

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



ADVANCE RULING NO. GUJ/GAAR/R/11/2021
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2020/AR/51)

Date: 20.01.2021

Name and address of the applicant	:	M/s Shalby Limited, Shalby Hospital, Opp Karnavati Club, S.G. Highway, Ahmedabad-380015.
GSTIN of the applicant	:	24AAICS5593B1ZC
Date of application	:	02.12.2020
Clause(s) of Section 97(2) of CGST/GGST Act, 2017, under which the question(s) raised.	:	(a) classification of any goods or services or both; (e) determination of the liability to pay tax on any goods or services or both.
Date of Personal Hearing	:	23.12.2020
Present for the applicant	:	Shri Manan Shah CA and Viral Shah - Manager

BRIEF FACTS:

M/s Shalby Limited, Shalby Hospital, Opp Karnavati Club, S.G. Highway, Ahmedabad-380015 having a GSTIN: 24AAICS5593B1ZC, has 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 fees of Rs. 5,000/- each under the CGST Act and the GGST Act.

2. M/s. Shalby Limited, established by Dr. Vikram I. Shah in 1994 in Ahmedabad, Gujarat, operates a chain of multispecialty hospitals across India, holding an aggregate bed capacity of over 2000 hospital beds. Shalby's recognition as a multispecialty tertiary hospital chain in the Indian healthcare industry was envisioned by its founder Dr. Vikram Shah - CMD, who has been felicitated by Ethicon India for the development of the 'OS Needle'.

3. The applicant submitted that they strive to provide quality healthcare to the people across the globe by inventing, adapting and imbibing world's best technologies and innovations. 'Catering total health care under one roof at most affordable costs' has been their motto, which has helped them establish a chain of multispecialty hospitals and vibrant OPD centers across India and the world.

4. The applicant submitted that they are one of India's leading Multi-specialty, corporate healthcare providers having presence across Central and Western part of India. They are in forefront of providing pioneering, qualitative medical services at

affordable costs within its home base - Gujarat and have full- fledged hospitals at Ahmedabad, Surat and Vapi.

5. The applicant submitted that they are NABH accredited hospital providing quality care to the patients. They provide highest standard of clinical skills and nursing care across an extensive range of specialties and attract world-class doctors and surgeons from the leading hospitals. Delivering a wide-ranging array of medical services, offer inpatient, outpatient, day care treatment, Surgery, emergency & trauma care in the surroundings. There are various specialty and super-specialty departments within the hospital. All these departments run daily. At any given time of the day, the patient can meet the specialist doctor and seek advice. The doctors are eminent practitioners who have a standing with the community.

6. The applicant submitted that they have a multi-specialty hospital providing health care services to both out-patients and in-patients. The in-patients are provided with stay facilities, medicines, consumables, surgical implants, dietary food and other surgery items required for treatment. During the course of such treatment after admission into the hospital, the in-patients are also provided rooms on rent. It is, thus, seen that in-patients are provided a comprehensive treatment which includes room, nursing care, medicines, consumables, implants etc. The doctors, who treat the inpatients, themselves prescribe the medicines and consumables and implants which 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.

7. The applicant submitted that Hospital does not enter into contracts with patient for supply of medicines / implants / consumables etc. The patient wishes to be cured of his illness and hospital offers a package / healthcare services for the medical treatment required for curing the patient. Therefore, the agreement is as such for treatment of disease or illness and not for supply of goods i.e. Implant, medicines, surgical and medical consumable etc. Hospitals and patients-do not have object to sell or purchase of Implant, medicines, surgical and medical consumable used during the treatment.

8. The applicant submitted that object of the Hospital is to cure the illness of the patient and in the process medicines are being administered through the services of doctors and trained staff. The intention of the hospital is to cure the illness of patients admitted in its hospital rather than to sell medicines and other goods to them. There is as composite contract for rendering medical services wherein the supply of goods is incidental and part of the services provided by the Hospital.

9. Further submitted that Patients are only admitted to a hospital when they are extremely ill or have severe physical trauma. As far as an in-patient is concerned, hospital is expected to provide lodging, care, medicine and food as part of treatment 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 expect to receive health care services by way of an appropriate diagnosis, appropriate medicines as well as relevant consumables or implants required to make sure that they get the best possible treatment. Hence the medicine and allied goods supplied to inpatient are indispensable items and it is a composite supply to facilitate health care services.

10. Section 2(30) of the CGST Act, 2017 reads as under:-

“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.”

