


<b>GUJARAT AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.</b>	
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**ADVANCE RULING NO. GUJ/GAAR/R/54/2021**  
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2021/AR/31)

**Date: 18-10-2021**

Name and address of the applicant	:	M/s. Divyajivan Healthcare LLP, 401-402, Jay Complex, Purvi Society, Hirabaug Circle, Varachha, Surat -395006.
GSTIN of the applicant	:	24AAPFD6306D1ZP
Date of application	:	01-09-21
Clause(s) of Section 97(2) of CGST/IGST Act, 2017, under which the question(s) raised.	:	(b)
Date of Personal Hearing	:	23-09-21
Present for the applicant	:	Shri Anish Goyal, CA

**BRIEF FACTS:**

M/s. Divyajivan Healthcare LPP, the applicant submits that it proposes to establish a multi-super speciality hospital and provide health care services to patients. The applicant devised a plan, namely “*Health Care Service (Diamond Plan)*” for providing health care services for next 20 years for which a lump-sum amount, say, Rs. 10 Lakhs will be charged. Under the plan the services will be provided to the family i.e., Member, Spouse & up to 2 children (age below 21 years). The applicant will also tie-up with other hospitals pan India from where the members can avail health care services.

2. The “*Health Care Service (Diamond Plan)*” of the applicant includes the following services:

- i. Hospitalization Benefits i.e., in-patient Service up to INR 10 Lakhs in a year
- ii. Compulsory Annual Preventive Health Check-up with 100+ test/investigation/consultations covered; which are tabulated as follows:

Blood Investigation:	Cardiac Investigation:	Other Investigation:	Specialist Consultants:
Complete Hemograms (28)	ECG	PFT	General Physician
Lipid Profile (8)	2D echo & colour Doppler	Audiometry	Dental Surgeon
Liver Function Test (11)	TMT	Fundoscopy – EYE	General Surgeon
Harmane & Vitamins (4)	Chest X-ray	Refractive Errors	Gynaecologist
Renal Function Test (8)	Sonography Abdomen & Pelvic		
Urine & Stool Examination (18)	BMD		

- iii. Advance Health Check-up services; which are Coronary Angiography, Cancer Markers, Endoscopy, MRI – Any one part, Mammography & PAP Smear, Sleep Study, Foot Scan and Naturopathy.
  - iv. Special health care treatments; which are Dental Treatment (Basic Dental Care or one implants per year if need arises), Skin care treatment (No cosmetic/beautification treatment cover), Adult Vaccination (with basic Vaccine Cost).
  - v. Privilege Cards benefits; which are Home Care Services, Priority OPD appointments in tie-up hospital, tele-medical guidance through application.
3. The applicant will digitalize the health records based on the above tests and treatments of the beneficiary members for their easy access and shall also provide regular reminders, updates and health education tips.
4. The applicant submits that the above-mentioned services which are provided by a clinical establishment or authorized medical practitioners are exempted from GST vide Sr. No. 74 of the of Notification No. 12/2017- Central Tax (Rate) dt. 28.06.2017, as follows:

*“G.S.R. 691(E) .- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-*

*Table*

<i>Sl. No.</i>	<i>Chapter, Section, Heading, Group or Service Code (Tariff)</i>	<i>Description of Services</i>	<i>Rate (per cent.)</i>	<i>Condition</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
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

4.1 The expressions, “authorised medical practitioner”, “clinical establishment”, “health Care Services”, has been defined in respective clause of definitions provided in Sr. No. 2 of the Notification No. 12/2017 – CT (Rate) dt.28.6.2017, as follows:

*(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;*

*(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;*

*(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;*

5. The applicant submits that the health care services provided by the applicant are in recognized systems of medicines in India which are exempted. In terms of the clause (h) of section 2 of the Clinical Establishments Act, 2010, the following systems of medicines are recognized systems of medicines, viz. Allopathy, Yoga, Naturopathy, Ayurveda, Homeopathy, Siddha, Unani and any other medicine recognized by Central Government. The applicant submits that it provides health care under the medicine system of Allopathy, that is the recognized systems of medicine in India.

