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	RAJASTHAN **AUTHORITY FOR ADVANCE RULING** **GOODS AND SERVICES TAX** **KAR BHAWAN, AMBEDKAR CIRCLE, NEAR** **RAJASTHAN HIGH COURT** **JAIPUR – 302005 (RAJASTHAN)**

ADVANCE RULING NO. RAJ/AAR/2023-24/02

Umesh Kumar Garg Joint Commissioner	:	Member (Central Tax)
Mahesh Kumar Gowla Additional Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s Innovations Mediresearch Private Limited,B-1 Ashadeep Enclave-A, Near Akshyapatra Jaipur, 302025, Rajasthan
GSTIN of the applicant		08AADCI2651K1ZH
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:	(b) applicability of a notification issued under the provisions of this Act; (e) determination of the liability to pay tax on any goods or services or both; (g) whether any particular thing done by the applicant with respect to any goodsor services or both amounts to or results in a supply of goods or services or both,within the meaning of that term
Date of Personal Hearing	:	03.02.2023
Present for the applicant	:	Sh. Yash Dhadda,C.A & Miss Shaifali Bang
Date of Ruling	:	25.04.2023

Note: Under Section 100 of the CGST/RGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/RGST Act, 2017, within a period of 30 days from the date of service of this order.

At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".

The issue raised by M/s Innovations Medi research Private Limited, B-1 Ashadeep Enclave-A, Near Akshyapatra Jaipur, 302025, Rajasthan (hereinafter referred to as "applicant") GSTIN 08AADCI2651K1ZH. Applicant is registered as registered under Companies Act, 2013 located in the state of Rajasthan. A unit of the applicant is providing treatment to the patients suffering from Cancer under the name of Asian Cancer Hospital located a B-1, Ashadeep Enclave–A, opposite Ashadeep Green Avenue, Nilay Kunj Road, Jagatpura, Jaipur in the state of Rajasthan. The question raised by applicant in respect of a patient who is admitted in the hospitaland is treated as inpatient is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (b), (e) & (g)given as under:

(b) applicability of a notification issued under the provisions of this Act;

(e) determination of the liability to pay tax on any goods or services or both;

(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both,within the meaning of that term;

A. <u>SUBMISSION OF THE APPLICANT:</u>(in brief)

1. M/s Innovations Medi-research Private Limited (hereinafter referred to as "applicant") registered under Companies Act, 2013 located in the state of Rajasthan.
2. The applicant is established with the objects to establish, maintain and provide research & development facilities in medical science, client's clinical trial processes, experienced physicians and coordinators across India, clinical trial, management expertise, medical consultancy, medical awareness programme on site or off site services, provide clinical research in all field of medical and work in the field of medical as consultants, associates, researcher and so on and to acquire, establish and maintain one or more hospital/hospitals for the reception and treatment of persons suffering from illness or mental defect or for reception and treatment of persons during convalescence or of persons requiring medicinal attention or rehabilitation, solely for philanthropic purposes and not for purposes of profit and to provide medical relief to the public in all branches of medical sciences by all available means and to set up hospitals, nursing homes and healthcare centres and provide, encourage, initiate or promote facilities for the discovery, 'Improvement or development of new methods of diagnosis, understanding and prevention and treatment of diseases.

3. That, a unit of the applicant is providing treatment to the patients suffering from Cancer under the name of Asian Cancer Hospital located a B-1, Ashadeep Enclave–A, opposite Ashadeep Green Avenue, Nilay Kunj Road, Jagatpura, Jaipur in the state of Rajasthan.

4. That currently the applicant is involved in providing Inpatient and Outpatient Facility. A patient is treated as inpatient where he is admitted to the hospital, whereas a patient is treated as outpatient where the patient is not admitted.

