

AUTHORITY FOR ADVANCE RULING – CHHATTISGARH
3rd & 4th Floor, Vanijyikar GST Bhawan, North Block Sector-19,
Atal Nagar, District-Raipur (C.G.) 492002
Email ID – gst.aar-cg@gov.in

PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING
U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017

Members Present are

Smt. Sonal K. Mishra	Shri Rajesh Kumar Singh,
Joint Commissioner	Additional Commissioner,
O/o Commissioner, State Tax	O/o Principal Commissioner,
(CGGST), Raipur, Chhattisgarh.	CGST & Central Excise, Raipur(C.G)

Sub:- Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 – Regarding the applicability of GST on the service of vaccination done by doctors in their OPD.

Read:- Application dated 19/02/2020 from Smt. Anju Parakh, c-138, Sector-1, Devendra Nagar, Raipur, Chhattisgarh (Hereinafter referred to as the applicant), (GSTIN- 22AESPP0220P1ZB).

PROCEEDINGS

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/02/2020

Raipur Dated/6/2020

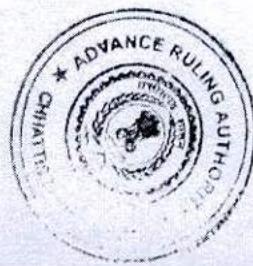
The applicant Smt. Anju Parakh [herein after also referred to as the applicant] has filed an application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 requesting an advance ruling on applicability of GST on vaccination done by doctors in their clinic (OPD).

2. Facts of the case:-

- i. The applicant Smt. Anju Parakh is a practicing paediatrics registered in Raipur circle-1 with GSTIN- 22AESPP0220P1ZB. The applicant undertakes the work of vaccination to the children coming in their clinic.
- ii. The applicant charges fees for the above vaccination work provided to the children.

3. Contentions of the Applicant:-

The applicant contended that they are eligible for exemption as regard the facility of vaccination done by them in their clinic, claiming the same to be covered under health care services.



4. Personal Hearing:-

Keeping with the established principles of natural justice, personal hearing in the matter was extended to the applicant and accordingly their authorized representative Shri Rajkumar Parakh, husband of the applicant appeared before the authority for hearing on 12.03.2020 and reiterated their contention. He also furnished a written submission dated 12.03.2020 which has been taken on record.

The applicant sought advance ruling on applicability of GST on vaccination done by doctors in their clinic (OPD). In this regard, Shri Parakh reiterated that as the said vaccination in OPD is done by doctors, it should be covered under health care services. To bring home his point, he submitted a copy of abstract from "Childhood vaccination a guide for Pediatrician" edited by A.K. Dutta (Emeritus consultant in Pediatrics, Indraprastha Apollo Hospital, New Delhi).

5. The legal position, Analysis and Discussion:-

5.1 The provisions for implementing the CGST Act and CGGST Act, 2017 are similar. Now we sequentially discuss the provisions that are applicable in the present case.

5.2 The applicant sought advance ruling on applicability of GST on vaccination done by doctors in their clinic (OPD).

5.3 In response to the letter no. कमांक/राकआ/अविप्रा/02/2020/2453 नवा रायपुर अटल नगर, दिनांक 18.03.2020 issued to the Office of Assistant Commissioner, State Tax, Raipur Circle-1, Chhattisgarh, the concerned jurisdictional officer vide letter कमांक/सहा.आयु/राज्य कर/यूत्त-1/रायपुर/2020/305 रायपुर, दिनांक 14.05.2020 opined as under-

- (a) The rate of GST on animal or human vaccines is 5%.
- (b) Thus the work of vaccination done by the doctors in their OPD, being a composite supply, should be taxable at 5% GST.

5.4 Notification No.1/2017-CT(Rate) dated-28.06.2017 :-

Serial no.174 of above Notification no. 1/2017-CT(Rate) dated-28.06.2017, under chapter/heading 3002, 3006 stipulates the rate of GST on animal or human blood vaccines as 5% GST.

5.5 Notification No.12/2017-CT(Rate) dated-28.06.2017 :-

The Central government vide Notification no. 12/2017-CT(Rate) dated-28.06.2017 has exempted the infrastate supply of services by way of health care services by a clinical establishment, an authorized medical practitioner or para-medics from the GST liability,vide serial no. 74 under heading 9993 of the above notification. For the sake of brevity the text of the Notification is reproduced hereunder:-

Notification No. 12/2017- Central Tax (Rate)

New Delhi, the 28th June, 2017



G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

Table		Description of Services	Rate (per cent.)	Condition
Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff) (1) (2)	(3)	(4)	(5)
1.	Chapter 99	Services by an entity registered under Nil section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.		Nil
2.	Chapter 99	Services by way of transfer of a going concern, as a whole or an independent part thereof.	Nil	Nil
3.
74.	Heading 9993	Services by way of- (a) health care services by a clinical establishment, an authorised medicalpractitioner 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

5.6 **Vide Circular No-27/01/2018-GST dated-04.01.2018** it has been clarified that the rent on rooms provided to in patients in hospital is exempt from GST.

