



SNR & COMPANY
CHARTERED
ACCOUNTANTS



GST Bulletin

July 2022

JUDICIAL UPDATES

1. *'Health-care service' includes Occupational Health Check-Up provided by Hospitals:*

Case of: Baroda Medicare Pvt Ltd

Decision by: AAAR, Gujarat

- In this ruling, Gujarat AAAR classified the supply of Occupation Health Check-up Service (OHC) by hospital i.e. nursing staff, Doctors, Paramedical staff on hospital's payroll working in different corporates for providing health check-up services, ambulance facility and allied medical services to their employees and holding health check-up camps outside the hospitals, as 'Health Care Service' and held that such services are exempted in terms of Sr.No.74 of Notification No.12/2017-C.T. (R) dated June 28, 2017 and Notification No. 12/2017-S.T. (R) dated June 30, 2017, as amended.
- Earlier, AAR ruled that Hospitals are liable to pay 18% GST on the supply of OHC/Corporate Health Check-up to their employees under "Human health and social care services", in terms of Sl. No. 31 of the Notification No.11/2017-C.T.(Rate) dated June 28, 2017.
- The AAAR clarified that *"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 is covered under the definition of "health care service" provided at clause (zg) of para 2 of Notification No. 12/2017-Central Tax (Rate)"*.
- It further elucidated that OHC or preventive care is covered under Service Code 999312 which is wide enough to cover "general medical services consisting of the prevention, diagnosis and treatment by doctors of medicine of physical and/or mental diseases, such as: a. consultations b. physical check-ups etc."

Read Full Ruling: [Baroda Medicare Pvt Ltd](#)

SNR's Take:

The AAAR has rightly ruled that Occupational Health Services forms part of 'Health Care Services' & has rightly dispelled the disparity between health care services provided by a clinical establishment to a patient inside the clinical establishment or outside the said establishment.

2. *Medical insurance services procured by Govt. Authority for employees and family not exempt:*

Case of: **Hyderabad Metropolitan Water Supply and Sewerage Board**
Decision by: **AAR, Karnataka**

- The applicant, a government authority, paid premium on insurance taken to provide health Insurance to the employees, pensioners and their family members & Vehicle insurance Policy taken to provide Insurance to the vehicles owned by the applicant.
- Applicant contended that they are exempt from paying GST in view of Entry No. 3 of the Notification No. 12/2017- CTR dated June 28, 2017 being a 'Governmental Authority'.
- The AAR, perusing the categories under which exemption can be claimed as per Notification clarified that, *"...the exemption should be directly related to the functions enumerated under Article 243W of the Constitution of India i.e., those functions listed under 12th schedule"*.
- On examining if the present case i.e. applicant providing medical insurance services to employees and their family members has a direct nexus, it observed that *"services do not qualify for exemption under Notification No. 12/2017"*.
- As for Vehicle Insurance Policy, AAR clarified that, exemption shall be available if the vehicles are directly used to provide services under Schedule XII of the Constitution. However, exemption will not be available if they are used for transportation of employees/ board members/ other persons, with no direct relationship to functions discharged under Article 243W.

Read Full Ruling: [Hyderabad Metropolitan Water Supply and Sewerage Board](#)

SNR's Take:

The AAR has given a very logical ruling stating that exemption given to the government authorities are in respect of the works they are entitled to perform as per the constitution. Such exemption is not bestowed even if they perform certain miscellaneous works not entirely related to their statutory operations.

3. Receipt of gratuitous payment by Society from outgoing member constitutes taxable supply:

Case of: Monalisa Co-operative Housing Society Ltd.

Decision by: AAR Maharashtra

- The Applicant is a co-operative society registered under Maharashtra Co-operative Housing Society Act which charges to its members, specified charges per flat towards maintenance & upkeep of its premises. When there is a transfer of flat, the outgoing member makes a voluntary gratuitous payment to the society, which doesn't have any bearing on the outgoing formalities to be completed.
- Referring to the 'Model Bye Laws of Co-operative Housing Societies', AAR observed that no additional amount towards donation/contribution shall be recovered from the transferor/transferee by the housing society & the Applicant cannot collect amounts as voluntary donations in excess of premium i.e. Rs.25,000/-. Therefore, observed that the society cannot at all accept voluntary donations.
- IT further observed that the contributions received from the outgoing members who have been members of the society in the past and have received services from the society as envisaged under the GST Act, thus payment from outgoing member to society is a payment made for services rendered by society to the outgoing member during his stay as a member, hence it is a consideration received to the society.
- Therefore, it is found that, the Applicant is trying to give a colour of voluntary gratuitous payment for amount received from outgoing member which is collected & will be used for carrying out major repairs as per the Affidavit of the Society's Treasurer.