5. That the process of treatment of patients as Inpatient by the applicant is carried out in as following:
   i. Patient visits as outpatient for consultancy or under emergency
      - Patients either visit as outpatients for consultancy or due to emergency, wherein they consult the doctor who diagnoses the ailment on basis of various test reports and advises the treatment

accordingly. The treatment may require the patient to be admitted and treated as Inpatient. This is a scenario where an outpatient converts into an Inpatient.

ii. Treatment as Inpatient

- The patients undergo an admission process and shifted to a ward/room, where they are provided nursing care and treatment.
- The patients are given required medicines as prescribed by the doctors during his treatment. A Vital Chart of the in-patient is also maintained where details like BP, pulse, SPO2, temperature, RR are captured. The patient is visited by the doctor who assesses and review the medicines being given to the patient. A follow up sheet is maintained for all inpatients wherein details of their clinical finding and treatment advised is maintained. A specimen patient's Vital Chart and Follow up Chart has been annexed as specimen and marked as Annexure 3.
- The patients also undergo procedures such as chemotherapy during their treatment.

iii. Discharge and Billing

- The patients are discharged after the treatment is over. A Discharge Summary is generated at the time of discharge of the patient's containing details like diagnosis, clinical history, vitals, treatment given, medication advised, etc.
- Further, the patient are billed for the full treatment that they have been provided end to end which includes consultation, medicines and other procedures that are provided during the treatment.

B Interpretation and understanding of applicant on question rose (in Brief)

The applicant submitted his interpretation which is under-

1. That according to the charging provision of the CGST/ SGST Act 2017 i.e. Section 9,there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both except the exclusions mentioned therein at such rates as may be notified.

2. That the said tax rates have been notified separately for supply of goods and supply of services.

3. The term "goods" and "services" have been defined under the Act under section 2(52) and 2(102) as under:

   (52) "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

(102) "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

4. That section 7 of the CGST Act lays down the scope of supply and same is reproduced as under

SECTION 7. Scope of supply. — (1) For the purposes of this Act, the expression "supply" includes —

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration.
Explanation.—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;]
(b) import of services for a consideration whether or not in the course or furtherance of business;
(c) the activities specified in Schedule I, made or agreed to be made without a consideration

[(1A) Where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.]

5. That as per Section 2(30) composite supply is defined as

(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;

(90) "principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

6. That as per Section 8 - Tax liability on composite and mixed supplies

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

7. That exemptions under supply of service for healthcare services has been given under Entry 74 (a) of the notification no. 12/2017 CGST Rate dated 28-06-2017 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.

8. That as per definitions in notification no. 12/2017 CGST Rate dated 28-06-2017, "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;
9. That as per definitions in notification no. 12/2017 CGST Rate dated 28-06-2017, "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;
10. That on basis of above legal provisions it is explained that levy of Goods and Services Tax which has been implemented in India, is governed by Section 9 of the CGST Act 2017 and SGST Act 2017 (hereinafter together known as "GST Act(s)) which lays its thrust upon supply of goods or services. The ingredients of a supply under the GST Act(s) have been enumerated under Section 7 of the Act(s) which has essentially four elements i.e.
    a) A Supply (Generic)
    b) Of Goods or Services
    c) For Consideration
    d) In course of or furtherance of business

11. That in the absence of any of these elements, the transaction falls beyond the scope of supply as given under the GST Act(s) and hence in such a case, the levy of tax would not be attracted. In the given scenario, on perusal of fact, it is evident that all the four elements as specified above are available to qualify the treatment of cancer Patients by the applicant as a supply.

12. That, in continuation of above, the subsequent issue for determination is whether this transaction is an individual supply of service or goods or both or whether it's a composite supply. A Composite Supply, from its definition under the Act(s) has following elements:

   a) a supply made by a taxable person to a recipient
   b) consisting of two or more taxable supplies of goods or services or both, or any combination thereof,
   c) which are naturally bundled and supplied in conjunction with each other
   d) in the ordinary course of business
   e) And one of which is a principal supply.