The applicant submitted that they being a hospital, 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 completed. 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 the In-patients in the course of their treatment is a composite supply of health services. The term “composite supply” is defined in Section 2(30) of the CGST Act, 2017 reads as under:-

“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.”

10.1 This view is strengthened by the Circular No.32/06/2018-GST dated 12.02.2018, which is reproduced below:

Sr. No.	Issue	Clarification
5.	<p>Is GST leviable in following cases:</p> <p>(1) -----</p> <p>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?</p> <p>(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.</p>	<p>Health care services provided by a clinical establishment, an authorised medical practitioner or paramedics are exempt. [Sl. No. 74 of notification No. 12/2017-C.T. (Rate), dated 28-6-2017 as amended <i>refers</i></p> <p>(1) -----</p> <p>(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 recognised 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.</p> <p>(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.</p>

11. The applicant submitted :

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 service; 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, In-patient services means services provided by hospitals to in-patients 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 In-patient services is covered under “In-patient services” classifiable under SAC 999311.

12. The applicant submitted that Health Care Service provided by a clinical establishment or an authorized medical practitioner or para medics are exempted vide Sl. No. 74 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended. For ease of reference, the relevant entry is given below:

Sl. No.	Chapter, Section, Heading, Group or Service	Description of Services	Rate (per cent.) A-----	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 par-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 services 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 states that from a joint reading of the 'Explanation of service' pertaining to In-patient 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 hospital is a Clinical Establishment and for the health care services as defined in the Notification above provided including the supply of medicines, implants and consumables, rooms, food etc. they are exempt under SI. No 74 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

13. The applicant further submitted that room rent for patients in hospital is exempted in terms of Circular No.27/01/2018-GST dated 04.01.2018 and the food supplied to the in-patients, as advised by the doctor/nutritionist, is a part of composite supply of health care and not separately taxable. Their reference to the clarifications issued vide Circular No.32/06/2018-GST dated 12.02.2018 based on the approval of 25th GST Council Meeting held on 18-01-2018 [F.NO.354/17/2018-TRU Dt. 12-02-2018], is proper. The relevant text of the Circular No. 27/01/2018-GST dated 4.1.2018 which amply clarifies that room rent is exempted under Notn. No. 22/2017- CT (Rate), is reproduced under for ease of reference:

Sl. No.	Questions/Clarifications sought	Clarifications
	<p>1. Whether for the purpose of entries at SI. Nos. 34(ii) [admission to cinema] and 7(ii)(vi)(viii) [Accommodation in hotels, inns, etc.], of notification 11/2017-C.T. (Rate), dated 28th June, 2017, price/declared tariff includes the tax component or not?</p> <p>2. Whether rent on rooms provided to in-patients is exempted? If liable to tax, please mention the entry of CGST Notification 11/2017-C.T. (Rate).</p> <p>3. What will be the rate of tax for bakery items supplied where eating place is attached - manufacturer for the purpose of composition levy?</p>	<p>1. Price/declared tariff does not include taxes.</p> <p>2. Room rent in hospitals is exempt.</p> <p>3. Any service by way of serving of food or drinks including by a bakery qualifies under section 10(l)(b) of CGST Act and hence GST rate of composition levy for the same would be 5%.</p>

14. The applicant submitted that in view of the above, they are of the view that medicines, surgical items, implants, consumables and other allied items provided by the hospital through their hospital in house pharmacy used in the course of providing health care services as well as supply of food and room on rent to in-patients admitted to the hospital for diagnosis, or medical treatment or procedures is a composite supply of In-Patient Healthcare Service. Supply of inpatient health

care services by the applicant hospital as defined in Para 2(zg) of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended, is exempted from CGST as per SI. No. 74 of the above notification.

15. The Applicant relied on the following decisions of various Authority for Advance Ruling- where the supply of medicines, surgical items, implants, consumables and other allied items provided by the hospital through their hospital in house pharmacy used in the course of providing health care services as well as supply of food and room on rent and other services to in-patients admitted to the hospital for diagnosis, or medical treatment or procedures is a composite supply of In- Patient Healthcare Service. Supply of in-patient health care services by the applicant hospital as defined in Para 2(zg) of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended, is exempted from CGST as per SI. No. 74 of notification. The details list is as under.

