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GST Exemption on Healthcare Services Available Even When Rendered Through Another Hospital Under Revenue-Sharing Arrangement

The Hon'ble Karnataka High Court in *Healthcare Global Enterprises Ltd. v. Assistant Commissioner of Commercial Taxes [Writ Petition No. 22236 of 2023 dated April 30, 2026]* quashed the Show Cause Notices issued under Section 73 of the CGST Act, 2017 seeking to tax the services rendered by the Petitioner under SAC 9985 as "Support Services" at 18% GST, and held that the benefit of exemption under Sl. No. 74 – Heading 9993 of **Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017**, which unconditionally exempts healthcare services from payment of GST, will be available even when the services are provided by a hospital/clinic to the patient through another hospital/clinic under a revenue-sharing arrangement.

Facts:

Healthcare Global Enterprises Ltd. ("**the Petitioner**") is a public limited company and a clinical establishment registered under the Clinical Establishments (Registration and Regulation) Act, 2010, engaged in providing healthcare services, medical laboratory and diagnostic imaging services, etc. The Petitioner entered into a Medical Services Agreement dated July 10, 2017 with M/s Suchirayu Health Care Solutions Ltd. ("**SHCS**"), which operates a multi-specialty hospital at Hubli.

Under the Medical Services Agreement, the Petitioner deployed its team of doctors, specialists, technicians and para-medical staff to provide medical care to in-patients and out-patients at SHCS Hospital. In consideration of these services, the Petitioner was contractually entitled to receive 75% of the actual gross collections realised by SHCS from patients, which included revenue from medical services, investigations, diagnostics, surgical procedures, in-patient treatment, pharmacy revenue and allied services.

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The Revenue Department conducted an inspection and thereafter issued Show Cause Notices under Section 73 of the CGST/KGST Act, 2017 for the Financial Years 2017-18, 2018-19, 2019-20, 2020-21 and 2021-22, alleging that the services rendered by the Petitioner constituted taxable “Support Services” classifiable under SAC 9985 attracting GST at 18%, on the premise that the Petitioner was supplying skilled doctors and allied support services to SHCS in lieu of receiving 75% of SHCS’s gross patient revenue. Aggrieved, the Petitioner approached the Hon’ble High Court by way of writ petitions challenging the impugned Show Cause Notices.

Issue:

Whether the benefit of exemption under Sl. No. 74 – Heading 9993 of **Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017**, which unconditionally exempts healthcare services from payment of GST, is available even when the services are provided by the Petitioner to the patient through another hospital under a revenue-sharing arrangement, or whether the same is classifiable as “Support Services” under SAC 9985 attracting 18% GST?

Held:

The Hon’ble Karnataka High Court in **Writ Petition No. 22236 of 2023 c/w W.P. Nos. 23928 and 23931 of 2023** held as under:

- **Observed that**, the Petitioner and SHCS are both clinical establishments registered under the Clinical Establishments Act, 2010, and the Medical Services Agreement governs the services in question, the predominant nature of which is medical treatment rendered directly to patients through qualified doctors, specialists, technicians and para-medical staff.
- **Noted that**, Sl. No. 74 – Heading 9993 of **Notification No. 12/2017-CT (Rate) dated June 28, 2017** grants unconditional exemption to healthcare services provided by a clinical establishment, an authorised medical practitioner or para-medics, and CBIC’s

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Circular No. 32/6/2018-GST dated February 12, 2018 clarifies that services rendered by senior doctors, consultants and technicians engaged by hospitals, whether as employees or otherwise, are healthcare services exempt from GST, and that the entire amount charged from patients including the retention money and any portion shared with doctors is covered by the exemption.