13. That in treatment of an inpatient, the procedure is a chronological combination of the following services:

   a) Consultancy and examination
   b) Dispensing of Medicine as prescribed by doctor
   c) Providing other procedures such as Chemotherapy

14. That for a supply to become a composite supply, there must be minimum two independent supplies being made together and one of them being a principal supply which is dominant over other supplies and such other supplies are incidental or ancillary to it.

15. That in the above treatment of cancer inpatients, consultation and examination of the patient by a doctor is pivotal and other elements like dispensing of medicine and other procedures are integral part of the said treatment.

16. That it requires determination if dispensing of medicine is a separate activity or integral part of the treatment / medical services to be given by the applicant through its doctor. The applicant is providing treatment to the inpatients including all required medicines and other supplies for a consolidated amount. In such cases the combination of goods and/or services included in the supply are naturally bundled in the ordinary course of business. Thus, it is a composite supply of which the principal supply is health care services and the other supplies are only incidental or ancillary to the supply of health care services.

17. That, based on above paras, it can be clearly said that the supply of medicine and other procedures by the applicant to inpatients is a part of treatment and cannot be detached or taken up independently from the examination of the patient. Thus in our opinion, the given chronological activities of treatment of inpatients cannot be segregated as separate or independent activities and should be treated as part and parcel of the treatment being provided to inpatients by the applicant.

18. That it given juncture, it is relevant to pin point that to qualify any supply as composite, one element has to be principal supply and other has to be ancillary. The dictionary meaning of the term ancillary is "aiding, or a proceeding attendant upon or aids another proceeding considered as principal". However in given case, as already explained all activities are essential elements but no activity is predominant to other.

19. That rather, the dictionary meaning of term "Integral" is essential part or inseparable. In given case as all activities as mentioned above are essential, hence it can be said that they are "integral" to the process of treating inpatients and hence is one single unified supply.

20. That thus there is no supply of goods in the given transaction but rather same is an integral part of the supply of treatment of inpatients by the applicant. The similar view has been held in case of Card Protection Plan Ltd v. Commissioners of Customs and Excise [2012] 22 taxmann.com 176 (ECJ)

    Two or more acts to be regarded as a single supply if they are so closely linked that they form a single indivisible economic supply: Where a transaction comprises a bundle of features and acts, then, whether it constitutes one single supply, or, two or more supplies should be determined taking into account the facts and circumstances of the case. There may be a single supply where some element(s) constitute the 'principal' supply, while others are 'ancillary'. Further, if two or more elements or acts supplied by the taxable person to the customer are so closely linked that they form, objectively, a single, indivisible economic supply, which it would be artificial to split, then, all those elements would constitute a 'single supply' for the levy of tax. The fact that a single price is charged for all elements is not conclusive. [Para 18]

21. That similarly in case of LevobVerzekeringen BV and OV Bank NV v Secretary of State for Finance, Netherlands* [2012] 22 taxmann.com 174 (ECJ)it was held

    Service - Definition of - Under a single contract, basic software supplied, customization carried out and training provided by same supplier - prices were stipulated separately - Department contended that whole transaction amounted to 'supply of service' liable to service tax - HELD : All such elements were so closely linked that they constituted a single indivisible economic transaction. Separate pricing was not relevant. Predominant element was customization as only customization would make the software useful to consumer and price thereof was also higher. Since service element viz., customization was predominant, whole contract constituted a 'single supply of service' and was liable to service tax [In favor of revenue]

    Specified descriptions of services or Bundled Service - Principles of Interpretations - Combining various elements into single transaction - If two or more elements are so closely linked that they form a single indivisible economic supply, which can be split only artificially, all those elements constitute a 'single supply' [In favour of revenue]

    Service - Definition of - Predominant element determines classification - If predominant element is service, then, whole transaction amounts to 'service' even if element of goods is also involved - Predominance is to be determined considering extent, duration, usefulness and cost of various elements, economic essence and intention of parties [In favour of Revenue]

