



o/c

 मन्मथेव जयते	<b>RAJASTHAN          AUTHORITY FOR ADVANCE RULING          GOODS AND SERVICES TAX</b>  <b>KAR BHAWAN, AMBEDKAR CIRCLE, NEAR          RAJASTHAN HIGH COURT          JAIPUR – 302005 (RAJASTHAN)</b>	 राष्ट्र कर बाजार
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**ADVANCE RULING NO. RAJ/AAR/2023-24/01**

Umesh Kumar Garg Joint Commissioner	:	Member (Central Tax)
Mahesh Kumar Gowla Additional Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s Sanjeevani Psychiatric Clinic, Sardar Shar Mega Highway, opposite Bhadhu Petrol Pump , Rawatsar, Distt Hanuman Garh, 335524, Rajasthan
GSTIN of the applicant	:	Un registered
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; (f) whether applicant is required to be registered;
Date of Personal Hearing	:	10.01.2023 & 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/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST 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 Sanjeevani Psychiatric Clinic (hereinafter referred to as "applicant") un registered applicant. Applicant is registered as Partnership firm, under section 15 of The Clinical Establishment (Registration and Regulation) Act, 2010. The clinical Establishment is registered for providing medical services as a Single Specialty under Allopathy System of Medicine by Dr. Rinet Sonia Dsouza (MBBS, MD) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (b), (e) & (f) 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;
- (f) whether applicant is required to be registered;

**A. SUBMISSION OF THE APPLICANT:(in brief)**

1. M/s Sanjeevani Psychiatric Clinic (hereinafter referred to as “applicant”) registered as Partnership firm, is a clinical establishment located at Sardar Shahar Mega Highway, opp. Bhadu Petrol Pump, Rawatsar Distt. Hanumangarh-335524 under section 15 of The Clinical Establishment (Registration and Regulation) Act, 2010. The clinical Establishment is registered for providing medical services as a Single Specialty under Allopathy System of Medicine by Dr. Rinet Sonia Dsouza(MBBS, MD).
2. That, the applicant is providing Treatment of patients suffering from substance use disorder (SUD) (addiction of drugs) in the state of Rajasthan.
3. That as per National Institute of Mental Health, Substance Use Disorder (SUD) is a mental disorder that affects a person's brain and behavior, leading to a person's inability to control their use of substances such as legal or illegal drugs, alcohol, or medications. Symptoms can range from moderate to severe, with addiction being the most severe form of SUDs.
4. That currently the applicant is involved in providing Outpatient Facility. A patient is treated as outpatient where the patient is not admitted, however the treatment is provided at the Clinical Establishment as out-patient for **treatments** and procedures that require no admission.
5. That the treatment of patients as outpatients by the applicant is carried out in 3 steps as following:
  - i. **Registration of Patients-**
    - Patients undergoes a registration process wherein their details like Name, address, age, sex, marital status, education, etc. are captured and maintained in a file with a unique Registration No and Registration ID.
    - The patients may either be newly registered or already registered. The patients are also required to submit a copy of their Aadhar Card to the establishment.
  - ii. **Counselling, Examination, and prescription of medicine by Psychiatrist-**
    - Patients undergo a counselling session with qualified Psychiatrist wherein the type of substance used, duration of substance used and the method of intake of substance by the patient is assessed. Further, other parameters such as sexual history, complication due to drug use, expenditure and source of drug use, illegal activities due to drug use are assessed and patients are motivated to discontinue drugs.

- A routine check-up is also conducted by the psychiatrist wherein the blood pressure and pulse rate of the patient is examined. Further, if required, other tests such as blood tests, ultrasounds, etc. are suggested for further diagnosis to identify the nature of illness.
- Where the patients have already been treated earlier, the previous prescriptions and their results are also assessed.
- On the basis of above, patients are examined by a psychiatrist who assesses the severity of illness, dependence of patient on drugs and his ability to withdraw from drugs.
- On the basis of such examination, the psychiatrist prescribes medicines and the duration for which the medicines are required to be consumed.
- The details of substance used by the patient and other parameters are also captured in Patient's file.

iii. **Dispensing of Medicine by psychiatrist –**

- Based on examination by the psychiatrist and prescription issued by him, patients are dispensed medicines in exact quantity as per the prescription of psychiatrist.
  - The patient has no choice to take the medicine from a general medical store or take medicine of a different brand or in a different quantity.
  - Moreover, the patient has no choice/freedom to take these Medicines from any other De-Addiction Center based on said prescription.
  - The drugs used for treating drug addicts are strictly government-controlled drugs and are not available for sale on general medical stores.
  - The name and quantity of the medicine dispensed to the patient along with dose per day of medicine is captured in Daily Dispensing Register.
  - Further, a stock register of the medicine is maintained at the establishment, which is verified and signed by the Psychiatrist.
6. That, the fees is collected from the patient after dispensing of medicines i.e. only after the above steps are complete. The fees may differ from patient to patient depending upon the examination, prescription and the duration of prescription as advised by the Psychiatrist.

