050/2019-20 dt.31.5.2019 for Rs.183357/- for Washing and cleaning – GST charged.
- 11)Inward Supply Invoice No.1920/May/WB/0041 dt.01-05-2019 for Rs.1202906/- towards receipt of Leasing or rental service of machinery.

3.3 The applicant, further, vide their letter dated 20.06.2019 furnished a set of document consisting of In-patient Final Bill, Discharge summary, Nurse Requisition Note to IP pharmacy and copy of GSTR-3B for the Month of April 2019. They have further stated that the set of documents proves that the inpatient is under continuous monitoring of doctors and nursing staff and administration and dosage of medicines are all under control of the hospital doctors and claimed that the exemption under S.No. 74 of Notification No. 12/2017 dated 28.06.2017.

4. The jurisdictional Officers of both State and Centre have not furnished any comments on the questions raised by the applicant and on the facts stated by the applicant.

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

- 1) Whether the medicines, consumables, surgical and implants used in the course of providing health care services to patients admitted to the Hospital for diagnosis or treatment would be considered as "Composite Supply" of health care services under GST and consequently exempt under Notification No.12/2017 read with section 8 (a) of GST?
- 2) Whether ITC is eligible for obligatory services provided to in-patients through outsourcing?

We take up the questions for discussion and decision one by one as under.

6.1 The facts of the case as available before us, is that the applicant is a multi-specialty tertiary care hospital providing health care services to both out-patients and in-patients. The in-patients are provided with stay facilities, medicines, consumables, surgical and implants, dietary food and other surgeries/procedures required for the treatment. From the In-patient final bill, discharge summary and related bills furnished by the applicant, it is seen that, in case of In-patients the final bill charged includes Room charges, Consultation charges, Investigation charges, food and Beverages, OT charges, Hospital services, Professional charges, Pharmacy charges(IP and OT). From the nurse requisition note enclosed with the set, it is evident that the medicines, consumables, etc are procured from IP pharmacy for administering the same to the in-patient. It is seen that in patients are provided a comprehensive treatment which includes room rent, nursing care, medicines, consumables, implants etc. The doctors who treat the in patients themselves prescribe the medicines and consumables and implants are used in their treatment and diagnostics. The in patients are charged for all of these when they are admitted to the hospital which provides services to the in patients.

6.2 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 hospital/polyclinic 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, consumables, implants, etc. 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, implants and consumables used during their stay in the hospital. Only on using these medicines, consumable and implants as required and prescribed by the doctors and administered during their stay will the treatment be complete. Hence, supply of medicines, implants and consumables are natural 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, consumables and implants to in patients in the course of their treatment is a composite supply of health services.

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

5(2) Retention money: Hospitals charge the patients, say, Rs.10000/- and pay to the consultants/ technicians only Rs. 7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc. Will GST be applicable on such money retained by the hospitals?

(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

(3) Food supplied to the patients: Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC. If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST.

(3) Food 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 a hospital to patients (not admitted) or their attendants or visitors are taxable.

6.4 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. A complete gamut of activities required for well-being of a patient and 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.

6.5 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:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
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

"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 is a Clinical Establishment and for the health care services as defined in the Notification above is provided 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.

7.1 The next issue raised is on the eligibility of Input Tax credit of GST paid by the applicant on the inward services received by them. It is seen from the input services invoices for laundry services that they are for washing of bed sheets, pillow covers, gowns, pants shirts etc. meant for providing services to in patients. The applicant has not provided any input invoices for sewage removal. Hence, we cannot provide a ruling on the admissibility of input services for sewage removal. In respect of Housekeeping and Lease Rent on Machinery availed through outsourcing, the applicant states that they are utilized mainly and predominantly for running the hospital which provides health care services to the inpatients and outpatients. On perusal of the various bills, copies of which is furnished by the applicant, it is seen that except for supply of medicines by the out-patient pharmacy, no other bills has GST component in the bill. i.e, GST is not charged in any of the output supplies made by the applicant other than supply of medicines to out-patients from out-patient pharmacy. As brought out in the para supra, the taxable output supply made by the applicant is the supply of medicine from the out-patient pharmacy. The eligibility of credit of tax paid on the Input services used for providing taxable and exempt supplies stands governed under Section 17(2) of the CGST/TNGST Act 2017 readwith Rule 42 of the CGST Rules 2017 as amended. Accordingly, the applicant is not eligible for the credit of tax paid on the Input services used exclusively for providing exempt services of health services to in patients such as laundry services used for inpatient. In respect of input services such as housekeeping, leasing of equipment used for both exempt supply of health services to in patients and taxable supply of medicines etc. to outpatients , the appropriate ITC eligible is determined by the above Rule 42 of the CGST Rules 2017 and TNSGST Rules as amended.

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

Ruling

1. Medicines, consumables and implants used in the course of providing health care services to in-patients by the applicant is a composite supply of Inpatient Services classifiable under SAC 999311.

2. Supply of health care services or inpatient services by the applicant 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 is exempted from CGST and SGST as per Sl No 74 of the above notifications respectively.
3. The applicant is not eligible for the credit of tax paid on the Input services used exclusively for providing exempt services of health services to in patients such as laundry services used for in patients. For Input services such as housekeeping, leasing of equipment used for both exempt supply of health services to in patients and taxable supply of medicines etc. to outpatients , the appropriate ITC eligible is determined by Rule 42 of the CGST Rules 2017 and TNSGST Rules as amended read with Section 17(2) of CGST/TNGAT Act 2017.

K. Manasa
Ms. Manasa Gangotri Kata,
Member, CGST

Kurinj Selvaan
Shri. Kurinji Selvaan V.S.
Member, TNGST

To

M/s. ROYAL CARE SPECIALITY HOSPITAL LTD
No. 1/520, Neelambur,
Sulur Taluk, Coimbatore, 641 062.

//By SPAD//



Copy submitted to :-

1. The Additional Chief Secretary / Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.
2. The Principal Chief Commissioner of CGST & Central Excise,
No. 26/1, Uthamar Mahatma Gandhi Road, Nungambakkam, Ch – 600 034.

Copy to:

1. The Commissioner of GST & C.Ex.,
Coimbatore Commissionerate.
6/7, A.T.D. Street, Race Course, Coimbatore – 641 018.
2. The Assistant Commissioner (ST)
Singanallur Assessment Circle.
Commercial Taxes Building, 2nd Floor,
Dr. Balasundaram Road, Coimbatore – 641 018.
3. Master/spare