22. That in pre GST regime in case of M/s. Fortis Health Care Ltd. and Another v. State of Punjab and Others [2016 (Vol. 61) NTN 122]the matter was decided by the Hon'ble Punjab and Haryana High Court where it was held that

"The petitioners are business entities that run hospitals in the private sector and provide medical care, but at a price. One may disagree with the commercialization of medical services or the exorbitant prices charged but these facts are irrelevant as there is no denying the fact that the petitioners provide all types of medical services, that include surgical procedures which require administering drugs and may involve installing stents, implants etc. as an essential part of such procedures, like open heart surgery, angiography, knee surgery, hip replacement etc.

"A medical procedure commences with a patient visiting a hospital to elicit a doctor's opinion regarding his medical condition and in case he requires a medical procedure, information regarding the particulars of the procedure and the cost. The patient is, thereafter, informed of the particulars of the medical procedure, the drugs, implants, stents etc. that are required for his treatment/medical procedure and the cost. The patient accepts the offer and opts for a particular procedure. Once having opted for a particular procedure, the choice of the drugs, implants, stents etc. would depend upon medical advice and only where, medically permissible, the choice of the patient. The question posed before us would, therefore, have to be further refined, namely, whether a medical procedure can be severed into separate elements of service and sale with service being the medical advice and medical procedure and the sale being the supply of medicines, surgical items, implants, to patients whether as part of a package or to an individual patient?

"We therefore, have no hesitation in holding that medical procedures/services offered by the petitioners are a service. The supply of drugs, medicines, implant, stents, valves and other implants are integral to a medical services/procedures and cannot be severed to infer a sale as defined under the Punjab or the Haryana Act and therefore, are not eligible to value added tax." [Emphasis supplied]

23. That in an advance ruling with similar facts of Malankara Orthodox Syrian Church Medical Mission Hospital, reported in 2021 (53) G.S.T.L. 434 (A.A.R. - GST - Ker.)

24. In re, it was held that

"The first question raised by the applicant is regarding the GST liability in respect of the supply of medicines, implants and other items to patients undergoing treatment as inpatients in different situations. In the situation specified in Question 1.1 above the applicant is offering a package to the inpatients covering the treatment including all required medicines and other supplies for a consolidated amount that is prefixed. In such cases the combination of goods and/or services included in the supply are naturally bundled in the ordinary course of business and hence it is a composite supply of which the principal supply is health care services and the other supplies are only incidental or ancillary to the supply of health care services. Therefore, the supply of medicines, implants, and other items to the inpatients admitted to the hospital for treatment as per the package offered by the applicant is a composite supply where the principal supply is health care services falling under SAC 999311 which is exempted as per entry at Sl. No. 74 of Notification No. 12/2017 Central Tax (Rate), dated 28-6-2017."

25. That in case of St Thomas Hospital reported in 2021(52)GSTL474 (AAR-GST-Ker) on similar set of facts it was held by the AAR Authority

Healthcare services to inpatients - Composite Supply - Supply of medicines, surgical items, implants, stents and other consumables to inpatients - HELD : Assessee, clinical establishment as defined in Para 2(s) of Notification No. 12/2017-C.T. (Rate) - Medicines, implants and consumables supplied in course of providing treatment to patients admitted in hospital, integral part of healthcare service extended to patient - Hence, supplies made in course of providing treatment to patients admitted in hospital undoubtedly naturally bundled in ordinary course of business - Principal supply i.e. healthcare service is predominant element of composite supply and other supplies such as room, medicines, implants, consumables and incidental or ancillary to predominant supply - These goods supplied to inpatients, component of composite supply, where principal supply i.e. healthcare services falling under SAC 9993 11, exempted as per entry at Sl. No. 74 of Notification No. 12/2017-C.T. (Rate) - Section 2(30) of Central Goods and Services Tax Act, 2017. - The patients admitted to a hospital for treatment expect that proper diagnosis of the disease is made and treatment including appropriate medicines, surgical procedures if necessary, consumables and implants required along with proper diet is administered to them in the most efficient manner so that they can regain their health within the shortest possible time and resume their activities. [paras 8.7, 8.8, 8.9]

