

**THE AUTHORITY FOR ADVANCE RULING
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU – 560009**

Advance Ruling No. KAR ADRG 44/2020

Date : 07-09-2020

Present:

1. Dr. Ravi Prasad M.P.
Additional Commissioner of Commercial Taxes Member (State Tax)
2. Sri. Mashhood ur Rehman Farooqui,
Joint Commissioner of Central Tax, Member (Central Tax)

1.	Name and address of the applicant	Sri Siddalingappa Palalochana Rakshit, "Bangalore Medical System", # 5 & 6, S.M.Road, 1 st Floor, T.Dasarahalli, Bengaluru – 560057
2.	GSTIN or User ID	29ADRPR1448K1ZS
3.	Date of filing of Form GST ARA-01	18.02.2020
4.	Represented by	Sri.S.Manjunath, General Manager
5.	Jurisdictional Authority – Centre	The Commissioner of Central Tax, North West Commissionerate, Bangalore.
6.	Jurisdictional Authority – State	LGSTO-65, Bengaluru.
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act 2017 & Rs.5,000/- under KGST Act 2017 vide CIN UTIB20022900225829 dated 18.02.2020

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER 98(4) OF THE KGST ACT, 2017**

M/s Bangalore Medical Systems, #5 & 6, 1st Floor, S.M.Road, T.Dasarahalli, Bengaluru-560057 (hereinafter referred to "the applicant") and having a GSTIN 29ADRPR1448K1ZS, have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of the KGST Act, 2017 read with Rule 104 of KGST Rules 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act, KGST Act and IGST Act.

2. The applicant is a proprietary concern having brand name of "Bangalore Medical System" and registered under the provisions of the Goods and Services Act, 2017. They are into supply of various reagents/ medical consumables (goods) in addition to provision of diagnostic services. The applicant have been Molecular Diagnostic services by M/s Kidwai Medical Institute of Oncology, Bengaluru, a Karnataka Government hospital. They have been allotted around 5000 sq. ft. of room space to establish & set up a complete Molecular Diagnostic Laboratory. The Lab would be a complete clean room which would be built with PUF panels and Air Handling Units, Lab's furniture and power backup, equipped with all the latest technology medical lab equipments. All the equipments would be purchased by the applicant and installed at the lab in Kidwai Hospital. The responsibility of running the lab with all necessary technical staff is also on the applicant. The applicant, receives the samples from the patients and issues respective reports and charges Kidwai Hospital as per the approved prices.

3. In view of the above, the applicant has sought advance ruling in respect of the following questions:

- i. *Can the applicant avail GST Input on the equipments, furniture etc. which we are purchasing for this.*
- ii. *Can the applicant avail GST input on the reagents/ consumables they would be purchasing for performing the tests as the reagents / consumables are taxable and not the test.*

4. **Applicant's interpretation of law** : The Applicant submits their interpretation / understanding of law that the impugned services fall under medical services and hence the GST is not leviable on the said services. Further the equipments and other furniture & fixtures are fixed assets and remains in their books of accounts and hence they are of the opinion that they are eligible to claim & avail input tax credit of the GST paid on such fixed assets.

PERSONAL HEARING / PROCEEDINGS HELD ON 30.07.2020

5. Sri S.Manjunath, General Manager of the above concern appeared for personal hearing proceedings on 30.07.2020 before this authority, reiterated the facts furnished in the application and also submitted as under:

5.1 The applicant established a full fledged laboratory in the premises of the Kidwai Memorial Institute of Oncology and provides the service of diagnostic testing on the samples sent by the hospital. They charge the hospital for the services rendered.

5.2 The applicant claims that the services being provided to the Institute, which is a hospital, are exempted from tax under the CGST / KGST / IGST Act 2017. Further a lot of fixed assets in the form of instruments, furnitures & fixtures purchased and have been capitalized in the books of accounts, thus they are capital goods & hence applicant is eligible to claim input tax credit on the inward supply of such capital goods.

6. DISCUSSION & FINDINGS

6.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by them during the personal hearing. We have also considered the issues involved & relevant facts having a bearing on the questions in respect of which advance ruling is sought by the applicant.

6.1 At the outset, we would like to state that the provisions of both the CGST Act and the KGST 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 KGST Act.

6.2 We proceed to examine whether the diagnostic services being supplied by the applicant to the aforesaid hospital are covered under Entry no. 74 of Notification No.12/2017- Central Tax (Rate) dated 28.06.2017, which reads as under:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
74	Heading 9993	<p>Services by way of-</p> <p>(a) Health care services by a clinical establishment, an authorised medical practitioner or para-medics;</p> <p>(b) Services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above</p>	Nil	Nil

6.3 The term “health care services” is defined in clause (zg) of paragraph 2 of the Notification supra and reads as under:

“(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;”

In the instant case the services provided by the applicant are by way of diagnosis of an illness and hence the same are covered under “health care services”

6.4 Now we proceed to examine whether the applicant falls under “clinical establishment” , which is defined in clause (s) of paragraph 2 of the said Notification and the same reads 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;”

In the instant case the applicant established a medical diagnostic laboratory to carry out diagnostic or investigative services of diseases. Thus the applicant qualifies to be a clinical establishment.

6.5 It is clear, from the foregoing, that the services provided by the applicant are covered under clause (a) of Entry no. 74 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 and hence is exempt from tax under the CGST Act 2017. Similarly, they are also exempted from tax under the KGST Act, 2017 and also under the Integrated Goods and Services Tax Act, 2017. The applicant is involved in taxable as well as exempted supplies.

7. Sub-section (2) of section 17 of the CGST Act, 2017 stipulates that the amount of credit be restricted to the input tax attributable to the taxable supplies including zero rated supplies and reads as under:

“(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplied under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.”

Therefore the applicant need to restrict the credit to the amount attributable to taxable supplies including zero rated supplies in the case of both capital goods as well as reagents/consumables or drugs. Further if the applicant claims depreciation on the tax component of capital goods and plant & machinery, under Income Tax Act 1961, the input tax credit on the said tax component shall not be allowed, in terms of Section 16(3) of the CGST Act 2017.

8. Hence in view of the above, the applicant is eligible for input tax credit on the tax paid on the purchases of goods, i.e. equipments, furniture, etc. which are purchased for this project and also on the reagents / consumables which are used for performing the test, subject to the restriction of the same in terms of Section 17(2) of the CGST Act 2017.

9. In view of the foregoing, we pass the following

RULING

1. The applicant can avail the GST input tax credit on the equipments, Furniture, etc. which he is purchasing for the project in question, subject to the restriction of the same in terms of Section 17(2) of the CGST Act 2017.

2. The applicant can avail GST input tax credit on the reagents/ consumables which are purchased for performing the test, subject to the restriction of the same in terms of Section 17(2) of the CGST Act 2017..

(Dr. M.P. Ravi Prasad)

Member MEMBER

Karnataka Advance Ruling Authority

Place : Bengaluru, Bengaluru - 560 009

Date : 07-09-2020.

(Mashhood Ur Rehman Farooqui)

Member

MEMBER

Karnataka Advance Ruling Authority

Bengaluru - 560 009

To,

The Applicant

Copy to :

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Central Tax, North West Commissionerate, Bengaluru.
4. The Asst. Commissioner, LGSTO-65, Bengaluru.
5. Office Folder.