

	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	
---	--	---

BEFORE THE AUTHORITY OF : Dr S. L. Sreeparvathy, IRS &
: Shri Abraham Renn S., IRS

Legal Name of the applicant	M/s. ARDEN HEALTH CARE PRIVATE LIMITED
GSTIN	32AASCA5270F1ZP
Address	14/303/6A, Vaitheeni Apartments, 2 nd Floor, Koorkenchery, Thrissur, Kerala - 680007.
Advance Ruling sought for	Whether the health-care services provided to patients at their residence by the applicant through qualified nurses and other technically qualified persons are taxable in GST?
Date of Personal Hearing	03.11.2021
Authorized Representative	Mr. TONY .M.P., CA

ADVANCE RULING No.KER/131/2021 Dtd.18-02-2022

1. M/s. Arden Health Care Private Limited (hereinafter referred to as the applicant) is registered as a company with the objective of purchasing, lease or otherwise acquiring, establishing, maintaining, operating, running, managing or administering hospitals, medicate, day-care and healthcare centres, old age homes, diagnostic centres, health care educational institutions, care homes, polyclinics, laboratories, clinics for indoor and outdoor patients and facilities for reception and treatment of persons including restoring, maintaining and promoting patient health suffering from injuries and illness, disabilities and deficiencies of any kind or nature whatsoever and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, geriatric care centre, assisted living, in the generality, speciality and/or super speciality departments. In addition, the applicant also provides utility articles and services to patients, and provide quality nursing care services including physiotherapy, ventilator care, CPR, emergency home care, ambulance services etc and all kinds of supporting and monitoring services to patients at their home by licensed or registered health care professionals.



2. At the outset, it is clarified that the provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act) and the Kerala State Goods and Services Tax Act, 2017 (hereinafter referred to as KSGST Act) are the same except for certain provisions. Accordingly, a reference hereinafter to the provisions of the CGST Act, Rules and the notifications issued thereunder shall include a reference to the corresponding provisions of the KSGST Act, Rules and the notifications issued thereunder.

3. The applicant had requested an advance ruling on the following:

3.1. Whether the health-care services provided to patients at their residence by the applicant through qualified nurses and other technically qualified persons are taxable in GST?

4. Contentions of the applicant:

4.1. The applicant submits that they are engaged in providing various health care services to take care of patients at their residence and are registered under GST Act with GSTIN 32AASCA5270F1ZP. The applicant engages employees who are technically qualified with a Degree/Diploma in Nursing and other technical fields related to the health care sector. The employees of the applicant will reside with the patients in their residence and provide various health care services like physiotherapy, ventilator care, CPR, emergency home care etc. The applicant keeps and maintains systematic patient records with nursing care plan, diet chart, daily procedure care checklist, daily inventory checklist, records of vital charts with temperature, BP, pulse etc of the patient. The applicant also maintains a medication chart with the complete list of medicines taken by the patients along with nursing notes. The applicant has also obtained a license from the Thrissur Corporation as a health clinic. The applicant raises invoices on the patients on a periodic basis for the daily nursing duty charge. The applicant enters into an agreement with the patients for providing various health care services with specific terms and conditions. The applicant engages duly qualified doctors to take care of the emergency situations and for routine check-ups.

4.2. As per Sl. No. 74 of Notification No.12/2017 Central tax (Rate) dated 28-06-2017; healthcare services are exempted from GST.

"Sl. No.74 – Chapter Heading 9993 – services by way of (a) healthcare 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 - rate nil, conditions nil".

4.3. Clause (zg) of Para 2 of the notification defines the term "healthcare services" as follows:-



“health care services” means 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 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.”

4.4. The term “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.

4.5. The term “paramedics” is not defined either in the CGST / SGST Acts or in any GST notifications. However, the term “paramedics” is explained by the Central Board of Indirect Tax and Customs, while explaining the scope of the exemption from service tax for healthcare services, in Taxation of services; An Education Guide issued on 20-06-2012. The relevant part of the education guide is extracted below:

“7.2.2 Who all are covered as paramedics?”

Paramedics are trained health care professionals, for example, nursing staff, physiotherapists, technicians, lab assistants etc. Services by them in a clinical establishment would be in the capacity of employee and not provided in independent capacity and will thus be considered as services by such clinical establishment. Similar services in independent capacity are also exempted.”

