

## **MAHARASHTRA AUTHORITY FOR ADVANCE RULING**

**GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.**

**(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)**

### **BEFORE THE BENCH OF**

**(1) Ms. P. Vinitha Sekhar, Addl. Commissioner of Central Tax, (Member)**

**(2) Shri. A. A. Chahure, Joint Commissioner of State Tax, (Member)**

GSTIN Number, if any/ User-id		<b>27AAECE8994N1ZO</b>
Legal Name of Applicant		<b>M/s. EQUITRON MEDICA PRIVATE LIMITED</b>
Registered Address/Address provided while obtaining user id		116, Vasan Udyog Bhavan, 1st Floor, Senapati Bapat Marg, Sun Mill Compound, Mumbai 400013
Details of application		GST-ARA, Application No. 30 Dated 20.07.2019
Concerned officer		DIVISION-III, Commissionerate-Mumbai Central
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	<b>Factory/Manufacturing</b>
B	Description (in brief)	<p>This is regarding the applicability of GST Notification no. 45/2017 &amp; 47/2017 for levying GST at concessional rate of 5.00 % to some of our customers. We are selling our products through our distributors to whom we invoice the goods at the normal rate of GST @ 18.00%. In turn, the distributors, sell those goods to some notified institutions engaged in the scientific research in the specified areas. The Institutions are being invoiced by our distributors at concessional GST of 5.00%. We wish to sell our products to our distributors at this concessional rate of 5.00% in the first instance itself because the end use of the product sold is exclusively for scientific research. A certificate is obtained from the end user institution to this effect.</p> <p>In Notification 45/2017, Sr. No.1 in column 4, it is clearly worded as "The goods are supplied to or for-". We will be entitled to invoice our distributor with GST at concessional rate of 5%, if we consider the provision in isolation. However, this wording is not expressly mentioned in Sr. Nos. 2, 3, or 4. Our end-user institutions are mainly included in Sr. No. 2. Hence, we seek clarification.</p>
Issue/s on which advance ruling required		(ii) Applicability of a notification issued under the provisions of the Act
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.



## PROCEEDINGS

**(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)**

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act" respectively ] by **M/s. EQUITRON MEDICA PRIVATE LIMITED**, the applicant, seeking an advance ruling in respect of the following questions.

1. **Whether we can sell our product to our dealer / distributor by charging GST @ 5.00% as per the notification no.45/2017 & 47/2017?**
2. **Can a certificate issued by the end user (scientific research organization) mentioning the name of the manufacturer (WE in this case) & the name of the seller (our distributor) be held valid to enable us invoice our product to our dealer at concessional rate of GST @ 5.00%?**

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

### FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions made by the applicant is as under:-

- 2.1 M/s. Equitron Medica Private Limited (Applicant), is engaged in the manufacture of laboratory medical equipment like Autoclaves, Incubators, Rotary Vacuum Evaporators, Baths etc., and their target market includes Institutions engaged in Scientific Research. Vide subject application, a question is posed on whether GST notification nos. 45/2017 & 47/2017 are applicable in their case. As per the said Notifications, GST at a concessional rate of 5.00 % can be levied on supply to the end users who undertake / are engaged in the scientific research & the goods supplied will be used for the same purpose of scientific research.
- 2.2 Applicant is selling all their products through distributors' network and issue invoices to distributors at the normal rate of GST @ 18.00% because, the distributors or channel partners are not engaged in scientific research of any type, in any manner. The distributors





are only engaged in trading of the subject goods and in some cases they sell the same to certain notified institutions engaged in the scientific research, at a concessional rate of GST at 5.00%. Applicant has submitted that they should be permitted to sell their products to distributors at the concessional rate of 5.00% because the end use of the product sold, is exclusively for scientific research and for this, a certificate can be obtained from the end user institution to this effect. Hence applicant is seeking clarification as to whether they can sell their products to dealer / distributor by charging GST @ 5.00% as per Notification Nos. 45/2017 & 47/2017, where the end user (a scientific research organization) issues a certificate clearly mentioning the distributors name as well as "Manufactured by" and applicant's name. The applicant is of the opinion that they can invoice the goods to their dealers at the concessional rate of 5% GST.