**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 2017i.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 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 SUD 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 a patient suffering from SUD as outpatient the procedure is a chronological combination of the following services:

- a) Registration of Patient
- b) Counselling, Examination and prescription of medicine of Patient by Psychiatrist
- c) Dispensing of Medicine as prescribed by Psychiatrist in his presence.

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 SUD as outpatient, examination of the patient by a doctor is pivotal and other elements like registration, counselling and dispensing of medicine are integral part of the said treatment. Some of these are pre-examination activities and some of them are post examination activities.

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, perusal of certain provisions of Mental Healthcare Act, 2017 is essential.

17. That the provisions of section 86 of Mental Healthcare Act, 2017 lays down the conditions for independent admission and treatment of person with mental illness as following:

*Section 86*

*(1) Any person, who is not a minor and who considers himself to have a mental illness and desires to be admitted to any mental health establishment for treatment may request the medical officer or mental health professional in charge of the establishment to be admitted as an independent patient.*

*(2) On receipt of such request under sub-section (1), the medical officer or mental health professional in charge of the establishment shall admit the person to the establishment if the medical officer or mental health professional is satisfied that--*

*(a) the person has a mental illness of a severity requiring admission to a mental health establishment;*

*(b) the person with mental illness is likely to benefit from admission and treatment to the mental health establishment;*

*(c) the person has understood the nature and purpose of admission to the mental health establishment, and has made the request for admission of his own free will, without any duress or undue influence and has the capacity to make mental healthcare and treatment decisions without support or requires minimal support from others in making such decisions.*

18. That thus as per the provisions of Mental Healthcare Act, a patient shall be admitted only on satisfaction of a medical officer or mental health professional that the severity of illness requires admission or that the patient would benefit from admission or where the patient has made the request for admission of his own free will. Thus, every patient who requires a treatment need not be admitted, patients can be treated as outpatients as well.

19. That further, as per Central Drugs Standard Control Organization (FDC Division), the medicines provided to SUD patients i.e. Buprenorphine 2 mg/0.4 mg sublingual Tablet and FDC of Buprenorphine (2 mg+0.5 mg and 0.4 mg + 0.1 mg) sublingual tablets are strictly Government controlled drugs which are not available for sale on general medical stores.

20. That the supply of the above-mentioned drugs is restricted by government to be supplied only to specified clinical establishments. Further, the name, quantity and dosage issued to SUD patients are also recorded in Daily Dispensing Register on real time basis.

21. That the SUD patients are mentally unstable, hence the medicines provided to them by as prescribed by Psychiatrist in his presence are controlled in terms of quantity depending upon their illness to avoid over consumption by the patients. Excess consumption of the drug may be fatal to the patient. Also, the SUD patients do not have a choice to take the medicine from general medical stores.

22. That, thus the process of treatment being provided by the applicant to SUD patients as outpatients is different from routine and general scenarios of medical treatments where medicines and other supplies are issued to outpatients based on the prescription of their doctors for consumption at home. In those routine / general cases, the patients are consulting the doctors and the doctor's responsibility extinguishes once advice and if required prescription of medicines is handed over. The patients have the freedom to procure the medicines either from the Medical Store run by the hospital or from other independent medicine dispensing outlets. But the supply of medicine on such prescription is a separate independent activity and is not covered with the scope of medical examination undertaken by the doctor. In those general cases, there is no difference whether medicine is procured from the pharmacy run by the hospital or from independent medicine dispensing outlets, as in both cases the medicines and allied items are dispensed based on prescription. Thus, the supply of medicine partakes an independent character and thus is treated a supply of goods.
23. That in fact, the manner of registration of patient and integrated process of maintaining details of medicines dispensed to the patients for its monitoring clearly indicates that whole process until dispensing of medicine is well established, connected and unified. As explained the process of reception, counselling, Doctor's examination & prescription and dispersion of medicine is unified. The medicine to be issued during the course of treatment by the applicant is prescribed by the doctor. Further the medicine prescribed is required to be issued by the applicant to the patient on same day at the same time only. The said details are required to be maintained in Daily Dispensing Register. If medicine is not issued at the same time, then the doctor is again required to prescribe the same. Hence the prescription of medicine shall not absolve the applicant from its responsibility and the activity of treatment cannot be said to have been completed.
24. That on perusal of above it is evident that, unless the number of days specified in prescription for medicine consumption have passed, fresh prescription cannot be given by the doctor. Hence prescription, further issuance of medicine and re-prescription after re-examination of the patient are interdependent and cannot be bifurcated in any manner whatsoever.
25. That, based on above paras, it can be clearly said that the supply of medicine by the applicant to SUD patients as outpatient is a part of treatment and cannot be detached or taken up independently from the examination of the patient in addition to registration and counselling services. Thus, in our opinion, the given chronological activities of outpatients cannot be segregated as separate or independent activities and should be treated as part and parcel of the treatment being provided to SUD patients as outpatient by the applicant.