4.6. The exemption in service tax for healthcare services and exemption in GST for healthcare services are similarly worded and the scope of exemption under both the Service Tax Law [Finance Act, 1994] and GST Law are one and the same.

4.7. As per Serial No.2 of Notification No.25/2012-Service Tax dated 20-06-2012, the following services are exempted;

2(i) Healthcare services by a clinical establishment, an authorized medical practitioner or para-medics:

(ii) services provided by way of transportation of a patient in an ambulance, other than those specified in (i) above.



4.8. It can be inferred from the above that the scope of the exemption in service tax and GST is one and the same. Further as per the clarification given in Education Guide; Paramedics are trained health care professionals, for example, nursing staff, physiotherapists, technicians, lab assistants etc. Accordingly, the nursing staff and other technically qualified employees of the applicant falls within the meaning of the term "paramedics" and therefore, the services provided by such employees are also part of health care services.

4.9. As per the definition of the term "clinical establishment" in Para 2(s) of 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 diagnosis or treatment or care for illness, injury, deformity, abnormality..... The term "clinical establishment" includes any institution that offers services or facilities requiring care for illness, injury, deformity or abnormality. Accordingly, the applicant, being engaged in providing various services like quality nursing care services including physiotherapy, nutrition therapy, medication, nebulisation, wound care/dressing etc and all kinds of supporting and monitoring services like checking temperature, blood pressure, pulse rate, respiratory rate, SPO2, GRBS (General Random Blood Sugar) of patients at their home by licensed and qualified practitioners other than medical doctors, is falling within the definition of the term "clinical establishment". Further, the Explanatory Note to the Scheme of Classification of Services states as follows;

*"SAC 9993 - Human health and social care services
99931- Human Health Services
999314 - Nursing and Physiotherapeutic services.*

This service code includes;

- i. Services in the field of nursing care (without admission), advice and prevention for patients at home, the provision of maternity care, children's hygiene, etc.*
- ii. Services in the field of physiotherapy, ergotherapy, occupational therapy etc.*

Note: These services are provided by qualified practitioners, other than medical doctors."

4.10. The applicant submits that the following service classification is also relevant to the facts of the case;

"999319 - Other human health services including homoeopathy, Unani, Ayurveda, naturopathy, acupuncture etc.

This service code includes:



- i. *Other paramedical human health services not elsewhere classified such as acupuncture, aromatherapy, speech therapy, homoeopathy, nutrition therapy etc.*

Note: These services are provided by qualified practitioners, other than medical doctors."

4.11. As per Serial No.74 of Notification No.12/2017 Central Tax (Rate) dated 28-06-2017, healthcare services falling under Chapter Heading 9993 are exempted from GST. It can be seen from the Explanatory Note on Scheme of Classification of Services as given above, the Chapter Heading 9993 includes Sub-Head; 999314 – Nursing and Physiotherapeutic Services and 999319 – other human health services including homoeopathy, Unani, Ayurveda, naturopathy, acupuncture etc. Therefore, the services provided by the applicant to the patients fall within the meaning of health-care services covered under Chapter Heading 9993 and accordingly, such health care services are provided to patients at their residence by the applicant through qualified nurses and other technically qualified persons are exempted from GST as per Sl. No. 74 of Notification No.12/2017 CT (R) dated 28-06-2017.

5. Remarks of the Jurisdictional officer

5.1. The application was forwarded to the jurisdictional officer as per provisions of Section 98(1) of the CGST Act. The jurisdictional officer has not offered any comments and hence it is presumed that the jurisdictional officer has no specific comments to offer. It is also construed that no proceedings are pending on the issue against the applicant.

6. Personal hearing

6.1. The applicant was granted an opportunity for a personal hearing on 03/11/2021. Shri.Tony M.P., Chartered Accountant represented the applicant for the personal hearing. He reiterated the contentions made in the application and requested to issue the ruling based on the submissions made in the application.