**03. CONTENTION – AS PER THE JURISDICTIONAL OFFICER:**

The submissions made by the jurisdictional office is as under:-

- 3.1 Applicant is selling their products through their distributor's network. Accordingly, they supply the goods under the cover of invoices, to their distributors at the normal rate of GST @ 18%. These distributors or channel partners are not engaged in scientific research of any type, in any manner and doing only the trading. When the distributors sell these goods to notified institutions engaged in scientific research, they discharge their GST liability @ 5.00% whereas the input credit that they are entitled to claim on purchase from applicant is @18% only.

3.2 It is submitted that Notification No. 47/2017-I.T. (Rate) dated 14.11.2017 exempts goods specified in column (3) of the Table, from so much of the integrated tax leviable thereon under Section 5 of the said Act, as in excess of the amount calculated at the rate of 5 %, when supplied to the institutions specified in the corresponding entry in column (2) of the Table, subject to the conditions specified in the corresponding entry in column (4) of the said table given in the notification. In respect of Intra State clearances, similar Notification has been issued vide Notification No. 45/2017-C.T. (Rate) dated 14.11.2017 which exempts goods specified in column (3) of the Table, from the so much of the central tax leviable thereon under Section 9 of the said Act, as in excess of the amount calculated at the rate of 2.5%, when supplied to the institutions specified in the corresponding entry in column (2)



of the Table, subject to the condition's specified in the corresponding entry in column (4) of the said table given in the notification. The total tax payable under GST in respect of such clearances effected within the State is 5%.

- 3.3 In the present case, applicant is not the direct supplier of the goods for which clarification is sought from this Authority. They are supplying the said goods to their distributors who further supply these goods classified under the Notification No. 45/2017-Central Tax (Rate) dated 14.11.2017 to Research Organizations @5% of the GST Tax.

#### **04. HEARING**

Preliminary hearing in the matter was held on 26.11.2019. Sh. Madhav Deodhar, Manager (Finance & Accounts), appeared, and requested for admission of their application. Jurisdictional Officer, Sh. Shashikant Bhasgauri, Supdt., Mumbai Central Commissionerate of CGST & Central Excise, also appeared.

The application was admitted and called for final hearing on 17.12.2019. Sh. Madhav Deodhar, Manager (Finance & Accounts) Authorized Representative appeared, made oral and written submissions. Jurisdictional Officer Sh. Shashikant Bhasgauri, Supdt., also appeared and made submissions.

#### **05. OBSERVATIONS AND FINDINGS:**

- 5.1 We have gone through the facts of the case, documents on record and submissions made by both, the applicant as well as the jurisdictional office.

- 5.2 The issue before us is whether the applicant, who is a manufacturer of laboratory medical equipment like Autoclaves, Incubators, Rotary Vacuum Evaporators, etc., and supplies the same to their distributors who are not engaged in scientific research of any type, are eligible for concessional rate of GST under Notification No. 45/2017 – C.T. (Rate) dated 14.11.2017 and Notification No. 47/2017 S.T. (Rate) dated 14.11.2017.

- 5.3 The provisions of Notification No. 45/2017-C.T. (Rate) dated, 14.11.2017 and Notification No. 47/2017-I.T. (Rate) dated, 14.11.2017 are similar and therefore we examine the provisions of Notification No. 45/2017-Central Tax (Rate) as mentioned above.

- 5.4 Notification No. 45/2017-Central Tax (Rate) dated 14.11.2017, is reproduced as under:-  
*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) ( hereafter in this notification*





referred to as "the said Act"), 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 goods specified in column (3) of the Table below, from the so much of the central tax leviable thereon under section 9 of the said Act, as in excess of the amount calculated at the rate of 2.5 per cent., when supplied to the institutions specified in the corresponding entry in column (2) of the Table, subject to the conditions specified in the corresponding entry in column (4) of the said Table-

S. No.	Name of the Institutions	Description of the goods	Conditions
1	Public funded research institution other than a hospital or a University or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a National Institute Technology/ Regional Engineering College	(a) Scientific and technical instruments, apparatus, equipment (including computers); (b) accessories, parts, consumables and live animals (experimental purpose); (c) computer software, Compact Disc-Read Only Memory (CD-ROM), recorded magnetic tapes, microfilms, microfiches; (d) Prototypes, the aggregate value of prototypes received by an institution does not exceed fifty thousand rupees in financial year.	(i) The goods are supplied to or for – (a) a public funded research institution under the administrative control of the Department of Space or Department of Atomic Energy or the Defence Research Development Organisation of the Government of India and such institution produces a certificate to that effect from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union Territory in the concerned department to the supplier at the time of supply of the specified goods; or (b) an institution registered with the Government of India in the Department of Scientific and Research and such institution produces a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union territory in concerned department to the supplier at the time of supply of the specified goods; (ii) The institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution, in each case, certifying



