

**AUTHORITYFOR ADVANCE RULING****TAMILNADU ADVANCE RULING AUTHORITY****PAPJM Buildings, II 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 – 600 034.
2. Thiru KurinjiSelvaan 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. 50/AAR/2019 DATED: 25.11.2019**

<b>GSTIN Number, if any / User id</b>		<b>33AAATC1278N1ZN</b>
Legal Name of Applicant		M/s. CMC Vellore Association
Registered Address/Address provided while obtaining user id		CMC Hospital, Ida Scudder Road, Vellore, PIN 632 004.
Details of Application		GST ARA-01 Applications Sl.No.30/2019 dated 13.08.2019
Concerned Officer		State: The Assistant Commissioner(ST), Vellore (Rural) Assessment Circle, Government Buildings, Fort Round, Bharathiyar Salai, Vellore-632 001.  Centre: Chennai Outer Commissionerate
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Service Provision
B	Description (in Brief)	Medical and Health Care Services.
Issue/s on which Advance Ruling required		Determination of the liability to pay tax on any goods or services or both
Question(s) on which Advance Ruling is required		1.Tax liability on medicines supplied to in-patients through pharmacy 2. Tax liability on the medicines, drugs, stents, implants, etc administered to in-patients during the medical treatment or procedure

**Note : Any Appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai 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 against 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. CMC Vellore Association, CMC Hospital, Ida Scudder Road, Vellore, Tamil Nadu, 632 004 (hereinafter referred to as the 'Applicant' or 'CMC') is engaged in provision of Health Care services to both inpatients and out-patients and they are registered under GST Act with GSTIN 33AAATC1278N1ZN. They have preferred this Application seeking Advance Ruling on the following questions:

1. Whether the medicines, drugs, stents, consumables and implants used in the course of providing health care services to in-patients admitted to the hospital for diagnosis, or medical treatment or procedures would be considered as "Composite Supply" of health care services under GST and consequently can exemption under Notification No.12/2017 read with Section 8(a) of GST be claimed?

2. Tax liability on medicines supplied to in-patients through pharmacy?

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted the copy of Challans evidencing payment of Application Fees of Rs.5,000/- each under Sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

2.1 The Applicant has stated that "Christian Medical College Vellore Association (CMC) is a non-profit organization governed by the Christian Medical College Vellore Association, registered under the Societies Registration Act XXI of 1860 and under Section 12AA of the Income Tax Act, 1961. Governance is through the represented members of the Association, headed by its officers. The primary concern of Christian Medical College, Vellore is to develop through education and training, compassionate, professionally excellent, ethically sound individuals who will go out as servant-leaders of health teams and healing communities. Their

service may be in promotive, preventive, curative, rehabilitative or palliative aspects of health care, in education or in research.

2.2 CMC has a multi-specialty tertiary care hospital providing health care services under their Governance. They are rendering medical services with professionals like doctors, nursing staff, lab technicians, etc. Medicines, Drugs, implants and stents, etc are supplied through pharmacy to in-patients under the prescription of the doctors which are incidental to the health care services rendered in the hospital. The in-patients are provided with stay facilities, medicines, consumables, implants, dietary food and other surgeries/procedures required for the treatment. The Central store of the hospital procures stocks of medicines, implants, consumables etc from various suppliers and distribute to its outlets such as in-patient pharmacy, operation theatre pharmacy and out-patient pharmacy based on the indent issued. The in-patient pharmacy and operation theatre pharmacy supplies medicines, implants and consumables only to in-patients, whereas the out-patient pharmacy attached to the hospital entertain the medical prescription of out-patients.

2.3 The applicant has contended that the medicines, consumables and implants used in the course of providing health care services to the patients admitted for diagnosis or treatment in the hospital or clinical establishment is naturally bundled in ordinary course of business. The patients expected to receive health care services includes receiving the appropriate medicine, relevant consumables, or implants required to make sure that appropriate diagnosis or the best possible treatment of the health issues are conducted. If there is no supply of medicines, consumables or implants, it would be difficult to render the health care service which will ultimately have an impact in the survival of the patients. The healthcare service cannot be provided without the drugs/consumables/stents. This being a composite supply the principal supply is predominant which is health care and therefore the same is to be considered for tax ability under GST. The ancillary supplies such as room rent and dietary food provided to in-patients also shall be exempt and beyond the ambit of taxation.

2.4 CMC have further stated that Health care services provided by a clinical establishment, an authorized medical practitioner or para medics have been exempted vide SL No.74, of Notification no.12/2017-Central Tax (Rate) dated

28.06.2017. Vide clarifications issued based on the approval of 25<sup>th</sup> GST Council Meeting held on 18.01.2018 circular No.32/06/2018-GST, (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.

2.5 As per Authority of Advance ruling order No. ker/16/2018 Dt. 19.09.2018, the following rulings are issued:

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.

The supply of medicines and allied items provided by the hospital through the pharmacy to the out-patients is taxable.

3.1 The applicant was heard on 30.08.2019. The applicant appeared along with the authorized representatives. They submitted an in-patient discharge bill and the prescriptions given by doctor and the internal bill generated when in-patients medicines /implants are disbursed. The doctor will prescribe the medicine for an in-patient (medication order) which is sent to the in-patient pharmacy which is separate from the out-patient pharmacy. They have a separate outpatient pharmacy with separate stock, ledger accounts. Drugs are delivered to the main store which supplies to both pharmacies. The in-patient pharmacy tracks the drugs supplied for each patient(Which are kept in bedside) and finally bills them. At present, they are charging GST separately for medicines even for in-patient. They will submit link documents of procurement and supply to in-patient pharmacy, linked patient chart for the bill already given in 2 weeks' time.