26. That further the given activity of undertaking treatment of the SUD patients by the applicant along with dispensing of medicine does not have any constituent which can be separated or bifurcated. The process of examination, prescription and issuance are integral parts of the whole activity of supplying service of detoxification.

27. That at 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.

28. 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 SUD patients and hence is one single unified supply.

29. 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 SUD patients 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]*

30. 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]*

31. That in fact in case of **Hindustan Shipyard Ltd. v. State of Andhra Pradesh (2000) 6 SCC 579** it was held by the Hon'ble SC that

*The recitals of the contract may also be read in the light of the few provisions of Chapter III of The Sale of Goods Act. In a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred. Sections 20 to 24 contain rules for ascertaining the intention of the parties in this regard.*

*When something remains to be done on the date of the contract to bring the specific goods in a deliverable state the property does not pass until such thing is done and brought to the notice of the buyer. The risk in such case remains with the seller so long as the property therein is not transferred to the buyer though the delivery may be delayed.*

32. That from above it is clear that when something is integral part of a contract, be it oral or written then same cannot be bifurcated. Since in given case, the government has mandated the applicant that for fees charged from patients, all the 3 steps as mentioned in the facts of the application are required to be undertaken together, then the consideration cannot be bifurcated for sale of medicines separately.
33. 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, must 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/procedure 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]*

34. That the fact of the applicant is also similar because once it is decided by the authorized medical practitioner at applicant's premises that a patient needs treatment in respect of SUD, then the course of treatment, the dosage, the number of days of dosage and pattern of consumption is prescribed by them. Further the said patient is compelled to take the medicine on the same day only from the dispensation center of the applicant.
35. That from above we it is evident that 3 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.
36. That further for qualifying exemption under entry no. 74 of the notification no. 12 CGST Rate dated 28-06-2017. the following conditions are required to be satisfied:
  - a) Healthcare service shall be provided
  - b) Healthcare service shall be provided by a clinical establishment, an authorized medical practitioner, or para-medics
37. That, there is no ambiguity in the fact that the whole process of examination of SUD patients is a treatment which is based on allopathic science of medicine.
38. 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*

39. That on perusal of above it is evident that activity of treating SUD patients 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.
40. 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.
41. 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;
42. 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.
43. That, the applicant is providing services of Treatment of patients suffering from substance use disorder 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.*
44. That based on above paras, it is understood that the Sanjeevani Psychiatric Clinic 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.

45. That the treatment being provided to SUD patients as outpatient 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.

46. 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.

Thus, the treatment being provided by the applicant to SUD Patients as outpatients are 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: -**

- Whether the supply of services by treatment of patients suffering from SUD as out-patient is exempt under entry 74(a) of notification no. 12/2017 CGST Rate dated 28-06-2017?

#### **D. PERSONAL HEARING**

In the matter personal hearing was granted to the applicant on 03.02.2023 and 10.01.2023. 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**

Applicant is unregistered with the department so no comments has been sought from field formations

#### **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 pari materia 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 Sanjeevani Psychiatric Clinic registered as Partnership firm. Applicant submitted provisional registration certificate issued by DRA & CMHO Hanumangarh regarding clinical establishment located at Sardar Shahar Mega Highway, opp. Bhadu Petrol Pump, Rawatsar Distt. Hanumangarh-335524 under

section 15 of The Clinical Establishment (Registration and Regulation) Act, 2010. The clinical Establishment is registered for providing medical services as a Single Specialty under Allopathy System of Medicine by Dr. Rinet Sonia Dsouza (MBBS, MD). We have limited scope to check the registration certificate so We consider that applicant has truly submitted that they are registered clinical Establishment and pronounce the ruling accordingly.

3) The applicant submitted that the applicant is providing Treatment of patients suffering from substance use disorder (SUD) (addiction of drugs) in the state of Rajasthan and as per National Institute of Mental Health, Substance Use Disorder (SUD) is a mental disorder that affects a person's brain and behavior, leading to a person's inability to control their use of substances such as legal or illegal drugs, alcohol, or medications. Symptoms can range from moderate to severe, with addiction being the most severe form of SUDs. The applicant is involved in providing Outpatient Facility. A patient is treated as outpatient where the patient is not admitted, however the treatment is provided at the Clinical Establishment as out-patient for treatments and procedures that require no admission.