- a) *M/s. Ernakulam Medical Centre Pvt. Ltd. Advance Ruling No. KER/16/2018 Dt. 19.09.2018*
- b) *M/s. KIMS Healthcare Management Ltd. Advance Ruling No. KER/17/2018 Dt. 20.10.2018 .*
- c) *Columbia Asia Hospitals (P.) Ltd Advance Ruling No. KAR ADRG 26 of 2018 November 13, 2018 .*
- d) *Baby Memorial Hospital Ltd Advance Ruling No. Ker/57/2019 SEPTEMBER 5, 2019*
- e) *Kinder Womens Hospital & Fertility Centre (P.) Ltd Advance Ruling No. Ker/48/2019 APRIL 12, 2019 .*
- f) *Kindorama Healthcare (P.) Ltd., advance ruling no. ker/47/2019 APRIL 12, 2019.*
- g) *Royal Care Speciality Hospital Ltd advance ruling ORDER No. 46/ARA/2019 September 26, 2019.*
- h) *Shifa Hospitals advance ruling order no. 42/aar/2019 September 23, 2019*
- i) *Terna Public Charitable Trust order no. GSt-ARA-135/2018-19/B-55 May 21, 2019.*

16. The applicant submitted that it may please be held that the supply of medicines, surgical items, implants, consumables and other allied items provided by the hospital through their hospital in house pharmacy used in the course of providing health care services as well as supply of food and room on rent and other services to in-patients admitted to the hospital for diagnosis, or medical treatment or procedures is a composite supply of In-Patient Healthcare Service. Supply of in-patient health care services by the applicant hospital as defined in Para 2(zg) of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended, is exempted from COST as per SI. No. 74 of the above notification.

17. The applicant has sought for advance ruling in respect of following questions:

- a) Whether the medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis or treatment for patients opting with or without packages along with allied services i.e. (room

rent/food/doctor fees Etc.) provided by hospital would be considered as "Composite Supply and accordingly eligible for exemption under the category "HEALTH CARE SERVICES ?

18. At the time of personal hearing held on 23.12.2020, the Authorised Representative of the applicant, reiterated the facts as stated in the application.

DISCUSSION & FINDINGS:

19. We have carefully gone through the facts of the case, written and oral submissions made by the applicant in their application for advance ruling as well as at the time of personal hearing and the applicable provisions of the GST Laws in this regard. 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.

20. The applicant submitted that M/s. Shalby Limited, established by Dr. Vikram I. Shah in 1994 in Ahmedabad, Gujarat, operates a chain of multispecialty hospitals across India. They are one of India's leading Multi-specialty, corporate healthcare providers having presence across Central and Western part of India. They are in forefront of providing pioneering, qualitative medical services at affordable costs within its home base - Gujarat and have full- fledged hospitals at Ahmedabad, Surat and Vapi.

21. The applicant is a multi-specialty hospital and providing health care services to both out-patients and in-patients. The in-patients are provided with stay facilities, medicines, consumables, surgical implants, dietary food and other surgery items required for treatment. During the course of such treatment after admission into the hospital, the in-patients are also provided rooms on rent. It is, thus, seen that in-patients are provided a comprehensive treatment which includes room, nursing care, medicines, consumables, implants etc. The doctors, who treat the inpatients, themselves prescribe the medicines and consumables and implants which are used in their treatment and diagnostics. The in-patients are charged for their hospitalisation and stay in the Hospital for treatment of their illness.

22. The applicant being Hospital does not enter into contracts with patient for supply of medicines / implants / consumables etc. The patient wishes to be cured of his illness and hospital offers a package / healthcare services for the medical treatment required for curing the patient. Therefore, the agreement is as such for treatment of disease or illness and not for supply of goods i.e. Implant, medicines, surgical and medical consumable etc. As far as an inpatient is concerned, hospital provides lodging, care, medicine and food as part of treatment under supervision till discharge from the hospital. Accordingly, Hospital charged together and is billed to

the In-patient for their hospitalisation and stay in the Hospital for treatment of their illness.

23. The term “composite supply” is defined in Section 2(30) of the CGST Act, 2017 reads as under:-

“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, 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 the In-patients in the course of their treatment is a composite supply of health services.

23.1 This view is strengthened by the **Circular No.32/06/2018-GST dated 12.02.2018**, which is reproduced below:

Sr. No.	Issue	Clarification
5	Is GST leviable in following cases: (1) ----- (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	(1) -----. (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 recognised system of medicines in India

<p>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?</p> <p>(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.</p>	<p>[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.</p> <p>(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.</p>
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23.2 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.

