

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX

14 Beliaghata Road, Kolkata – 700015

(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Mr Brajesh Kumar Singh, Joint Commissioner, CGST & CX

Mr Joyjit Banik, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	Snehador Social & Health Care Support LLP
Address	Merlin Residency, 26, Prince Anwar Shah Road, Kolkata-700033
GSTIN	19AEGFS5054N1ZE
Case Number	WBAAR 20 of 2022
ARN	AD190722006992W
Date of application	July 20,2022
Jurisdictional Authority (State)	Behala Charge
Jurisdictional Authority (Central)	Rashbehari Division, Kolkata South Commissionerate
Order number and date	18/WBAAR/2022-23 dated 22.12.2022
Applicant's representative heard	Smt Kaushiky Gangulie, Designated Partner

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services

Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression 'GST Act' would mean the CGST Act and the WBGST Act both.

1.2 The applicant is stated to be engaged in providing services for health care to senior citizens which covers arranging doctors, nurses, taking the clients to any diagnostic centre, supplying oxygen and physical support as per requirement of such senior citizens and for all such services, the applicant runs a membership programme where clients opt for the same as per their requirement. In addition to this, the applicant also provides services to its members for delivery of medicines and grocery items at home, helping with bank work, utility bill payment etc.

1.3 The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under seeking advance ruling whether the services rendered by the applicant for health care to senior citizens at their door step comes under exemption category and what will be the classification of such services. Further, if such service is held taxable, then what would be the rate of tax.

1.4 The aforesaid question on which the advance ruling is sought for is found to be covered under clause (a) of sub-section (2) of section 97 of the GST Act.

1.5 The applicant states that the question raised in the application has neither been decided by nor is pending before any authority under any provision of the GST Act.

1.6 The officer concerned from the Revenue has raised no objection to the admission of the application.

1.7 The application is, therefore, admitted.

2. Submission of the Applicant

2.1 The applicant submits that being a start up LLP, it has launched an eldercare program in Kolkata to provide services for senior citizens who live alone without any family members. The applicant further submits that to avail such services, one needs to enrol as a member first. The applicant provides thereafter to its members various services e.g., monitoring of medical needs by a professional team, regular medical support, emergency support, General Physician supervision along with other social and logistic assistance.

2.2 The applicant has bifurcated such services into following categories:

Category A. Regular medical monitoring:

- General Physician visit at home for check ups
- Paramedic visit at home for vitals checks
- Paramedic home visit for vaccinations (influenza, pneumonia etc)
- Paramedic home visit for injection administration and dressings (as required)
- Phlebotomist visit at home for sample collections
- Annual Blood check-up
- Home counselling for Dementia and Alzheimer patients
- Setting up appointment with Specialists
- Accompanying members for specialist consultation and execution of specialist advise.

Category B. Logistic Support

- Helping with bank work
- Utility bill payments
- Medicine delivery at home
- Grocery delivery at home

2.3 The applicant submits that for providing services under category A, it has paramedics, physiotherapist, phlebotomists and home counsellors on the payroll and a dedicated team of doctors and nurses along with ambulance services on panel.

2.4 The applicant contends that such services by the above professionals when provided on individual basis are exempted from GST and so are Clinical Establishment. Accordingly, the applicant is of the opinion that the same nature of services being provided by the applicant at the doorstep of senior citizens should also fall under exemption category.

3. Submission of the Revenue

3.1 The concerned officer from the Revenue has not expressed any view on the issue raised by the applicant.

4. Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the applicant during the course of personal hearing. The applicant, as we find from the documents produced, provides services to its members under three packages namely 'Sneha', 'Snehalata' and 'Snehadhara' for which member(s) (either as single or couple) are required to pay annual registration fee, quarterly fee along with a refundable security deposit.