26. That in case of KIMS Health Care Management Ltd reported in 2018 (18) GSTL 831 (AAR GST) it was held by the AAR authority that

Composite supply - Health care services - Medicines, consumables and implants used in the course of providing health care services to in-patients for diagnosis or treatment hospital or clinical establishment - Indispensable items of treatment and naturally bundled in ordinary course of business with health care services - Clarification in C.B.I. & C. Circular No. 27/01/2018-GST, dated 4-1-2018 that room rent in hospital is exempted - Also clarifications issued based on approval of 25th GST Council Meeting [F. No. 354/17/2018-TRU, dated 12-2-2018] that food supplied to inpatients as advised by doctor/nutritionist part of composite supply of health care and not separately taxable - Same principle applicable in case of dispensing of medicine also - Said supplies amounted to composite supply and eligible for exemption under category "health care services". - Nature of the various services in a bundle of services will help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and other services combined with such service are in the nature of incidental or ancillary services which help in better utility of main service then the various elements of the service are said to be naturally bundled in the ordinary course of business. [paras 5, 6, 7, 8, 9]

27. That from above we it is evident that the activities as mentioned in the facts are integrated to provide the services of treatment to the patients and there is no supply of goods i.e. medicine independently in given case.

28. That further for qualifying exemption under entry no. 74 of the notification no. 12 CGST Rate dated 28-06-2017. the following conditions are requiredto be satisfied:
    a) Healthcare service shall be provided
    b) Healthcare service shall be provided by a clinical establishment, an authorised medical practitioner or para-medics

29. The term "health care services" is defined in Para 2(zg) of Notification No. 12/2017 Central Tax (Rate), dated 28-6-2017 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.

30. The term "clinical establishment" is defined in Para 2(s) of the Notification No. 12/2017 Central Tax (Rate), dated 28-6-2017 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 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.

31. That, there is no ambiguity in the fact that the whole process of examination of cancer patients is a treatment which is based on allopathic science of medicine.

32. That whether allopathy is recognized system of medicine in India or not was answered in erstwhile Education Guide issued by CBEC on 1-7-2012 when negative list was implemented under the Service Tax Regime. The question asked and answer to same which is relevant for the query in hand is reproduced

    7.2.1 Are all health care services exempt?

    No. only services in recognized systems of medicines in India are exempt. In terms of the Clause (h) of Section 2 of the Clinical Establishments Act, 2010, the following systems of medicine are recognized systems of medicines:

    - Allopathy
    - Yoga
    - Naturopathy
    - Ayurveda
    - Homeopathy
    - Siddha

- Unani
- Any other system of medicine that may be recognized by central government

33. That further, the Explanatory Notes to the Scheme of Classification of Services under GST pertaining to Health Care services is reproduced below:
SAC 9993 Human Health and Social Care Services
99931 - Human Health Services
999311 - Inpatient services
This service code includes:
a. Surgical services delivered under the direction of medical doctors to inpatients, aimed at curing, restoring and/or maintaining the health of a patient.
b. 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.
c. Psychiatric services delivered under the direction of medical doctors to inpatients, aimed at curing, restoring and/or maintaining the health of a patient.
d. 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 falling under SAC 999311 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.

34. That on perusal of above it is evident that activity of treating inpatients qualifies as Health Care service and thus is covered under its definition as given in para (zg) of notification no. 12 CGST Rate dated 28-06-2017.

35. That, the second condition that is required to be satisfied to fall under entry no. 74 of the said notification is that the Health Care services shall be provided by a clinical establishment as defined in para 2(s) of the Notification No. 12/2017 Central Tax (Rate), dated 28-6-2017.