23.3 Health care services provided by a clinical establishment or an authorized medical practitioner or para medics are exempted vide Sl. No 74 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as amended. For ease of reference, the relevant entry is given below:

<i>Sl. No.</i>	<i>Chapter, Section, Heading, Group or Service Code (Tariff)</i>	<i>Description of Services</i>	<i>Rate (per cent.)</i>	<i>Condition</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
74	Heading 9993	<i>Services by way of-</i> <i>(a) health care services by a clinical establishment, an authorised medical practitioner or par-medics.</i> <i>(b) services provided by away of transportation of a patient in an ambulance, other than those specified in (a) above.</i>	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 services 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 'In-patient 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 hospital is a Clinical Establishment and for the health care services as defined in the Notification above provided including the supply of medicines, implants and consumables, rooms, food etc. they are exempt under Sl. No 74 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017.

23.4 We also agree with the applicant's contention that room rent for patients in hospital is exempted in terms of Circular No.27/01/2018-GST dated 04.01.2018 and the food supplied to the in-patients, as advised by the doctor/nutritionist, is a part of composite supply of health care and not separately taxable. Their reference to the clarifications issued vide Circular No.32/06/2018-GST dated 12.02.2018 based on the approval of 25th GST Council Meeting held on 18-01-2018 [F.No.354/17/2018-TRU Dt.12-02-2018], is proper. The relevant text of the Circular No. 27 /01/2018-GST dated 4.1.2018, which amply clarifies that room rent, is exempted under Notn. No. 22/2017 CT(Rate), is reproduced under for ease of reference:

S. No.	Questions/Clarifications sought	Clarifications
4	<p>1. Whether for the purpose of entries at Sl. Nos. 34(ii) [admission to cinema] and 7(ii)(vi)(viii) [Accommodation in hotels, inns, etc.], of notification 11/2017-C.T. (Rate), dated 28th June, 2017, price/declared tariff includes the tax component or not?</p> <p><u>2. Whether rent on rooms provided to in-patients is exempted? If liable to tax, please mention the entry of CGST Notification 11/2017-C.T. (Rate)</u></p> <p>3. What will be the rate of tax for bakery items supplied where eating place is attached - manufacturer for the purpose of composition levy?</p>	<p>1. Price/declared tariff does not include taxes.</p> <p><u>2. Room rent in hospitals is exempt.</u></p> <p>3. Any service by way of serving of food or drinks including by a bakery qualifies under section 10(1)(b) of CGST Act and hence GST rate of composition levy for the same would be 5%.</p>

24. In view of the above, we hold that medicines, surgical items, implants, consumables and other allied items provided by the hospital through their hospital in house pharmacy used in the course of providing health care services as well as supply of food and room on rent to in-patients admitted to the hospital for diagnosis, or medical treatment or procedures is a composite supply of In Patient Healthcare Service. Supply of inpatient health care services by the applicant hospital as defined in Para 2(zg) of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended, is exempted from CGST as per Sl. No. 74 of the above notification.

25. The applicant has also placed reliance on the Ruling of various of Authority of Advance Ruling wherein it is held that, “*Supply of in-patient health care services by the applicant hospital as defined in Para 2(zg) of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended, is exempted from CGST as per Sl. No. 74 of notification*”. The details are as follows :

a) *In the case of M/s. Ernakulam Medical Centre Pvt. Ltd. Advance Ruling No. KER/16/2018 Dt. 19.09.2018 Authority of Advance Ruling, Kerala reported in ELT 2018(18)GSTL142(AAR-GST)has held that,*

Health care services - Medicines supply from Hospitals pharmacy - Indoor patients vis-à-vis outdoor patients - Taxability of supply of medicines and allied items from Hospital's pharmacy shall depend upon as to whether supply is to indoor patient or outdoor patient - In case of indoor patient, since they receive medical facility as per scheduled procedure and have strict restriction to ensure quality/quantity of items for consumption, medicines or allied goods supplied to them is a composite supply under health care services and hence exempt from GST - However, as regards supply of medicines and allied items to outdoor patients is concerned same is an independent supply because such patients are not bound to procure these items from hospital pharmacy - These supplies are, therefore, taxable - Service Accounting Code (SAC) No. 9993. [paras 4, 5, 6, 7]

b) *In the case of M/s. KIMS Healthcare Management Ltd. Advance Ruling No. KER/17/2018 Dt. 20.10.2018 Authority of Advance Ruling, Kerala reported in ELT 2018(18)GSTL831(AAR-GST)has held that,*