			<p>that the said goods are required for research purposes only;</p> <p>(iii) In the case of supply of live animals for experimental purposes, the institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution that the live animals are required for research purposes and enclose a no objection certificate issued by the Committee for the Purpose of Control and Supervision of Experiments on Animals</p>
2	Research institution, other than a hospital	<p>(a) Scientific and technical instruments, apparatus, equipment (including computers);</p> <p>(b) accessories, parts, consumables and live animals (experimental purpose);</p> <p>(c) computer software, Compact Disc-Read Only Memory (CD-ROM), recorded magnetic tapes, microfilms, microfiches;</p> <p>(d) Prototypes, the aggregate value of prototypes received by an institution does not exceed fifty thousand rupees in a financial year.</p>	<p>(1) The institution is registered with the Government of India in the Department of Scientific and Research, which- (i) produces, at the time of supply, a certificate to the supplier from the head of the institution, in each case, certifying that the said goods are essential for research purposes and will be used for stated purpose only; (ii) in the case of supply of live animals for experimental purposes, the institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution that the live animals are required for research purposes and enclose a no objection certificate issued by the Committee for the Purpose of Control and Supervision of Experiments on Animals. (2) The goods falling under (1) above shall not be transferred or sold by the institution for a period of five years from the date of installation.</p>
3	Departments and laboratories of the Central Government and State Governments, other than a hospital	<p>(a) Scientific and technical instruments, apparatus, equipment (including computers);</p> <p>(b) accessories, parts, consumables and live animals (experimental purpose);</p>	<p>(i) The institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution, in each case, certifying that the said goods are required for research purposes only; (ii) in the case of supply of live animals for experimental purposes, the institution produces, at the time of supply, a</p>





		<p>(c) Computer software, Compact Disc-Read Only Memory(CD-ROM), recorded magnetic tapes, microfilms, microfiches;</p> <p>(d) Prototypes, the aggregate value of prototypes received by an institution does not exceed fifty thousand rupees in a financial year.</p>	<p>certificate to the supplier from the Head of the Institution that the live animals are required for research purposes and enclose a no objection certificate issued by the Committee for the Purpose of Control and Supervision of Experiments on Animals.</p>
4	Regional Cancer Centre (Cancer Institute)	<p>(a) Scientific and technical instruments, apparatus, equipment (including computers);</p> <p>(b) accessories, parts, consumables and live animals (experimental purpose);</p> <p>(c) Computer software, Compact Disc-Read Only Memory(CD-ROM), recorded magnetic tapes, microfilms, microfiches.</p>	<p>(i) The goods are supplied to the Regional Cancer Centre registered with the Government of India, in the Department of Scientific and Research and such institution produces a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union territory in concerned department to the supplier at the time of supply of the specified goods; (ii) the institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution, in each case, certifying that the said goods are required for research purposes only; (iii) in case of supply of live animals for experimental purposes, the institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution that the live animals are required for research purposes and enclose a no objection certificate issued by the Committee for the Purpose of Control and Supervision of Experiments on Animals</p>



*Explanation. - For the purposes of this notification, the expression, -*

*(a) "Public funded research institution" means a research institution in the case of which not less than fifty per-cent of the recurring expenditure is met by the Central Government or the Government of any State or the administration of any Union territory;*

- (b) "University" means a University established or incorporated by or under a Central, State or Provincial Act and includes -
- (i) an institution declared under Section 3 of the University Grants Commission Act, 1956 (3 of 1956) to be a deemed University for the purposes of this Act;
  - (ii) an institution declared by Parliament by law to be an institution of national importance;
  - (iii) a college maintained by, or affiliated to, a University;
- (c) "Head" means -
- (i) in relation to an institution, the Director thereof (by whatever name called);
  - (ii) in relation to a University, the Registrar thereof (by whatever name called);
  - (iii) in relation to a college, the Principal thereof (by whatever name called);
- (d) "hospital" includes any Institution, Centre, Trust, Society, Association, Laboratory, Clinic or Maternity Home which renders medical, surgical or diagnostic treatment.
2. This notification shall come into force with effect from the 15th day of November, 2017.

