KASTURBA HEALTH SOCIETY

Authority for Advance Ruling — Maharashtra

GST-ARA-120/2018-19/B-51, Mumbai, dt. 04.05.2019 (order number partly… Dated **04.05.2019**

Q Questions Before the Authority

- Whether the applicant, a Charitable Society having the main object and factually engaged in imparting Medical Education and satisfying all the criteria of 'Educational Institution', can be said to be engaged in business so as to be obliged to comply with the CGST Act, 2017 and MGST Act, 2017 in totality.
- Whether the same applicant is liable for registration under section 22 of the CGST/MGST Act, 2017, or can remain outside registration under section 23 as there is no taxable supply.
- Whether the fees from students and recoupment charges from patients would be an outward supply under section 2(83) and, if so, whether they fall under entry 66 or entry 74 of Notification 12/2017-Central Tax (Rate).
- Whether the cost of medicines and consumables recovered from OPD patients, with nominal diagnostic charges, is a composite supply qualifying for exemption as educational and/or health care services.
- Whether nominal charges from patients under an 'Unparallel Health Insurance Scheme' qualify as an exempt supply of educational and/or health care services.
- Whether nominal amounts for space for banking, parking and refreshment, and amounts from disposal of waste, are a supply qualifying for exemption as educational and/or health care services.

F Facts

The applicant is a charitable society registered under the Societies Registration Act, 1860, the Bombay Public Trust Act, 1950 and section 12AA of the Income Tax Act. It set up the Mahatma Gandhi Institute of Medical Sciences (MGIMS) and its teaching clinical laboratory, Kasturba Hospital, as a joint project in 1969, funded by the Central Government, State Government and the applicant in the ratio 50:25:25. The applicant had obtained GST registration voluntarily but had filed no returns, while the jurisdictional officer had issued notices for non-compliance.

H Ruling

Q(i): whether the applicant, a charitable society imparting medical education, is engaged in business so as to comply with the CGST and MGST Acts in totality	****No.** The applicant is not the entity imparting medical education and does not satisfy all criteria of an Educational Institution.**	The answer rests on the finding that MGIMS, a joint project with the Central and State Governments, is a distinct entity from the applicant.
Q2: whether the applicant is liable to register under section 22 or can remain outside registration under section 23	****Liable to register if taxable.** The applicant falls within section 22 or 24 as it is not an Educational Institution.**	Registration depends on taxable services and aggregate turnover exceeding the prescribed threshold; the applicant gave no details of its business.

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Q(iii)(a) to (d): fees and recoupment charges, OPD medicine and diagnostic cost, insurance-scheme charges, and space rental and waste disposal receipts	****Rejected as not maintainable** under section 95.**	The receipts appear to be collected by MGIMS or Kasturba Hospital, not by the applicant, so the questions are outside the Authority's purview.

The Authority held that it is MGIMS, not the applicant, that imparts medical education, so the applicant cannot be said to satisfy all the criteria of an 'Educational Institution'. It held that the applicant falls within section 22 or 24 and must register if it makes taxable supplies and its turnover exceeds the threshold. The Authority declined to rule on questions (iii)(a) to (d) because the fees and charges appear to be collected by MGIMS or Kasturba Hospital, not the applicant, so they are outside section 95.

R Reasoning

The Authority relied on the joint-project structure and held that the State-instrumentality judgments cited by the applicant concerned MGIMS, not the applicant, so the two are not one organisation. On that basis the applicant could not be treated as the educational institution providing the services. On registration, it relied on section 2(108), which defines taxable supply, and on section 22(1), which requires registration only for a supplier making taxable supplies above the threshold, read with section 23 and section 24. Because the applicant gave no details of its own business, the Authority left the liability to depend on the facts. The sub-questions on receipts were rejected under section 95 because the supply was not made by the applicant.

P Provisions Relied On

- Section 22 of the CGST Act, 2017 (and MGST equivalent)
- Section 23 of the CGST Act, 2017 (and MGST equivalent)
- Section 24 of the CGST Act, 2017 (and MGST equivalent)
- Section 2(108) of the CGST Act, 2017 (taxable supply definition)
- Section 95 of the CGST Act, 2017 (scope of advance ruling)
- Section 98 of the CGST Act, 2017 (procedure for order)

! For the Practitioner

A practitioner can cite this order for the proposition that a charitable society which is not itself the body delivering medical education, and which merely contributes to a joint project, may not be able to claim the Educational Institution status for itself. It also shows that questions on receipts collected by a separate hospital or institute are not admissible before the Authority under section 95. The order does not decide whether fees, recoupment charges or space rentals are exempt under entries 66 or 74 of Notification 12/2017, since those questions were rejected. Its treatment of the applicant's own registration liability is conditional on facts the applicant did not supply.

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Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> maharashtra_aar_120_2018-19_khs_04.05.19.pdf

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