Composite supply - Health care services - Medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis or treatment hospital or clinical establishment - Indispensable items of treatment and naturally bundled in ordinary course of business with health care services - Clarification in C.B.I. & C. Circular No. 27/01/2018-GST, dated 4-1-2018 that room rent in hospital is exempted - Also clarifications issued based on approval of 25th GST Council Meeting [F. No. 354/17/2018-TRU, dated 12-2-2018] that food supplied to inpatients as advised by doctor/nutritionist part of composite supply of health care and not separately taxable - Same principle applicable in case of dispensing of medicine also - Said supplies amounted to composite supply and eligible for exemption under category “health care services”

c) *In the case of Columbia Asia Hospitals (P.) Ltd Advance Ruling No. KAR ADRG 26 of 2018 November 13, 2018 Authority of Advance Ruling, Karnataka reported in ELT 2019(20)GSTL154(AAR-GST)has held that,*

Composite supply - Healthcare services provided along with services of providing food and supply of medicines in case of in-patients - Healthcare services being exempt from tax under Section 11 of Central Goods and Services Tax Act, 2017, the same are exempt supplies but fall under the category of ‘taxable supplies’ - Hence supply of goods and services supplied by applicant company in conjunction with healthcare services fall under

the definition of "composite supply" as the services of supply of food and medicines to the patients are as advised by the doctor or nutritionists.

d) Baby Memorial Hospital Ltd Advance Ruling No. Ker/57/2019 SEPTEMBER 5, 2019 Authority of Advance Ruling, Kerala reported in ELT 2020(32) GSTL 59(AAR-GST)has held that,

Health Care services by clinical establishment - Composite supply - Supply of medicines, drugs and other surgical goods to in-patients/out-patients - Exemption - Issue no longer res integra in view of catena of Rulings given on issue - Supply of aforesaid goods from its pharmacy to in-patients are naturally bundled with supply of Health Care services and are supplied in conjunction with each other with principal supply that of Health Care services - Since applicant, a multi-specialty hospital is fully covered under definition of clinical establishment, aforesaid composite supply is fully exempt from GST under Entry No. 74 of Notification No. 12/2017-C.T. (Rate) - However for out-patients, aforesaid goods are taxable under GST - Section 2(30) of Central Goods and Services Tax Act, 2017. [paras 4, 5, 6, 7, 10]

e) Kinder Womens Hospital & Fertility Centre (P.) Ltd Advance Ruling No. Ker/48/2019 APRIL 12, 2019 Authority of Advance Ruling, Kerala reported in ELT 2019(24) GSTL 809(AAR-GST)has held that,

Composite services - Health Care services - Supply of medicines, consumables, surgical items, items such as needles, reagents, etc. used in laboratory, room rent used in course of providing Health Care services to in-patients for diagnosis or treatments - In-patient under continuous monitoring of doctors and nursing staff and administration and dosage of medication all under control of doctor and nursing staff - Entire treatment protocol is documented and recorded - Invoice or bill raised for treatment as in-patient being a single bill charging for all facilities or services utilized for treatment in hospital - Supply naturally bundled and provided in conjunction with each other, would be considered as "Composite Supply" - In case of in-patient, hospital provides bundle of supplies classifiable under Health Care services eligible for exemption under Serial No. 74 of Notification No. 12/2017-C.T. (Rate) - Section 2(30) of Central Goods and Services Tax Act, 2017. [paras 5, 6, 7, 9]

f) Kindorama Healthcare (P.) Ltd., advance ruling no. ker/47/2019 APRIL 12, 2019 Authority of Advance Ruling, Kerala reported in ELT 2019(24) GSTL 804(AAR-GST)has held that,

Health Care services - Composite supply - Medicines, consumables, room rent, nursing charges, doctor's fees, etc. supplied to in-patients - Exemption - All aforesaid supplies are being given to in-patients who are always under continuous monitoring of doctors and nursing staff to control administration and dosage of medicines - These supplies of goods and services being given in single bundle and charged in a single invoice - Thus entire supply squarely covered under composite supply with Health Care Services as principal supply - Exemption admissible from GST under S. No. 74 of Notification No. 12/2017-C.T. (Rate) - Section 9 of Central Goods and Services Tax Act, 2017. [paras 4, 5, 6, 7, 8, 9]

g) Royal Care Speciality Hospital Ltd advance ruling ORDER No. 46/ARA/2019 September 26, 2019 Authority of Advance Ruling, Kerala reported in ELT 2019(24) GSTL 804(AAR-GST)has held that,

