M/s Matrix Imaging Solutions India Private Limited

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 105/2019, dated 30th September, 2019 Dated **30.09.2019**

Q Questions Before the Authority

- Whether the applicant, being a health care service provider, is exempted from tax or not?

F Facts

The applicant is an unregistered private limited company that provides diagnostic services in Government hospitals under a PPP model, under contracts awarded through tender. It sets up laboratory and diagnostic infrastructure on the hospital premises and provides clinical laboratory and radio-diagnostic services to the hospitals (the contractees). Patients pay the hospital under government health schemes, and the applicant invoices the contractees or departments at month end at rates agreed in the contract. The applicant states that it takes no input tax credit and no service attracts reverse charge.

H Ruling

Whether diagnostic services provided by the applicant to hospitals and other establishments are exempt from GST as health care services	****Exempt** under CGST (entry 74, Heading 9993, rate Nil); also exempt under KGST**	The authority read entry 74 with the definitions of health care services and clinical establishment and found no condition as to the recipient of the services. The KGST exemption rests on the corresponding entry in Notification FD 48 CSL 2017 dated 29.06.2017.

The authority held that the diagnostic services the applicant provides to hospitals and other establishments are covered by entry 74 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, and so are **exempt from CGST** . The same exemption applies under the KGST Act through the corresponding entry in Notification (12/2017) No. FD 48 CSL 2017 dated 29.06.2017.

R Reasoning

The authority held that the hospital, not the patient, is the recipient of the services under section 2(93)(a) of the CGST Act, because the hospital is liable to pay the consideration, whether or not it recovers the amount from patients. It found that the applicant sets up and operates laboratory and diagnostic infrastructure on hospital premises and so provides services rather than managing the hospital's establishment. Under clause (zg) of para 2 of Notification 12/2017-CT(Rate), diagnosis for illness is a health care service. Under clause (s) of para 2, a place established as an independent entity to carry out diagnostic services is a clinical establishment. A conjoint reading brought the services within entry 74, and the entry contains no recipient-based condition.

P Provisions Relied On

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

Section 97 and Section 98(4) of the CGST Act, 2017 and the KGST Act, 2017 (procedure for advance ruling)

Section 2(93) of the CGST Act, 2017 (definition of recipient)

Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, entry 74 (Heading 9993)

Clause (zg) of para 2 of Notification No. 12/2017-Central Tax (Rate) (definition of health care services)

Clause (s) of para 2 of Notification No. 12/2017-Central Tax (Rate) (definition of clinical establishment)

Notification (12/2017) No. FD 48 CSL 2017 dated 29.06.2017 (Karnataka state exemption)

! For the Practitioner

This ruling helps diagnostic and laboratory service providers that operate inside government or other hospitals under contract, since it treats the hospital as the recipient and applies the entry 74 exemption without a recipient condition. It settles that operating diagnostic services as an independent entity or part of an establishment can make the provider a clinical establishment. It does not decide the treatment of input tax credit, the rate position for services outside entry 74, or the position where the provider has no premises or the services are not diagnostic. Practitioners should check the full order before applying it to different facts.

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 -> kar_aar_105_2019_30.09.2019_misipl.pdf

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