7. Discussion and Findings

7.1. The issue was examined in detail. The application is admissible under subsection (2) of Section 97 of the Act. The applicant is a company engaged in providing nursing care services including physiotherapy, nutrition therapy, medication, nebulisation, wound care/dressing etc and all kinds of supporting and monitoring services for the care of patients at their residence by employing licensed and qualified practitioners other than medical doctors. The ruling is sought regarding the taxability of the services rendered by them and the applicant contends that the services provided by them are healthcare services and is accordingly exempted from GST as per entry at Sl. No. 74 of Notification



No. 12/2017 Central Tax (Rate) dated 28.06.2017. Sl. No. 74 of the said notification reads as follows;

Sl. No.	Chapter	Description of services	Rate	Condition
		Services by way of-		
	Heading	(a) healthcare services by a clinical establishment, an authorized medical practitioner or paramedics:		
	9993	(b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.		

7.2. As per the above entry healthcare services provided by a clinical establishment or authorised medical practitioner or paramedics is exempted from GST. The issue to be decided is whether the services rendered by the applicant qualify for the exemption under the above entry.

7.3. The term "healthcare services" is defined in Para 2 (zg) of Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 as follows;

"healthcare services" means 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 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."

7.4. The term "clinical establishment" is defined in Para 2(s) of the said notification as follows;

"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."

7.5. As per the Explanatory Notes to the Scheme of Classification of Services under GST on Health Care services, the Heading; 999314 - Nursing and physiotherapeutic service includes; (i) services in the field of nursing care (without admission), advice and prevention for patients at home, the provision of maternity care, children's hygiene etc.; (ii) services in the field of



physiotherapy, ergotherapy, occupational therapy etc that are provided by qualified practitioners, other than medical doctors.

7.6. Now it is to be examined whether the services rendered by the applicant qualify to be classified as healthcare services. Healthcare service is defined to include 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. The applicant is rendering medical services to the patient at their residence through qualified nurses and other technical employees. Accordingly, the services rendered by the applicant as explained in the application for the care of patients at their residence by employing qualified nurses and other technical personnel fall within the definition of healthcare services.

7.7. The next question to be determined is whether the applicant qualifies to be categorised as a clinical establishment as per the definition above. The applicant has produced a Certificate dated 03.01.2020 issued by Thrissur Municipal Corporation showing that M/s Arden Healthcare Clinic (a division of Arden Health Care Pvt. Ltd) is a private paramedical institution registered under the Kerala Municipality (Registration of Private Hospitals and Private Paramedical Institutions) Rules 1997. The definition of the term 'clinical establishment' includes a 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. On a combined reading of the definitions of health care services and clinical establishment, it is evident that any institution providing services by way of diagnosis or treatment or care for illness etc will qualify to be categorised under the definition of clinical establishment. From the details of the services provided as described by the applicant, it is evident that the applicant is providing services of care for illness to patients at their residence and hence qualify to be classified as a clinical establishment under the category of any other institution providing services of care for illness as per the said definition.

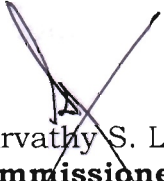
7.8. Based on the discussion above, it is concluded that the applicant is a clinical establishment providing health care services that are exempted as per entry at Sl. No.74 of Notification No.12/2017 Central Tax (Rate) dated 28.06.2017. Given the observations stated above, the following rulings are issued:



RULING

Whether the health-care services provided to patients at their residence by the applicant through qualified nurses and other technically qualified persons are taxable in GST?

Ruling: No. The services provided by the applicant as described in the application are exempted as per entry at Sl. No. 74 of Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017.


Sreeparvathy S. L.
Joint Commissioner
Member Central Tax


Abraham Renn S.
Additional Commissioner
Member State Tax

To,

M/s. ARDEN HEALTH CARE PRIVATE LIMITED
14/303/6A, Vaitheeni Apartments, 2nd Floor,
Koorkenchery, Thrissur, Kerala – 680007.

Copy to,

1. The Chief Commissioner of Central Tax and Central Excise, Thiruvananthapuram Zone, C.R.Building, I.S.Press Road, Cochin- 682018. [E-mail ID: cccocchin@nic.in; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram – 695002.
3. The Assistant / Deputy Commissioner of Central Tax, Thrissur Division, Thrissur. [E-mail ID: cgst.ti03@gov.in]
4. The Superintendent of Central GST, Ayyanthole Range, Thrissur. [E-mail ID: cgst.ti0302@gov.in]

