

**GUJARAT AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
A/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.**



ADVANCE RULING NO. GUJ/GAAR/R/55/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2018/AR/70)

Date: 30.07.2020

Name and address of the applicant	:	M/s. Sparsh OHC Manpower Service, Flat No. 101-102, Bhavita Business Hub, 1 st Floor, Gorwa Road, Vadodara.
GSTIN/ User Id of the applicant	:	24AAGPT2412H1ZY
Date of application	:	31.12.2018
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(b) Applicability of Notification issued under the provisions of this Act. (g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or result in a supply of goods or services or both, within the meaning of that term.
Date of Personal Hearing	:	09.07.2020 (Through Video Conferencing)
Present for the applicant	:	Shri Kirit Thakkar

M/s. Sparsh OHC Manpower Service, 101-102, Bhavita Business Hub, 1st Floor, Gorwa Road, Vadodara is a proprietorship company having a GSTIN: 24AAGPT2412H1ZY, filed an application for Advance Ruling under Section 97 of CGST Act, 2017 and Section 97 of the GGST Act, 2017 in FORM GST ARA-01 discharging the fee of Rs. 5,000/- each under the CGST Act and the SGST Act.

2. M/s. Sparsh OHC Manpower Service, an applicant is a service provider and providing service of appointing Doctors, Nursing Staffs, Ambulances and relating administrative services etc. to corporate entities (Factory/ Plant premises) to facilitate the medical care for their staff.

3. Accordingly, an applicant sought advance ruling on the following question :

Specified services i.e. appointing Doctors, Nursing Staffs, Ambulances and relating administrative services etc. covered under GST, whether it falls in the category of taxable or exempted services?.

Applicant's Interpretation of Law/Taxation under GST Regime

4. The applicant submitted that as a service provider they are providing service of Doctors, Nursing staff, ambulances and relative administrative services etc. to corporate entities (Factory/Plant premises) for their staff to facilitate the medical care and these service are exempted from the payment of GST as per Sr. No. 74 of Notification No. 12/2017-CT (Rate) dated 28.06.2017. The relevant entry of the said Notification is as under:

74. *Heading 9994*

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*

Definition of "clinical establishment" and "health care services" is given in the said Notification as under:

(s) *"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;*

(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;*

The applicant further submitted that Section 2(c) of Clinical Establishments (Registration and regulation) Rules, 2010 defines clinical establishment as :

(c) "clinical establishment" means—

(i) *a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution by whatever name called that offers services, facilities requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicine established and administered or maintained by any person or body of persons, whether incorporated or not; or*

(ii) *a place established as an independent entity or part of an establishment referred to in sub-clause (i), in connection with the diagnosis or treatment of diseases where pathological,*

bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment, are usually carried on, established and administered or maintained by any person or body of persons, whether incorporated or not,

and shall include a clinical establishment owned, controlled or managed by—

(a) the Government or a department of the Government;

(b) a trust, whether public or private;

(c) a corporation (including a society) registered under a Central, Provincial or State Act, whether or not owned by the Government;

(d) a local authority; and

(e) a single doctor,

but does not include the clinical establishments owned, controlled or managed by the Armed Forces.

5. The applicant submitted that in view of the above provisions any person as an individual or as part of clinic or hospital giving any kind of medical treatment through a duly qualified doctor empanelled with a recognized medical council, excluding hair transplant or cosmetic surgery is exempted from payment of GST.

Personal Hearing

6. The authorized representative of the company appeared and reiterated the submission already made in the application filed with the Authority of Advance Ruling.

Findings and Discussion

7. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by authorised signatory, during the personal hearing proceedings on 09-07-2020 before this authority. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law. At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

8. We have gone through the facts of the case. The only issue before us is appointing Doctors, Nursing Staffs, Ambulances and relating administrative services to corporate entities (Factory/ plant) is exempted or taxable under GST.

9. We observe that applicant is a service provider and engaged in the service of supply/ appointing doctors, nurses and administrative staff to corporate entities (Factory/ plant). The applicant contention is that the said service covered under Sr. No.74 of the Notification No. 12/2017-CT(Rate) dated 28.06.2017 and is exempted from payment of GST. The relevant entry of the said Notification is read as under:

74. *Heading 9994*

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*

Definition of “clinical establishment” and “health care services” is given in the said Notification as under:

(s) *“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;*

(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;*

9.1 In view of the above, any services of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India provided by a hospital, nursing home, sanatorium or any other institution is exempted from GST in terms of the entry No. 74 of Notification No. 12/2017-CT (Rate) dated 28.06.2017. Whereas the applicant is supplying doctors, nursing staff and other administrative staff to the factory/for their staffs for medical care and he himself is not providing any such medical related services or health care services as defined in para (zg) of the Notification No. 12/2017-CT (Rate) dated 28.06.2017. Also the applicant's

office/establishment does not get covered under the category of clinical establishment as defined in para (s) of the said Notification No. 12/2017-CT (Rate) dated 28.06.2017.

10. Further, during the personal hearing, applicant was requested to submit the copy of the contract entered by them with their clients in respect of supply of the said services so that exact nature of the services provided by the applicant could be understood. However, the applicant instead of submitting the copy of contract provided only the copy of P.O. 4500337564 dated 15.04.2019. On going through the said P.O., it is observed that the said P.O. is with regard to supply of Ambulances and specifically mentioned “GST Rate 18% CGST+SGST”.

11. In view of the foregoing discussions, it can be concluded that service of supply of doctor, nursing staff, ambulances and other administrative staff to the corporate entity for medical care of their staff does not get covered under the Sr. No.74 of exemption Notification No. 12/2017-CT (Rate) dated 28.06.2017. Therefore, the said services of the applicant do not qualify under the definition of ‘healthcare service’. Further, applicant’s office/ establishment does not get qualified under the definition of ‘clinical establishment’ given in the para (zg) and (s) respectively of Notification No. 12/2017-CT (Rate) dated 28.06.2017. Therefore, the services provided by the applicant are taxable under GST.

12. In view of the above, we pass an order as follows :

Ruling

Question: Specified services i.e. appointing Doctors, Nursing Staffs, and Ambulances and relating administrative services etc. covered under GST, whether it falls in the category of taxable or exempted services?

Answer: In view of the above discussion, services provided by the applicant fall under the category of taxable services.

(SANJAY SAXENA)

MEMBER

(MOHIT AGRAWAL)

MEMBER

Place: Ahmedabad

Date: 30.07.2020.