3.2 The applicant submitted the additional documents on 03.09.2019. They furnished (1) The inpatient record of Patient - Muhammed Faizal, Hospital No. 721160H; (2) Photograph of OP Pharmacy and IP Pharmacy; and (3) Process Flow for procurement and dispensing of drugs. The in-patient record contained 'Treatment Orders and Instructions', 'Doctors Medication Orders and Nurses Administration Record', Charts, 'Intake and Output Record', 'Progress Record', 'Daily Nursing care plan and documentation form' and a list of drugs administered for the said in-patient. CMC had already filed the In-patient discharge bill in

respect of this patient during hearing. In the process Flow for procurement and dispensing of drugs, it is stated as follows:

- Drugs delivered through Invoices to central Drug Stores where it is received through Goods received Note
- Drugs stock maintained through Online Bin card System
- Drugs issued to Out-patient Pharmacy and In-patient ward pharmacies through Indents with Issue number to track where the drugs are issued
- Drugs dispensed to Out-patients on the basis of prescriptions given by doctors after payment of invoice generated in Out-patient pharmacy.
- Drugs dispensed to In-patients to Wards through prescriptions by treating doctors. The cost of drugs is charged to the in-patient bill of the patient.
- The drugs are kept at the Bed side of the patient and administered by Nurses.
- The unused drugs are returned back to the Ward Pharmacies at the time of discharge of the patient and returns adjusted in the Inpatient bills.

4. The Assistant Commissioner(ST), Vellore(Rural), the State Jurisdictional Officer furnished the comments on the questions raised by the applicant vide his letter Rc.A3.1226/2019 dated 26.08.2019, wherein he has stated that

- The supply of medicines and allied items provided by a hospital through pharmacy to in-patients is part of composite supply of health care treatment and hence not separately taxable
- The similar issue was ordered by GST AAR Kerala in respect of M/s. Ernakulam Medical Centre Pvt. Ltd., Advance Ruling No. Ker/16/2018/19.09.2018, wherein it is stated that '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- 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.'

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 and the submissions of the State Jurisdictional Officer. The questions on which an advance ruling is requested are as follows:

1. Whether the medicines, drugs, stents, consumables and implants used in the course of providing health care services to in-patients admitted to the hospital for diagnosis, or medical treatment or procedures would be considered as "Composite Supply" of health care services under GST and consequently can exemption under Notification No.12/2017 read with Section 8(a) of GST be claimed?
2. Tax liability on medicines supplied to in-patients through pharmacy?

6.1 The facts of the case as available before us, is that the applicant has 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 and related bills furnished by the applicant, it is seen that, in case of In-patients the final bill charged includes Hospital Services [Room charges, Consultation charges], Pharmacy services [Investigation charges, food and Beverages, OT charges, Pharmacy charges (IP and OT)]. From the Medication Order for In-Patients (Credit Payment) note enclosed with the final bill, 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 SI No 74 of Notification no 12/2017-C.T.(rate) dated 28.06.2017 as amended and SI 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:

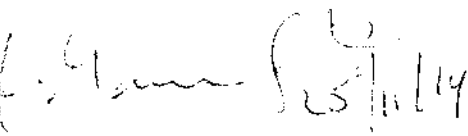
(zg) "health care services" means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not 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.

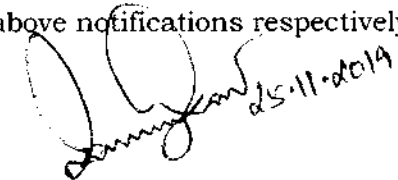
From a joint reading of the 'Explanation of service' pertaining to 'Inpatient services' and the exemption above, it is evident that the exemption is applicable to a "Clinical Establishment", when services by way of diagnosis or treatment or care for illness, etc. are undertaken by such establishment under the directions of a medical doctor. The applicant 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, they are exempt under SI No 74 of Notification no 12/2017-C.T. (rate) dated 28.06.2017 as amended and SI No 74 of Notification No.II (2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29.06.2017.

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

**RULING**

1. Medicines, drugs, stents, consumables and implants used in the course of providing health care services to in-patients admitted to the hospital for diagnosis, or medical treatment or procedures is a composite supply of In Patient Healthcare Service.
2. Supply of inpatient health care services by the applicant hospital 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.

  
Ms. Manasa Gangotri Kata,  
Member, CGST

  
Shri Kurinji Selvaan V.S.,  
Member, TNGST

To

M/s. CMC Hospital,  
IDA Scudder Road, Vellore,  
PIN 632 004.

**AUTHORITY FOR  
ADVANCE RULING**

**25 NOV 2019**

**// By Speed Post with Acknowledgement Receipt  
Chennai-6, Tamilnadu**

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,  
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes,  
II Floor, Ezhilagam, Chepauk, Chennai-600 005.

Copy to:

3. The Commissioner of GST & Central Excise,  
Chennai Outer Commissionerate,  
Newry Towers, No. 2054, I Block, II Avenue, 12<sup>th</sup> Main Road, Anna Nagar,  
Chennai-40.
4. The Assistant Commissioner (ST),  
Vellore (Rural) Assessment Circle,  
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Fort Round, Bharathiyar Salai,  
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5. Master File/ Spare