

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-6**

**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 Principal Chief Commissioner of GST & Central Excise, Chennai.
2. Thiru Kurinji Selvaan V.S. M.Sc. (Agri), M.B.A., Joint Commissioner
(ST)/Member, Authority for Advance Ruling, Tamil Nadu

ORDER No.42/AAR/2019 DATED 23.09.2019

GSTIN Number, if any / User id		331800000572ARW
Legal Name of Applicant		Shifa Hospitals
Registered Address/Address provided while obtaining user id		82, Kailasapuram Middle Street, Tirunelveli Junction, Tirunelveli-627 001.
Details of Application		GST ARA-01 Application No. 61 dated 14.12.2018
Concerned Officer		State : The Assistant Commissioner (ST), Tirunelveli Junction Assessment Circle, Commercial Taxes Building, Reserve Line road, Palamkottai, Tirunelveli 627 002. Centre: Tirunelveli sub-Commissionerate
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Service Provision
B	Description (in Brief)	HEALTH CARE SERVICES
Issue/s on which advance ruling required		Classification of Goods and /or Services or both; Determination of the liability to pay tax on any goods or services or both
Question(s) on which advance ruling is required		Whether the medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis or treatment would be considered as "Composite Supply" and accordingly eligible for exemption under the category "HEALTH CARE SERVICES"?

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. Shifa Hospitals, 82, Kailasapuram Middle Street, Tirunelveli Junction, and Tirunelveli (hereinafter called as the 'Applicant' is a poly clinic run by the partnership firm M/s. Shifa Hospitals with PAN No. AAUFS1477M and are not registered under GST Act. They provide health care services to both out-patients and in-patients. The applicant has sought advance ruling on the following question:

Whether the medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis or treatment would be considered as "Composite Supply" and accordingly eligible for exemption under the category "HEALTH CARE SERVICES"?

The applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and TNSGST Rules 2017.

2. The applicant has stated that they are providing health care services to both out-patients and in-patients. In-Patients are those who are admitted in to the hospital for their diagnosis and treatments. The in-patients are provided with the facilities like stay inside the hospital rooms, diagnosis services, treatments including surgical treatments, post-surgery treatments, medicines, consumables, implants, dietary food etc., There is in-house medical stores within the hospital premises owned by shifa hospital itself, from where the procured stocks of medicines, implants, consumables etc., are supplied to various sections like operation theatres, various wards etc., for treatment of in-patients to ensure

appropriate diagnosis and timely treatment of in-patients. From the foregoing, it is submitted that though there are both supply of services and medicines etc., involved in the process, the supply of medicines, implants, consumables is just incidental and naturally bundled to the supply of health care service which is the predominant supply. Hence the supply has to be treated as composite supply with Health Care supply as the predominant supply.

2.1 The Hospital uses medicines, consumables and implants etc. in the course of providing diagnostic and treatment to the in-patients. As the health care services is the predominant service, these supplies which are incidental to and effected in the course of rendering health care service, these supplies would be part of the composite supply where health care service is predominant supply. And since Health Care service is exempt Vide serial No.74 with Heading 9993 and description 'services by way of-(a) health care services by a clinical establishment, an authorised medical practitioner or Para-medics' in notification 12/2017 - Central Tax (Rate) dt. 28.06.17.

2.2 In the case of KIMS HEALTH CARE MANAGEMENT Ltd., the Advance Ruling Authority of Kerala, in similar facts has ruled as under:

The Supply of medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis or treatment are naturally bundled and are provided in conjunction with each other, would be considered as "composite supply" and eligible for exemption under the category 'health care services'.

3. The applicant was heard on 09.04.2019. The authorized representative appeared. They stated that Shifa Hospital at present did not own any in-patient or Out-Patient pharmacy. They will submit details of whether medicines, consumables, implants for in-patients are billed separately or not. For this, a full sequence of diagnosis, billing practices of in-patients along with relevant sample bills will be submitted. They will also clarify the current practice for in-patient. In future, they intend to supply all medicines implants, consumables in-house without asking the patients to buy for outside pharmacies. They undertook to further submit the invoices alongwith write-up in 2 weeks' time.

3.1 The applicant submitted the documents (attached in serially numbered order) supporting the full sequence of admissions, diagnosis, and treatments etc. along with the billing of the same for a sample IP case as under:

1. On the admission of the patient as IP a general consent form duly signed by the care taker of the patient is taken.
2. A billing card is maintained recording all the details of visits and diagnosis by doctors, various types of treatments including surgeries, post-operative treatments etc., given to the IP patient.
3. Doctors' daily progress report containing details of prescriptions of tests and medicines and other care to be undertaken.
4. A drug chart maintained at the wards/rooms having details of drugs given to the patients (the drugs which are procured by the care takers from outside the hospitals) during their stay as Inpatients.
5. Investigation chart prepared during the course of various tests done.
6. Copies of pharmacy's bills for medicines procured by the caretakers for the patients during their stay as Inpatients from the outside pharmacies (Shifa pharmacy a separate entity duly registered with GSTIN 33ABAFS1326A1Z0)
7. Bills for all types of health care services provided by the Hospital for day to day health care services during the period of stay as in-patient
8. Final discharge bill at the time of discharge of the patient.
9. Discharge summary during the discharge of the patient from the hospital.

