Terna Public Charitable Trust

Authority for Advance Ruling — Maharashtra

GST-ARA-135/2018-19/B-55, Mumbai, dated 21.05.2019 (Maharashtra Aut… Dated **21.05.2019**

Q Questions Before the Authority

- Whether the supply of medicines, surgical items, implants, consumables and other allied items provided by the hospital through the hospital-owned pharmacy, as well as food and room on rent, to in-patients is part of a composite supply of health care treatment and hence not taxable under CGST/SGST?
- Whether the supply of medicines, surgical items, implants, consumables and other allied items provided by the hospital through the hospital-owned pharmacy to out-patients is part of a composite supply of health care treatment and hence not taxable under CGST/SGST?

F Facts

The applicant runs a hospital and research centre at Nerul, Navi Mumbai, and owns a pharmacy within it. In-patients receive medicines, consumables, implants, dietary food and a room on rent, and the applicant does not charge GST on these, while out-patients and a few walk-in customers buy medicines from the pharmacy on prescription and are charged GST. The jurisdictional officer contended that the hospital and pharmacy are separate business verticals and that out-patient pharmacy sales are ordinary taxable supplies of goods.

H Ruling

Q1: Medicines, surgical items, implants, consumables and allied items supplied through the hospital pharmacy, plus food and room rent, to in-patients	**Yes. Part of composite supply of health care; not taxable under CGST/SGST**	The order treats the hospital as a clinical establishment and relies on Sr. No. 74 of Notification No. 12/2017-CT(Rate). No rate or HSN is stated because the answer is an exemption.
Q2: Medicines, surgical items, implants, consumables and allied items supplied through the hospital pharmacy to out-patients	**No. Not part of composite supply of health care; taxable under CGST/SGST**	The exemption covers health services only up to the prescription. Once the patient buys from the in-house pharmacy, the sale is taxable, as with any retail pharmacy. No rate or HSN is stated in the order.

The Authority held that in-patient supplies of medicines and allied items, food and room rent form a composite supply of health care and are not taxable. It held that out-patient supplies through the hospital pharmacy are not part of that composite supply and are taxable under CGST/SGST, because the exemption ends at the point of prescription and the pharmacy sale is a separate sale of goods. The order also applies the same reasoning to walk-in and outside-prescription sales.

R Reasoning

The Authority found the hospital to be a clinical establishment whose health services are exempt under Sr. No. 74, heading 9993, of Notification No. 12/2017-CT(Rate). It treated in-patient medicines, food and room rent as

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

naturally bundled with treatment, relying on Circular No. 27/01/2018-GST dated 04.01.2018 for room rent and on the 25th GST Council clarification (F.No.354/17/2018-TRU dated 12.02.2018) for food. For out-patients, it compared the hospital to a medical practitioner who prescribes, holding that the exempt service ends at the prescription. Because patients may buy from any pharmacy, the in-house pharmacy sale is a separate supply of goods and fails the composite-supply test. The Authority applied the 25th Council clarification by analogy to hold that other supplies to non-in-patients are taxable. The Kerala AAR rulings cited by the applicant are recorded in the submissions, but the order does not discuss them.

P Provisions Relied On

- Sections 97 and 98 of the CGST Act, 2017 and the MGST Act, 2017
- Notification No. 12/2017-CT(Rate) dated 28.06.2017, Sr. No. 74, heading 9993, and its definition of 'clinical establishment'
- Circular No. 27/01/2018-GST dated 04.01.2018 (room rent in hospitals exempt)
- Clarification following the 25th GST Council meeting, F.No.354/17/2018-TRU dated 12.02.2018 (food supplied to in-patients e…
- Composite supply principle, applied by analogy from the Council clarification

! For the Practitioner

This order helps hospitals show that in-patient pharmacy supplies, food and room rent bundled with treatment fall within the health-care exemption. It also settles that out-patient and walk-in pharmacy sales in a hospital are taxable. It does not decide the rate or HSN for those taxable pharmacy sales, and it does not address hospitals whose pharmacy is run by a separate entity. The reasoning rests on the facts that the pharmacy sells on prescription to anyone and that patients can buy elsewhere, so a different arrangement may produce a different result.

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 135 2018-19 tpct 21.05.19.pdf

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