5.7 **Point no. 5 of Circular No-32/06/2018-GST dated-12.02.2018** clarified that
(a) the services provided by senior doctors/ consultants/Technicians hired by the hospitals whether employees or not, are health care services and are exempt from GST.



(b) 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.

The health care services by a clinical establishment, an authorized medical practitioner or Para-medicals have been exempted vide the Notification No. 12/2017-Central Tax (Rate) dated June 28th, 2017 at serial No.74 heading 9993.

As per the definitions given under the said Notification '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 an establishment to carry out diagnostic or investigative services of diseases."

(c) 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.

5.8 in the aforesaid backdrop, three plausible situations as regards to the vaccination done by doctors in their clinic (OPD) can be visualized:-

- (a) Where the vaccines/medicines are sold through a separate chemist shop owned by the clinic/hospital.
- (b) Where the value of vaccines/medicines are separately charged in the invoice raised by the hospital to the patient.
- (c) Composite fee (package) is charged for medicines, vaccination, treatment, doctors' fee, room charges, food etc.

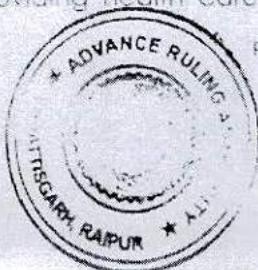
As regards the case where the supply / sale of vaccines, medicines, surgical items, consumables and other allied items are made to the patient by the clinics/ hospitals through their owned pharmacy shop / store across the counter, such supply is exigible to GST, being not a part of a composite supply of health care treatment.

Whereas when such supply of vaccines, medicines, surgical items, consumables and other allied items are provided by the clinic /hospital through their owned shop / store/ pharmacy to the patient being a part of composite supply of health care treatment, the same qualifies for exemption from GST liability.

Thus there is no ambiguity as regards applicability of GST at the appropriate rate as supply of goodson vaccines/medicines sold across the counter, through a separate chemist shop owned by the clinic/hospital.

In the case where the hospital/clinic itself has divided the contract into two parts one for supply of healthcare services and the other for supply of vaccines / medicines, then sale / supply of vaccines / medicines across the counter would be subject to GST, there being no single and composite contract for the said supply.

Whereas, in respect of the third category, the pre-dominant intention being to obtain healthcare services, the supply of vaccines / medicines and consumables used in the course of providing health care services to the patients for treatment being



naturally bundled and being provided in conjunction with each other would be considered as "composite supply", eligible for exemption as stipulated under sr. no. 74 of Notification no. 12/2017- Central Tax (Rate) dated 28.6.2017 under the category of health care services. Thus the determinant factor would be whether the supply is for providing health care services or across the counter sale. In case the same is across the counter sale as supply of goods, there arises no question of any exemption from GST.

In view of the deliberations and discussions as above, we pass the following order:-

ORDER

(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)

No. STC/AAR/02/2020

Raipur Dated ...09/06/2020

The ruling so sought by the Applicant is accordingly answered as under:

Vaccines sold/supplied through a separate chemist shop / pharmacy store owned by the clinic/hospital across the counter would be subjected to GST as supply of goods, at the applicable rate of GST.

In the case where the clinic / hospital itself has divided the contract into two parts one for supply of healthcare services and the other for supply / sale of vaccines, then such supply / sale of vaccines across the counter would be subject to GST, there being no single and composite contract for the said supply.

When the supply of vaccines is used in the course of providing health care services to the patients for treatment, the same being naturally bundled and being provided in conjunction with each other would be considered as "composite supply", thereby becoming eligible for exemption as stipulated under sr. no. 74 of Notification no. 12/2017- Central Tax (Rate) dated 28.6.2017 under the category of health care services, the pre-dominant factor being rendering of healthcare services.

Place: - Raipur

Date:-



Sonal K. Mishra
(Member)

Rajesh Kumar Singh
(Member)

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Sonal
9/6/2020
MEMBER

Copy to:- ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR

1. Applicant,
2. The Commissioner, (CGGST)
3. The Principal Commissioner, (CGST)
4. The jurisdictional officer, Raipur Circle-1

TRUE COPY

Rajesh
9/6/2020
MEMBER

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CHHATTISGARH, RAIPUR

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