6. The applicant submits that its services are covered under ‘health care services’ as the applicant would conduct preventive health check for the members. The designated partner of the applicant is Dr. Purshottam Govindbhai Karodia, who is an authorized medical practitioner. The copy of the certificate is enclosed as Annexure-D of the application. The applicant submits that its main component of service to be provided is by way of “diagnosis” inasmuch as Compulsory Annual Preventive Health Check-up of the person availing “Health Care Service (Diamond Plan)”, his / her spouse and two children would be carried out. Such Annual Preventive Health Check – up is not only helpful, but nowadays essential, for early diagnosis of illness. As already mentioned, such Annual Preventive Health Check – up will be carried out mainly in the Hospital of the Applicant or sometimes in other Hospitals, which qualifies as “Clinical Establishments”. Furthermore, such Annual Preventive Health Check – up will be carried out by the qualified allopathic medical practitioner / authorized medical practitioner. It is, therefore submitted that the service of Annual Preventive Health Check – up, proposed to be provided by the applicant is covered under “health care services by a clinical establishment, an authorized medical practitioner or para-medics” as provided under Sr. No. 74 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2021, as amended.

7. It is to further submit that in spite of regular Preventive Health Check-up, if the person availing “Health Care Service (Diamond Plan)”, or his / her spouse or any of his children out of two children falls ill, treatment or care for such illness would be provided by the qualified allopathic medical practitioner at Hospital of the Applicant or other Hospitals suggested by the Applicant. However, the person availing “Health Care Service (Diamond Plan)” cannot get treatment or care for illness at any Hospital of his / her choice. Obviously, the person availing “Health Care Service (Diamond Plan)” cannot claim any reimbursement from the Applicant for getting treatment or care for illness at any Hospital, other than the Hospital of the Applicant or the Hospital suggested by the Applicant, as granting of reimbursement to the person availing “Health Care Service (Diamond Plan)” is not at all envisaged. Thus, this component of service to be provided by the Applicant is also covered under the “health care services by a clinical establishment, an authorized medical practitioner or para-medics” as

provided under Sr. No. 74 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2021, as amended.

8. In light of the above provisions and reasoning given by the appellant, the Hon’ble Authority will appreciate that the applicant’s services are exempted. Thus, in light of the above interpretation of law, the applicant requests the Honorable Authority to take into consideration, facts of the application and relevant provisions of law and give an advance ruling that the applicant’s services fall under Sr. No. 74 of Not. No. 12/2017 – Central Tax (Rate) dt. 28.06.2017 and are exempted for Goods and Services Tax.

**9. Question on which Advance Ruling sought**

Whether lump-sum amount received for Health care Services to be provided for 20 years by the applicant as “Diamond Plan” is exempted from Goods and Services Tax as per Sr. No. 74 of Notification No. 12/2017- Central Tax.

**Personal Hearing**

10. Shri Anish Goyal, CA appeared for the hearing (virtual hearing) and reiterated the contents of the application.

**FINDINGS**

11. We have carefully considered all the submissions made by the applicant. At the outset, we would like to state that the provisions of both the CGST Act and the GGST 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 provisions under the GGST Act.

12. On careful consideration of the applicant’s submission, we find that the scope of supply of services by the applicant is ‘health care services’ by a clinical establishment and also that the applicant’s Partner Dr. P.G.Korodia is an authorised medical practitioner. We find the subject consideration is received for health care services. Further applicant’s tie up with the other hospital for diagnosis does not alter the scope of supply of health care services by the applicant to its service recipients.

13. Ere pronouncing the Ruling, we find it apt to reproduce the relevant excerpts of the CBIC Circular No. 32/06/2018-GST, dated 12-2-2018, as follows:

5.	<i>Is GST leviable in following cases :</i>  <i>(1)Hospitals hire senior doctors/consultants/technicians independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer-employee relationship. Will such consultancy charges be exempt from GST? Will revenue take a stand that they are providing services to hospitals and not to patients and hence must pay GST?</i>  <i>(2)Retention money : Hospitals charge the patients, say, Rs. 10000/- and pay to the consultants/technicians only Rs. 7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure</i>	<i>Health care services provided by a clinical establishment, an authorised medical practitioner or paramedics are exempt. [Sl. No. 74 of notification No. 12/2017-C.T. (Rate), dated 28-6-2017 as amended refers].</i>  <i>(1)Services provided by senior doctors/consultants/technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt.</i>  <i>(2)Healthcare services have been defined 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 [para 2(zg) of notification No. 12/2017-C.T. (Rate)]. Therefore,</i>
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	<i>facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure, etc. Will GST be applicable on such money retained by the hospitals?</i>	<i>hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt</i>
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14. We pass the Ruling,

**R U L I N G**

M/s Divyajivan supplies Health care Services under Diamond Plan which merits exemption from GST vide Sr. No. 74 of said Notification No. 12/2017- CT(R).

**(SANJAY SAXENA)**

**MEMBER (S)**

**(ARUN RICHARD)**

**MEMBER (C)**