36. That Clinical establishment as defined in the said notification shall mean 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;

37. That there is no ambiguity in the fact that the applicant is a Clinical Establishment since it is registered under section 15 of Clinical Establishment (Registration and Regulation) Act, 2010 for providing medical Services as a Single Specialty under Allopathy System Of medicine.

38. That, the applicant is providing services of Treatment of patients suffering from Cancer specifically using Allopathy system of medicine., Allopathy is recognized systems of medicines in India as per Clause (h) of Section 2 of the Clinical Establishments Act, 2010.

39. That based on above paras, it is understood that the Asian Cancer Hospital is providing Health care services through a Clinical Establishment as defined in para 2(s) of the Notification No. 12/2017 Central Tax (Rate), dated 28-6-2017. The Clinic run by the applicant are very well recognized by the government itself as clinical establishments.

40. That the treatment being provided to inpatients is a single supply and that supply of medicines to the patients is a part of the treatment, hence shall not be taxable as a different Supply. The supply of medicine cannot be treated as a separate supply of medicine.

41. That the applicant qualifies is providing Health care services through a Clinical Establishment which is exempt under entry no. 74(a) of the Notification No. 12/2017 Central Tax (Rate), dated 28-6-2017.

42. Thus, the treatment being provided by the applicant to inpatients is very well covered under entry no. 74(a) of the Notification No. 12/2017 Central Tax (Rate), dated 28-6-2017 and exempt from GST liability.

C QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT: -

1. Whether the supply of medicines and other procedures during treatment in patients admitted to hospital is a composite supply?

2. Whether supply of medicines and other procedures to inpatients admitted to hospital for treatment is a composite supply where principal supply is health care services falling under SAC 999311 which is exempted as per entry at Sl. No. 74 of Notification No. 1212017 - Central Tax dated 28-6-2017

D. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 03.02.2023. Sh. Yash Dhadda,C.A & Miss Shaifali Bang, Authorized Representatives appeared for personal hearing. They reiterated the submission already made in written submission. He requested for early disposal of the application.

E. COMMENTS OF THE JURISDICTIONAL OFFICER

The jurisdictional officer, Deputy Commissioner, Circle I, Zone Jaipur II, Jaipur reported vide his letter GST/I/JPR-2/2022-23that supply of medicine and other procedure by the applicant to cancer in patient is part of treatment and cannot be detached or taken up independently from the examination of patient making it a composite supply.

F. **FINDINGS, ANALYSIS & CONCLUSION:**

At the outset we would like to make it clear that the provisions of CGST Act and RGST Act are in parimateria and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the RGST Act

1) We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, oral and written submissions made at the time of hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts. We would like to discuss the submission made by applicant and will take up the above question for discussion one by one.

2) The applicant M/s Innovations Medi-research Private Limited (hereinafter referred to as "applicant") registered under Companies Act, 2013 located in the state of Rajasthan. Applicant have one unit M/s Asian Cancer Hospital located a B-1, Ashadeep Enclave–A, opposite Ashadeep Green Avenue, Nilay Kunj Road, Jagatpura, Jaipur in the state of Rajasthan which is providing treatment to the patients suffering from Cancer. Applicant submitted provisional registration certificate issued under section 15 of The Clinical Establishment (Registration and Regulation) Act, 2010.

3) The applicant submitted that the unit of applicant i.e M/s Asian Cancer Hospital, is providing Treatment of patients suffering from Cancer. The applicant is involved in providing Outpatient Facility also and after examination patient is admitted. The applicant has asked the advance ruling in respect of treatment of in patient inM/s Asian Cancer Hospital.

4) The applicant further submitted that the patients undergo an admission process and shifted to a ward/room, where they are provided nursing care and treatment where the patients are given required medicines as prescribed by the doctors during his treatment. A Vital Chart of the in-patient is also maintained where details like BP, pulse, SPO2, temperature, RR are captured. The patient is visited by the doctor who assesses and review the medicines being given to the patient. A follow up sheet is maintained for all inpatients wherein details of their clinical finding and treatment advised is maintained. The patients also undergo procedures such as chemotherapy during their treatment.