- **Further noted that,** a conjoint reading of the Exemption Notification and the Circular reflects the clear legislative intent not to burden essential healthcare services with GST; classification must follow the substance of the transaction and once the substance is found to be healthcare services, classification as “Support Services” under SAC 9985 is misplaced and untenable.
- **Held that,** the Department cannot indirectly impose GST by treating the revenue-sharing arrangement between the Petitioner and SHCS as a taxable B2B transaction when the underlying service, i.e., medical services to patients, is exempt when viewed directly, as the exemption granted to a clinical establishment providing healthcare services cannot be nullified by misinterpreting contractual or revenue-sharing arrangements. Any contrary interpretation would result in an increased cost to the patient since the tax paid by the Petitioner would not be available as Input Tax Credit to SHCS (whose output services are also exempt under the same Notification).
- **Further held that,** the objection raised by the Revenue regarding availability of alternative remedy does not bar exercise of writ jurisdiction under Articles 226 and 227 of the Constitution of India where the foundational jurisdictional facts essential for issuance of the impugned Show Cause Notices are lacking.
- **Accordingly,** all three writ petitions were allowed and the impugned Show Cause Notices along with the Forms GST DRC-01 issued by the Department were quashed.

Our Comments:

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Sl. No. 74 of **Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017** (under Heading 9993) grants unconditional exemption from GST to (a) healthcare services provided by a clinical establishment, an authorised medical practitioner or para-medics, and (b) services by way of transportation of a patient in an ambulance. Paragraph 2(zg) of the said Notification defines “healthcare services” to mean 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, while Paragraph 2(s) defines “clinical establishment” broadly to include any hospital, nursing home, clinic or institution offering such services.

CBIC’s **Circular No. 32/6/2018-GST dated February 12, 2018** (issued pursuant to the 25th GST Council Meeting) further clarifies at Sl. No. 5 that services rendered by senior doctors, consultants and technicians hired by hospitals, whether as employees or otherwise, are healthcare services exempt under the said Notification, and that the entire amount charged by the hospital from patients—including the retention money and the fee/payments made to the doctors—is towards healthcare services and is exempt from GST.

The ruling is a welcome reaffirmation of the principle that classification under GST must follow the true substance and predominant character of the supply, and that the Revenue cannot indirectly tax a transaction when its underlying activity is statutorily exempt. By looking beyond the form of the revenue-sharing arrangement and examining the actual services rendered to patients, the Hon’ble High Court has plugged an attempt to artificially carve out a “business support service” limb from what is essentially an integrated supply of healthcare. This is consistent with the legislative policy of keeping essential medical treatment outside the GST net to preserve affordability for the end-patient.

A similar view was earlier taken by the Authority for Advance Ruling, Karnataka in **Re: Matrix Imaging Solutions India Pvt. Ltd. [KAR/AAR/105/2019-20 dated 30.09.2019]** and by the Authority for Advance Ruling, Kerala in **Re: Baby Memorial Hospital Ltd. [Advance Ruling No. KER/57/2019 dated 05.09.2019]**, wherein it was held that healthcare services provided

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through visiting consultants or under revenue-sharing arrangements with hospitals continue to qualify for exemption under Sl. No. 74 of *Notification No. 12/2017-CT(Rate)*. The Hon'ble Supreme Court in ***Government of Kerala v. Mother Superior Adoration Convent [2021 (376) ELT 242 (SC)]***, which was relied upon by the Hon'ble High Court, has also held that beneficial exemption notifications must be construed in a manner that gives full effect to their object, and any ambiguity in such construction must be resolved in favour of the assessee claiming exemption.

Healthcare service providers operating through O&M arrangements, management agreements or revenue-sharing models with partner hospitals or diagnostic centres may rely on this ruling to defend the exemption claimed under Sl. No. 74 of *Notification No. 12/2017-CT(Rate)*. However, taxpayers should ensure that the agreement, invoicing pattern and on-ground execution clearly demonstrate that medical treatment is being rendered directly to patients by qualified medical professionals, and that the consideration received is referable to such healthcare services and not to any independent administrative, manpower-supply or back-office activity, which may continue to attract GST in its own right.

It is also noteworthy that the Hon'ble High Court has reiterated that the existence of an alternative remedy under the statute is not an absolute bar to the maintainability of a writ petition, particularly where the impugned proceedings suffer from lack of jurisdictional facts or are contrary to a binding exemption notification and a CBIC clarificatory circular. This aligns with the principles laid down by the Hon'ble Supreme Court in ***Radha Krishan Industries v. State of Himachal Pradesh [Civil Appeal No. 1155 of 2021]*** and ***Magadh Sugar & Energy Ltd. v. State of Bihar [MANU/SC/0706/2021]***.

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