3.2 The applicant claimed that as can be seen from the bills given as references, presently Shifa Hospitals do not charge anything for medicines procured by the patients from pharmacies. To minimise the time lapse in diagnosis and treatments and hardships undergone by the patients and their caretakers in the current practice, they intend to procure and store the medicines in addition to the consumables implants etc., in the name of the hospital itself and supply the same to the inpatients for their diagnosis and treatments as and when required. All such supplies would also be included in their bills. They submitted sample template for the bills proposed to be raised once this process is started.

4. The Assistant Commissioner (ST) (FAC), the jurisdictional Officer has furnished the comments on the question raised by the Applicant. The officer relying on the decision of the Authority for Advance Ruling, Kerala in the case of M/s. Ernakulam Medical Centre Private Ltd, has opined that the supply of

medicines and allied items to the outpatients through the pharmacy attached to the hospital run by the applicant is taxable under GST.

5. We have carefully examined the submissions of the applicant in their application dt. 13.12.2018, their oral submissions during the Personal Hearing on 9th of April 2019 and their further submissions after the PH and the comments of the State Jurisdictional Officer. The question on which an advance ruling is requested is as follows:

“Whether the medicines, consumable and implants used in the course of providing health care services to the In-Patients for diagnosis or treatment would be considered as Composite Supply and accordingly eligible for exemption under the category of HEALTH CARE SERVICES”

5.1 The facts of the case as available before us, is that the applicant is a polyclinic providing health care services to both out-patients and in-patients. Presently they do not have an in-house pharmacy. The medicines required to be administered for the in-patients are purchased by the patients from Shifa Pharmacy which is a separate entity. As seen from the submissions (bills), the applicant bills the in-patients for the Room charges, Nursing charges, lab investigation charges while medicines, consumables, etc are not charged in the hospital bill. The applicant has stated in their letter submitted after PH, that presently they do not charge anything for the medicines as the medicines prescribed by the hospital is procured by the patients outside the hospital; that the consumables, implants, etc which are essentials for the treatments at operation theatres/ICU wards/post operation wards, etc are supplied during the course of such treatment by the hospital itself and is billed at the time of discharge. The applicant has further stated that to minimize the time lapse in diagnosis and treatment and hardships undergone by the patients and their caretakers in the current practice, they intend to procure and store the medicines in addition to the consumables, implants, etc in the name of the hospital and supply the same to the inpatients and all such supplies would be included in their bills. The applicant has furnished a proposed IP bill which contains ICCU Charge, Room rent, Nursing charge, Medicines, Other consumables and Implants. 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.

5.2 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.

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.

5.3 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.

5.4 Health care services provided by a clinical establishment or an authorized medical practitioner or para medics are exempted vide Sl No 74 of Notification no 12/2017-C.T.(rate) dated 28.06.2017 as amended and Sl 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 is a Clinical Establishment and for the health care services as defined in the Notification above is provided including the supply of medicines, implants and consumables, they are exempt under Sl No 74 of Notification no 12/2017-C.T. (rate) dated 28.06.2017 as amended and Sl No 74 of Notification No.II (2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29.06.2017.

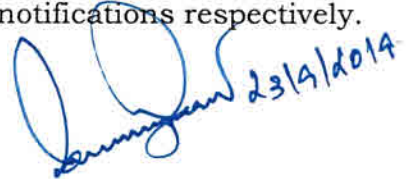
6. In view of the above discussion, we rule as under

RULING

1. Medicines, consumables and implants used in the course of providing health care services to in-patients by the applicant is a composite supply of Inpatient Services classifiable under SAC 999311.
2. Supply of health care services or inpatient services by the applicant 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.


23/9/19

Ms. Manasa Gangotri Kata,
Member, CGST


23/9/2019

Thiru Kurinji Selvaan V.S.,
Member, TNGST

To

M/s. Shifa Hospitals
82, Kailasapuram Middle Street,
Tirunelveli Junction, Tirunelveli-627 001.

//By Speed Post with AD//

**AUTHORITY FOR
ADVANCE RULING**

23 SEP 2019

Copy Submitted to:

1. The Additional Chief Secretary/Commissioner of Commercial Taxes, II Floor, Ezhilagam, Chepauk, Chennai-5.
2. The Principal Chief Commissioner of GST & Central Excise, Tirunelveli Sub-Commissionerate

Copy to:

1. The Assistant Commissioner (ST),
Tirunelveli Junction Assessment Circle,
Commercial Taxes Building,
Reserve Line road,
Palayamkottai,
Tirunelveli 627 002.
2. The Commissioner of GST & Central Excise Tirunelveli Sub-commissionerate
Central revenue Building, Tractor Street,
NGO – A Colony, Tirunelveli 627 007.
3. Master file.