5) Applicant submitted that the patients are discharged after the treatment is over. A Discharge Summary is generated at the time of discharge of the patients' containing details like diagnosis, clinical history, vitals, treatment given, medication advised, etc. Further, the patient is billed for the full treatment that they have been provided end to end which includes consultation, medicines and other procedures that are provided

during the treatment. Applicant have submitted specimen documents in support of his claim. We undergone the documents and found them in accordance with the submission of applicant.

6.1) We observes that the main issue is to determine Whether the supply of medicines and other procedures during treatment inpatients admitted to hospital is a composite supply and if so than Whether this is exempt as per entry at Sl. No. 74 of Notification No. 1212017 - Central Tax dated 28-6-2017 as principal supply is health care services falling under SAC 999311 which is exempted as per entry at Sl. No. 74 of Notification No. 1212017 - Central Tax dated 28-6-2017

6.2) So, we observe that there is no dispute that treatment of cancer Patients by the applicant is supply Sec. 7(1) of CGST Act, 2017 and falls under the ambit of GSThealth care services falling under SAC 999311.

6.3) The applicant supply of medicines and other procedures to inpatients admitted to hospital during treatment. Thus, applicant is involved in supply of service as well supply of goods i.e medicine along with taxable as well as exempt supply.

7) Now we would like to examinenext, whether the supply made by applicant is exempt under entry 74(a) of notification no. 12/2017 CGST Rate dated 28-06-2017 and whether this is composite supply or not.

7.1)The relevant portion of Notification no. 12/2017 CGST Rate dated 28-06-2017 as amended is as under-:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
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

7.2) before moving forward, we would like to analysis certain terms i.e "authorised medical practitioner", "clinical establishment", and "health care services" in light of above said notification.

As per notification- **2(k) "authorised medical practitioner"** means a medical practitioner registered with any of the councils of the recognised system of medicines established or recognised by law in India and includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force;

2(s) "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;

2(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;

Thus, we observe that treatment of cancer inpatient in hospital is healthcare service and which is exempt under Notification no 12/2017 dated 28.06.2017

7.3)As per Section 2(30) of CGST Act, 2017, defines "Composite supply" as supply 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. Healthcare service is exempt from GST Tax Whereas supply of medicines and other services i.e room charges etc.are taxable

7.4) We would like to discuss whether the supply by applicant is composite or not, considering Law as well as various rulings pronounced by advance appellate authorities.

However, we observe that the judicial pronouncements of various judicial authority referred by applicant apart from AAR rulings are pre-GST era and applicant use portion of said pronouncements as per his suit will and none of pronouncement submitted by applicant in his favours squarely covers the present question of law in respect of applicability of GST.

7.5) We find that C.B.I. & C has clarified vide Circular No. 27/01/2018-GST, dated 4-1-2018 that room rent in hospital is exempted. Further clarifications vide circular No.32/06/2018-GST, (F.No.354/ 17/2018 TRU Dt. 12.02.2018)issued based on the approval of 25th GST Council Meeting held on 18.01.2018, it was clarified that 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.

7.6) In light of definitions as discussed above and clarification circulars on room rent and food supply by hospital to in-patients, we held that same principle should be applicable in case of dispensing of medicine to in- patient. We observe that the said supplies amounted to composite supply and eligible for exemption under category "health care services". Nature of the various services in a bundle of services will help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and other services combined with such service are incidental or ancillary services which help in better utility of main service then the various elements of the service are said to be naturally bundled in the ordinary course of business.

