

	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM
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BEFORE THE AUTHORITY OF : *Shri. B.G. Krishnan IRS &*
: Shri. B.S. Thyagarajababu B.Sc, LL.M

Legal Name of the applicant	M/s. Ernakulam Medical Centre Pvt. Ltd.
GSTIN	32AAACE7264K2Z7
Address	N.H.Byepass, Palarivattom, Kochi.
Advance Ruling sought for	Whether the supply of medicines and allied items through the pharmacy of the hospital run by the applicant attracts liability under GST?
Date of Personal Hearing	19-09-2018
Authorized Representative	Adv. K.N. Sreekumar.

ADVANCE RULING No. KER/ 16 /2018 Dt.19.09.2018

The applicant is rendering medical services with professionals like doctors, nursing staff, lab technicians etc. In GST scenario health care services by a clinical establishment, an authorized medical practitioner or para medicals have been exempted vide classification 9993. Medicines supplied through pharmacy to both inpatients and outpatients under the prescription of the doctors are incidental to the health care services rendered in the hospital and beyond the ambit of taxation. Hence the petitioner sought for an advance ruling on the liability of hospital under GST Act on the supply of medicines and allied items through the pharmacy.

The authorized representative of the hospital was heard. It is stated that the medicines and surgical items supplied through the pharmacy to the patients under medical prescription of doctors is entitled to exemption, being health care services. No medicines are sold to customers who do not consult doctors either as inpatient or as outpatient. The medicines supplied through the pharmacy is incidental to the health services rendered in the hospital. The pharmacy is meant exclusively for dispensing medicine and consumables to the inpatients or outpatients. No medicines or allied items are sold to outsiders

who come with the prescription from outside doctors. Medicine sale is restricted only to the patients who take registration in the hospital. Under pre-GST period there were several decisions pertaining to the point that the supply of medicines, surgical items, x-ray etc. to the patients in the course of treatment by hospital cannot be said to be sale.

The issue was 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) dated 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 a part of an establishment to carry out diagnostic or investigative services of diseases.

Pharmacy is an outlet to dispense medicines or allied items based on prescriptions. Patients are admitted to a hospital only when they are extremely ill or have severe physical trauma. As far as an inpatient is concerned, hospital is expected to provide lodging, care, medicine and food as part of treatment under supervision till discharge from the hospital. Inpatients 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 it is a composite supply to facilitate health care services and is not taxable.

Whereas an outpatient is concerned, hospital gives only prescription, which is only advisory in nature. The patient has absolute freedom to follow the prescription or not. Similarly, there is freedom to procure the medicines or allied items prescribed, either from the pharmacy run by the hospital or from medicine dispensing outlets. Hospital reserves no control over his continuous treatment. As far as an outpatient is concerned there is no difference in procuring medicine either from the dispensing outlet within the hospital or

from outside the hospital. In both places, medicines are dispensed based on prescriptions. Hence there is no privilege for the hospitals that are dispensing medicine to outpatients. Therefore pharmacy run by hospital dispensing medicine to outpatient or by standers or others can be treated as individual supply of medicine and not covered under the ambit of health care services. Hence such supply of medicines and allied goods are taxable.

Vide clarifications issued based on the approval of 25th GST Council Meeting held on 18-01-2018 [F.No.354/17/2018-TRU Dt.12-02-2018], it was clarified that food supplied to the inpatients as advised by the doctor/nutritionist is a part of composite supply of health care and not separately taxable. Other supplies of food by hospital to patients not admitted are taxable. The same principle is applicable in the case of dispensing of medicines also.

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

- i) 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 hence not separately taxable.
- ii) The supply of medicines and allied items provided by the hospital through the pharmacy to the out-patients is taxable.

B.G. Krishnan IRS
Joint Commissioner of Central Tax
MEMBER

B.S. Thyagarajababu, B.Sc, LL.M
Joint Commissioner of State Tax
MEMBER

To

M/s. Ernakulam Medical Centre Pvt.Ltd
N.H.Byepass, Palarivattom, Kochi – 682028.