5.5 We find that the applicant supplies subject goods only to their distributors who are involved in further trading of the said goods. The distributors make further supply of the said goods, also to some notified institutions engaged in the scientific research, at a concessional rate of GST @ 5%. It has also been submitted that the end-user institutions, to whom the distributors supply goods are mainly **Research institution, other than a hospital**, included in Sr. No. 2 of above mentioned Notification 45/2017.

5.6 First and foremost, we find that the applicant does not supply goods to end users who undertake or are engaged in the scientific research. The goods are supplied to their distributors only. The applicant has submitted that the end-user institutions, to whom goods are supplied by their distributors, are mainly included in Sr. No. 2 of Notification No. 45/2017-C.T. (Rate) dated 14.11.2017. In respect of institutions mentioned at Sr. No. 2, the said notification clearly states that the said institutions should be registered with the Government of India in the Department of Scientific and Research, which- (i) produces, at the time of supply, **a certificate to the supplier**, from the head of the institution, in each case, certifying that the said goods are essential for research purposes and will be used for stated purpose only and that, the said goods shall not be transferred or sold by the institution for a period of five years from the date of installation.

5.7 The said notification requires the said certificate to be issued to the supplier, who in the subject case, is the distributor and not the applicant. Thus it is clear that the applicant does not satisfy the conditions of the said Notification No.45/2017, mentioned above.





**5.8** In view of the above, we hold that the applicant cannot sell their product to their dealers / distributors by charging GST @ 5.00% as per Notification Nos. 45/2017 – C.T. (Rate) 47/2017 S.T. (Rate), both dated 14.11.2017.

**5.9** The second question raised by the applicant is “Can a certificate issued by the end user (scientific research organization) mentioning the name of the manufacturer (WE in this case) & the name of the seller (our distributor) be held valid to enable the applicant to invoice their product to their dealer at concessional rate of GST @ 5%.

**5.9.1** The applicant’s question pertains to validity of certificates issued by end users. We feel it necessary first to decide whether the said question raised by the applicant is covered under Section 97(2) of the CGST Act, 2017, and thus maintainable, or liable for rejection. Having said so, we invite attention to the questions that can be posed in an application for an Advance Ruling under the provisions of the GST Act. Sub-section (2) of Section 97 is the relevant section which is reproduced as below:

*(2) The question on which the advance ruling is sought under this Act, shall be in respect of,–*

*a. classification of any goods or services or both;*

*b. applicability of a notification issued under the provisions of this Act;*

*c. determination of time and value of supply of goods or services or both;*

*d. admissibility of input tax credit of tax paid or deemed to have been paid;*

*e. determination of the liability to pay tax on any goods or services or both;*

*f. whether applicant is required to be registered;*

*g. whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

**5.9.2** We observe in the instant case, the question raised by the applicant is not pertaining to any of the matters mentioned in Section 97 (2) of the GST Act. In other words, Section 97(2), which encompasses the questions, for the ruling by this Authority does not deal with the issue of validity of certificates used by end-users of subject products. Hence, it is held that this authority does not have jurisdiction to pass any ruling on such matters.

**5.9.3** In view of the above discussion, we reiterate that, the question posed before us does not pertain to matter in respect of which an Advance Ruling can be sought under the GST Act. In view thereof, we find that the impugned question no. 2 is not maintainable.



06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

**ORDER**

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 30/2019-20/B-

07

Mumbai, dt.

17/01/2020

For reasons as discussed in the body of the order, the questions are answered thus –

**Question 1.** Whether we can sell our product to our dealer / distributor by charging GST @ 5.00% as per the notification no.45/2017 & 47/2017?

**Answer:-** Answered in the negative.

**Question 2.** Can a certificate issued by the end user (scientific research organization) mentioning the name of the manufacturer (WE in this case) & the name of the seller (our distributor) be held valid to enable us invoice our product to our dealer at concessional rate of GST @ 5.00%?

**Answer:-** Not answered, in view of discussions made above.



—sd—  
P. VINITHA SEKHAR  
(MEMBER)

—sd—  
A. A. CHAHURE  
(MEMBER)

**CERTIFIED TRUE COPY**

**Copy to:-**

1. The applicant.
2. The concerned Central / State officer.
3. The Commissioner of State Tax, Maharashtra State, Mumbai.
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai.
5. Joint Commissioner of State Tax, Mahavikas for Website.

**Note:-** An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India building, Nariman Point, Mumbai – 400021.

—sd—  
A. A. CHAHURE  
(MEMBER)  
**ADVANCE RULING AUTHORITY  
MAHARASHTRA STATE, MUMBAI**