7.7)we also find that various the Authority of Advance Ruling passed ruling that the supply of medicines and allied items provided by the hospital through the pharmacy to the in-patients is part of composite supply of health care treatment and hence not separately taxable. We have gone through the rulings in the subject matter passed by (i)Keralavides Advance Ruling No AAR No. KER/16/2018, dated: 19.09.2018 in the case of ERNAKULAM MEDICAL CENTRE PVT. LTD, (ii) AAR GOA vide AAR No. GOA/GAAR/6/201 8-19, Dated 22.01.19in the case of Alcon Resort Holdings Pvt. Ltd,(iii) M.P AAR Order No./date/State: NO. 01/19-20 Dated 21.01.2019J C Genetic India Private Limited &Other references similar to the case: M/s. CMC Vellore Association (Tamil Nadu AAR), TN/50/AAR/2019 DATED 25.11.2019, M/s. Shifa Hospitals (Tamil Nadu AAR)– TN/42/AAR/2019 dated 23.09.2019, KIMS Health Care Management Ltd (AAR-KERALA), Terna Public Charitable Trust (Maharashtra AAR) GST-ARA- 135/2018-19/B- 55 Mumbai dated 21.05.2019, M/s. Rajagiri Healthcare & Education Trust, KER/ 24 /2018 Dt.06.10.2018 etc.

We also gone through the cases cited by applicant which are Malankara Orthodox Syrian Church Medical Mission Hospital, reported in 2021 (53) G.S.T.L. 434 (A.A.R. - GST - Ker.)

case of St Thomas Hospital reported in 2021(52) GSTL474 (AAR-GST-Ker)KIMS Health Care Management Ltd reported in 2018 (18) GSTL 831 (AAR GST).

7.8) Thus, we understood that the supply to the in-patients by the hospitals, as advised by the doctor may be a part of composite supply of healthcare and not separately taxable. supplies made in course of providing treatment to patients admitted in hospital undoubtedly naturally bundled in ordinary course of business. Principal supply i.e. healthcare service is predominant element of composite supply and other supplies such as room, medicines, implants, consumables and incidental or ancillary to predominant supply. These goods supplied to inpatients, component of composite supply, where principal supply i.e. healthcare services falling under SAC 9993 11, exempted as per entry at Sl. No. 74 of Notification No. 12/2017-C.T. (Rate)

6.6) Thus considering definition of **health care services as narrated in** Notification no. 12/2017 CGST Rate dated 28-06-2017 as amended, and above discussion we held that These goods supplied to inpatients, component of composite supply, where principal supply i.e. healthcare services falling under SAC 9993 11, exempted as per entry at Sl. No. 74 of Notification No. 12/2017-C.T. (Rate).

In view of the foregoing, we rule as follows: -

RULING

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Rajasthan Goods and Services Tax Act, 2017)

- Q.1 Whether the supply of medicines and other procedures during treatment inpatients admitted to hospital is a composite supply?
- Ans-**1 Yes**
- Q-2 Whether supply of medicines and other procedures to inpatients admitted to hospital for treatment is a composite supply, where principal supply is health

care services falling under SAC 999311, which is exempted as per entry at Sl. No. 74 of Notification No. 1212017 - Central Tax dated 28-6-2017?

Ans-2. **Yes**

25/4/23

(Umesh Kumar Garg)
MEMBER
CENTRAL TAX

25/04/2023

(Mahesh Kumar Gowla)
MEMBER
STATE TAX

SPEED POST

M/s Innovations Mediresearch Private Limited, B-1 Ashadeep Enclave-A, Near Akshyapatra Jaipur, 302025, Rajasthan

F. No. AAR/SF/2023-24/ 18-22 O/C Date: 27.04.2023

Copy to: -

1. The Chief Commissioner, CGST and central Excise, (Jaipur Zone), NCRB, Statue Circle, Jaipur, Rajasthan 302005
2. The Chief Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
3. The Pr.Commissioner, CGST and Central Excise Commissionerate Jaipur, Rajasthan.
4. The Dy. Commissioner, State Tax, Circle-I, Zone-II, Divisional Kar Bhawan, Jhalana Dungri Jaipur.