Read Full Judgement: [Monalisa Co-operative Housing Society Ltd.](#)

SNR's Take:

AAR concluded that the voluntary gratuitous payment by outgoing member is in fact after satisfaction of services that he received while he was a member. Thus, it is like service charges by restaurants, which is taxable. Though apparently there is no specific provision of service made by the society to members for receipt of this consideration and it remains gratuitous payment.

4. *Service of settling grievances against Insurer, not exempt from GST:*

Case of: Executive Council of Insurers

Decision by: AAR Maharashtra

- The Applicant submitted that it manages the grievances against the various insurance companies & receives funds from Life Insurance & General Insurance Councils, to perform the required activities which is a supply of services. Further, it submitted that it does not received funds from the aggrieved complainants.
- The AAR perused the definition of ‘Supply’ u/s 7 of the CGST Act & emphasized that even though the aggrieved persons do not pay any fees to the Applicant and the amounts are received from Insurance Councils, the consideration for the impugned supply of services, instead of being paid by the aggrieved complainants are being paid by the said councils and satisfy Section 2(31)(a) of the CGST Act i.e. the consideration in the instant case, is not done by the recipient of service, rather payment is made by ‘any other person’ i.e. the Life Insurance and General Insurance Councils.
- Therefore, concluded that the consideration received by the Applicant is covered under the definition of consideration paid for supply of service as they come under the scope of any other person.
- The AAR also observed that the term ‘Business’ covers the mentioned activities of the Applicant whether or not it is for pecuniary benefit, therefore, the said supply is covered under the definition of business. For this, it referred to the Notification no. 12/2017 dated June 28, 2017, which exempts intra state supply of services from GST, but clarified that the Applicant is not exempt under the said Notification and consequently, the receipt of the amounts by the Applicant from the Life Insurance and General Insurance Councils are also not exempt.

Read Full Judgement: [Executive Council of Insurers](#)

SNR’s Take:

The AAR has provided deep analysis of the issue in hand. The AAR’s analysis of the meaning of ‘Supply’ and extending it to the aspect that consideration is paid by a person other than to whom services have been received shall go a long way in deciding various other issues pertaining to the same facts.

5. *Photo-Voltaic cables used in Solar Power Generating Systems taxable at 18%, concessional-rate inapplicable:*

Case of: **Leoni Cable Solutions (India) Pvt. Ltd.**

Decision by: **AAR Maharashtra**

- Applicant is a manufacturer & supplier of solar cables commonly known as photo-voltaic DC cables which are used between solar modules & inverters in a photovoltaic system & are required to connect solar panel/array & inverters to carry electricity between solar panels and inverters.
- Applicant sought appropriate classification of PVDC Cables manufactured & supplied by it for manufacturer of Solar Power Generating System or EPC Company setting up a solar power plant.
- Applicant submitted that PVDC cables would be covered under Chapter Heading 8544 of the Customs Tariff Act and consequently covered by Entry No. 234 to Schedule I of the CGST Act, 2017 liable to 5% GST (2.5% each CGST & SGST).
- Contemplating whether the PV DC cables which connect the solar modules & inverters in a photovoltaic system & are used to carry electricity from the Solar Power Generation Systems (SPGS) to the inverters can be treated as parts of the SPGS, AAR observed that *“since the impugned cables simply carry electricity to the inverters, they cannot be considered as a parts of the SGPS & therefore cannot be covered under Sr. No. 234 Notification No. 1/2017- Central Tax (Rate)”*.
- The AAR also held that cables are not at all shown to be a part of the SGPS without which the SGPS cannot exist and so cables would be covered by Sr. No. 395 of Schedule III to Notification No. 01/2017 dated June 28, 2017 as amended by Notification No. 41/2017 - CTR dated November 14, 2017 w.e.f. November 14, 2017.

Read Full Judgement: [Leoni Cable Solutions \(India\) Pvt. Ltd.](#)

SNR's Take:

AAR has provided a pragmatic reasoning for its ruling that just because a product is associated with another particular product, their rates cannot be the same & for this purpose, they have to be looked at in isolation. It is akin to the fact that just because the wires are used to transfer electrical energy to operate the fans, they are not considered either as parts of fans or as part of the switches from where electricity is received to be transferred to the fans.