Health Care services to in-patients - Composite Supply by clinical establishment - Classification - Exemption - Applicant, a multispecialty hospital supplying health services to in-patients in package deal along with stay facility, nursing care, medicines, consumables, surgical and implants - Since supply of these goods/services are naturally bundled with main supply of Health Care services under supervision/direction of medical expert, entire supply is a composite supply with principal supply of Health Care services in terms of C.B.I. & C. Circular No. 32/06/2018-GST, dated 12-2-2018 - Said Service is appropriately classifiable as in-patient services under SAC 9993 11 of Tariff - Further, since aforesaid service is being supplied by a clinical establishment, same is fully exempt vide S. No. 74 of Notification No. 12/2017-C.T. (Rate) - Section 8 of Central Goods and Services Tax

Act, 2017. [paras 6.1, 6.2, 6.3, 6.4, 6.5]

h) *Shifa Hospitals advance ruling order no. 42/aar/2019 September 23, 2019 Authority of Advance Ruling, Tamilnadu reported in ELT 2019(30) GSTL 378(AAR-GST)has held that,*

Health Care services to in-patients - Composite Supply by clinical establishment - Classification - Exemption - Applicant, a multispecialty hospital supplying health services to in-patients in package deal along with stay facility, nursing care, medicines, consumables, surgical and implants - Since supply of these goods/services are naturally bundled with main supply of Health Care services under supervision/direction of medical expert, entire supply is a composite supply with principal supply of Health Care Services in terms of C.B.I. & C. Circular No. 32/06/2018-GST, dated 12-2-2018 - Said service is appropriately classifiable as in-patient services under SAC 999311 of Tariff - Further, since aforesaid service is being supplied by a clinical establishment, same is fully exempt vide S. No. 74 of Notification No. 12/2017-C.T. (Rate) - Section 8 of Central Goods and Services Tax Act, 2017. [paras 5.1, 5.2, 5.3, 5.4]

i) *Terna Public Charitable Trust order no. GSt-ARA-135/2018-19/B-55 May 21, 2019 Authority of Advance Ruling, Maharashtra reported in ELT 2019(27) GSTL 421(AAR-GST)has held that,*

Health care treatment - Supply of medicines, surgical items, implants, consumables and other allied items provided by hospital through hospital owned pharmacy, as well as food, room on rent to the inpatients - Part of composite supply of health care treatment - Exemption under Serial No. 74, Heading No. 9993 of Notification No. 12/2017-C.T. (Rate) to services provided by way of Health Care services by a clinical establishment, an authorized medical practitioner or paramedics - '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 a part of an establishment to carry out diagnostic or investigative services of diseases - Assessee-hospital considered as a clinical establishment since it was providing health care services, such services were exempt in view of Serial No. 74 - Room rent for patients in hospital exempted in lieu of C.B.I. & C. Circular No. 27/01/2018-GST, dated 4-1-2018 and food supplied to inpatients, as advised by doctor/nutritionist, part of composite supply of health care and not separately taxable - Supply not taxable. [paras 5, 7]

All the above Rulings of Authority of Advance Ruling are binding on the Applicant who has sought it and on the concerned officer or the jurisdictional officer in respect of the Applicant as per Section 103 of CGST Act, 2017. However the Ruling of other taxable person has persuasive value and can be relied upon. Therefore, in the instant case all the above mentioned Rulings of Authority of Advance Ruling are squarely applicable to the applicant.

26. In light of the foregoing, we rule as under –

R U L I N G

Question: Whether the medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis or treatment for patients opting with or without packages along with allied services i.e. (room rent/food/doctor fees Etc.) provided by hospital would be considered as "Composite Supply and accordingly eligible for exemption under the category "HEALTH CARE SERVICES" ?

Ans: The medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis or treatment for patient opting with or without packages along with allied services i.e. (room rent/food/doctor fees Etc.) provided by hospital is a "Composite Supply". Supply of inpatient health care services by the applicant hospital as defined in Para 2(zg) of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended, is exempted from CGST as per Sl. No. 74 of the above notification.

(SANJAY SAXENA)
MEMBER

(MOHIT AGRAWAL)
MEMBER

Place: Ahmedabad
Date: 20.01.2021.