4) The applicant further submitted that after examination a psychiatrist who assesses the severity of illness, dependence of patient on drugs and his ability to withdraw from drugs. Based on such examination, the psychiatrist prescribes medicines and the duration for which the medicines are required to be consumed. patients are dispensed medicines in exact quantity as per the prescription of psychiatrist. The drugs used for treating drug addicts are strictly government-controlled drugs and are not available for sale on general medical stores and patient has no choice to purchase these medicines from any other place or medical store. The name and quantity of the medicine dispensed to the patient along with dose per day of medicine is captured in Daily Dispensing Register. Applicant further submitted that the fees is collected from the patient after dispensing of medicines i.e. only after the above steps are complete. The fees may differ from patient to patient depending upon the examination, prescription and the duration of prescription as advised by the Psychiatrist.

5.1) We observes that the main issue is to determine whether the supply of services by treatment of patients suffering from SUD as out-patient is exempt under entry 74(a) of notification no. 12/2017 CGST Rate dated 28-06-2017?

5.2) So, we observe that there is no dispute that treatment of SUD Patients by the applicant is supply Sec. 7(1) of CGST Act, 2017 and falls under the ambit of GST.

5.3) The patients are being examined by applicant through its Single Specialty Psychiatrist under Allopathy System of Medicine by Dr. Rinet Sonia Dsouza (MBBS, MD), who gives medicines to outdoor patients of applicant. Thus, we observe that applicant is involved to treat out door patients only and medicines are being provided by applicant only as per requirement of patient. Thus, applicant is involved in supply of service as well supply of goods i.e medicine.

6) 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.

6.1) 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 <b>authorised medical practitioner</b> , 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

6.2) 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 is taxable. 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, but Here in this case we observe that medicines are providing by applicant to outdoor patient. Applicant claimed that these medicines are not available in market thus the medicine supplied by them is a composite supply. We do not find any supporting that establish that the medicine form part of counselling services provided by physiatrist. Thus, we observe that the supplies being made by applicant are not composite supply.

6.3) We observe substance use disorder (SUD)—commonly referred to as addiction—is a medical illness with altered behavioural, cognitive, physical, neurobiological, and affective functions associated with compulsive and repeated use of addictive substance(s), whether legal or illegal. Substance use disorders involve both psychological and physical dependence on the substance(s) of use. Substance use disorder (SUD) is a complex condition in which there is uncontrolled use of a substance despite harmful consequences. People with SUD have an intense focus on using a certain substance(s) such as alcohol, tobacco, or illicit drugs, to the point where the person's ability to function in day-to-day life becomes impaired. People keep using the substance even when they know it is causing or will cause problems. The most severe SUDs are sometimes called addictions. The recommend drugs i.e buprenorphine-naloxone are only a **maintenance treatment** for maternal opioid use disorder.

6.4) 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;

6.5) We held that Services for the prevention and treatment of substance misuse and substance use disorders have traditionally been delivered separately from other mental health and general health care services, because substance misuse has traditionally been seen as a social or criminal problem, prevention services are not typically considered a responsibility of health care systems. Further people needing care for substance use disorders have had access to only a limited range of treatment options that were generally not covered by insurance. Well-supported scientific evidence shows that the substance uses disorder treatment and mental health services from mainstream health care have traditional separation.

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 substance use disorder is out of ambit of health care services and supply of services by treatment of patients suffering from SUD as out-patient don't fall under the definition of **health care services so** not exempt under entry 74(a) of notification no. 12/2017 CGST Rate dated 28-06-2017.

7) We have gone through the judicial pronouncements of various judicial authority referred by applicant. We have also gone through the decisions of various courts submitted by applicant. Most of them are pre-GST era and applicant use particular portion of said pronouncements as per his suit will. We found that none of pronouncement submitted by applicant in his favors squarely covers the present question of law in respect of applicability of GST.



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)

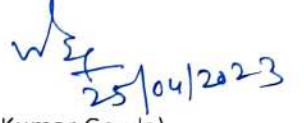
- Q.1 Whether the supply of services by treatment of patients suffering from SUD as out-patient is exempt under entry 74(a) of notification no. 12/2017 CGST Rate dated 28-06-2017?

Ans-1. No.

  
25/4/23

(Umesh Kumar Garg)

MEMBER  
CENTRAL TAX

  
25/04/2023

(Mahesh Kumar Gowla)

MEMBER  
STATE TAX

SPEED POST

M/s Sanjeevani Psychiatric Clinic, Sardar Shar Mega Highway, opposite Bhadhu Petrol Pump , Rawatsar, Distt Hanuman Garh, 335524,Rajasthan

F. No. AAR/SF/2023-24/ 14-17



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.