6. Stipend received from Training Institutes for further disbursement to trainees, not taxable at the hands of facilitator:

Case of: Patle Eduskills Foundation

Decision by: AAR Maharashtra

- Applicant is a National Employability Enhancement Mission (NEEM) facilitator responsible to enroll trainees and provide them with on job practical training through various institutes, factories, etc. to enhance the prospects of their employability.
- The applicant approached the AAR on the question of whether the Applicant, in the capacity of being a NEEM facilitator, acts as a 'Pure Agent' while receiving reimbursement of stipend amounts from the various Trainer Institutes and remitting the same to the trainees? If not, whether such stipend amount forms a part of the taxable value?
- The AAR observed that the applicant is identifying and providing trainees to the Trainer Institutes for which they charge a fixed fee per trainee, and the entire process is done under a written agreement between the Entities/Training Institutes and the Applicant.
- The AAR considers applicant's submission that Entities/Training Institutes mentioned provide training to the trainees and are required to pay stipend to the trainees as per the NEEM Regulations which is not directly paid to the trainees but is routed through the Applicant and the entire amounts are paid without any amount being retained thus, the applicant is only acting as an intermediary in collecting the stipend and disbursing the same.
- Envisages that the Applicant is only a conduit for the payment of stipend and the actual service is provided by the trainees to the Entities/Training Institutes and paid in full to the trainees.

Read Full Judgement: [Patle Eduskills Foundation](#)

SNR's Take:

AAR has rendered a pragmatic conclusion to the issue in hand which is in line with a similar matter of Yashaswi Academy for Skills, in which Maharashtra AAR had held that the reimbursement by Industry Partner to the Applicant who is a third-party aggregator under the Apprentices Act, 1961, for the stipend paid to students doesn't attract GST.

7. *Services for Govt. where consideration is received in form of 'Grant' exempt from GST:*

Case of: Garhwal Mandal Vikas Nigam Ltd.

Decision by: AAR Uttarakhand

- The applicant submitted that it is receiving consideration for implementation of various projects from Government Departments in the form of grants which are utilized by way of procurement of services/goods from contractors for executing the projects. The applicant has been awarded work namely construction of "Shaheed Dwar" at Dehradun and of "Creation of a barrier free environment for PWD's and tourist rest houses in various district of Utrakhand State"
- The applicant sought advance ruling on whether the activities undertaken for implementing various construction/ renovation projects for Central or State Government or Local Authority, the consideration for which is received in the form of grants amounts to supply under the provisions of Goods & Services Tax laws and are thus chargeable to GST?
- The AAR at first clarified that in respect of the transaction entered into by the applicant, activities amount to supply of services & further held that money transferred by Government into accounts of the applicant in the form of grant is a 'consideration' under the CGST Act, as it has received payment for execution of a specific work i.e. the type and scope of work is pre-determined and consequently, amounts to supply in terms of section 7 of CGST Act.
- The AAR further noted that work allocated to applicant involve civil construction work viz. construction, repairs etc. & hence, falls under the definition of works contract service. As for applicability of GST on grants, it stated that since the purpose of the grant is for carrying out works entrusted upon governmental authority, therefore exemption under Notification No. 12/2017- CTR dated June 28, 2017 is available.

Read Full Judgement: [Garhwal Mandal Vikas Nigam Ltd.](#)

SNR's Take:

Recently, various judicial authorities have held that GST would be applicable on grants received by NGOs. However, these observations were made in relation to non-government grants. The AAR in this ruling has provided the necessary clarification that grants if received from government for some social work shall not be taxable.

CIRCULARS/ NOTIFICATIONS

1. *Interest waived for non-filing of GSTR-8:*

CBIC exempted the interest rate towards the non-filing of GSTR 8 through some e-commerce operators beneath section 52 of the Central GST Act, 2017.

Under this notification, the specified e-commerce operators who could not furnish the statement under sub-section (4) of section 52, for the month of December 2020, by the last date because of the technical error at the portal, but had deposited the tax collected u/s (1) of section 52 in the said month in the electronic cash ledger, no interest shall be levied from the date of depositing the tax collected under subsection (1) of section 52 of the said Act in the electronic cash ledger till the date of filing of the statement under sub-section (4) of section 52.

Read Notification: [08/2022-Central Tax](#)

2. *47th GST Council Meeting held:*

The 47th GST Council meeting under the Chairmanship of Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman was held on 29th June 2022. The council deliberated upon various burning issues under GST and made various recommendations. The council also accepted the recommendations of the Group of Ministers (GoMs) constituted on various issues such as rate rationalization, GST system reforms, and the movement of gold and precious stones.

Read: [SNR Alert](#)

Read Recommendations: [GST Council Recommendations](#)

COMPLIANCE CALENDAR

Date	Particulars
10-07-2022	Due Date of filing GSTR-7 & 8 for the month of June 2022
11-07-2022	Due Date of filing GSTR-1 for the month of June 2022
13-07-2022	Due Date of filing GSTR-6 (ISD) for the month of June 2022
20-07-2022	Due Date of filing GSTR-3B for June 2022
20-07-2022	GSTR 5 (Non Resident Taxable person) and 5A (OIDAR service provider) for the month of May 2022
24-07-2022	Due Date of GSTR-3B for QRMP taxpayers

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