4.2 The applicant is stated to be engaged in providing following logistic support to its members for daily living and preliminary health care at home:

- Regular visits by Personal Care Manager
- Home visits by General Physician, Physiotherapist, Clinical Therapist & Nutritionist
- Assistance in delivery of monthly grocery & medicine
- Utility Bill payments
- Tax/ Financial or Legal consultation
- Digital assistance
- Assistance with plumbers, electrician and repairs
- Regular member updates with video clips to be shared with family through individual login on its website

4.3 Further, the applicant provides following services:

- Accompanying members for essential & social outings
- Accompanying member to the Bank & Post Office
- Scheduling appointments and accompanying member for doctor consultations
- Organising annual health check-up
- Accompanying member on diagnostic tests
- Escorting member on personal social outings
- Organising social gathering and entertainment programmes
- Assistance with airport & railway pickup & drop

4.4 Services claimed to have been provided by the applicant also covers assistance in medical emergency and hospitalization which includes ambulance services, regular

monitoring during hospitalisation, help with medical insurance and help with discharge formalities. The applicant provides medical and nursing support services at home for critically ill members in the following manner:

- Procuring and setting up of all medical support equipment required at home
- Assisting with nursing support at home
- Critical care supervisor to visit home whenever necessary
- Scheduling doctor visits whenever necessary

4.5 While the frequency of services in respect of a number of services like care manager visit for medical check-up, general physician home visit, medicine home delivery, grocery home delivery etc. which are provided by the applicant to the enrolled members varies according to packages, the applicant also provides services like additional general physician visit, night call-general physician, nurses per shift, physiotherapist assessment etc. at the cost of extra charges.

4.6 We therefore find that the services provided by the applicant to its enrolled members have two limbs. The first one is provided under a specific package against a consolidated amount during a quarter period and for the second part, the applicant charges separately from its members for each type of services. As the applicant is of the view that the aforesaid services are similar to health care services provided by a clinical establishment and should fall under exemption category, we now proceed to examine the issue with reference to the specific entry in this regard under exemption notification.

4.7 Serial number 74 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 [corresponding West Bengal State Notification No.1136 F.T. dated 28.06.2017] , as amended from time to time, exempts services by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics. The said entry reads as follows:

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	NIL	NIL

		<p>by a clinical establishment, an authorised medical practitioner or paramedics;</p> <p>Provided that nothing in this entry shall apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding Rs. 5000 per day to a person receiving health care services.</p> <p>(b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.</p>		
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4.8 The expressions "healthcare services", "clinical establishment" and "authorised medical practitioner" have been defined in Para 2 (zg), 2(s) and 2(k) respectively of Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 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 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;

- *“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;*
- *“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;*

4.9 The applicant, as we have already discussed, is found to be engaged in providing services to its enrolled members under two limbs. The first one, which is against a consolidated package amount, comprises inter alia of care manager visit for medical check-up, general physician home visit and home delivery of medicine. The other part also covers services by general physicians, nurses and care managers for which the applicant charges separately. The aforesaid services may get covered under health care services as defined in Para 2 (zg) of Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017. However, supply by way of health care services qualifies for exemption under serial number 74 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 if the same is provided by a clinical establishment, an authorised medical practitioner or para-medics. Admittedly, the applicant doesn't fall under any of the aforesaid categories of suppliers and the services provided by the applicant, therefore, fail to qualify as exempted service.

4.10 Now the question left with us is to determine the rate of tax on the instant supply of services. The applicant has submitted that it aims to create a community where seniors can lead a physically and emotionally healthy and dignified life. The applicant provides services for accompanying members for essential & social outings, accompanying member to the Bank & Post Office, organising social gathering and entertainment programmes etc. We, therefore, find that the services provided by the applicant can be termed as 'human health and social care services' and is taxable @ 18% vide serial number 31 of Notification No.

11/2017-Central Tax (Rate) dated 28.06.2017 [corresponding West Bengal State Notification No.1135 F.T. dated 28.06.2017], as amended.

In view of the above discussions, we rule as under:

RULING

Services of regular medical monitoring along with other logistic support as provided by the applicant to senior citizens at their door step does not qualify for exemption and the same is liable to tax @ 18% vide serial number 31 Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 [corresponding West Bengal State Notification No.1135 F.T. dated 28.06.2017], as amended.

(BRAJESH KUMAR SINGH)

Member

West Bengal Authority for Advance Ruling

(JOYJIT BANIK)

Member

West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 22.12.2022

To,

Snehador Social & Health Care Support LLP

Merlin Residency, 26, Prince Anwar Shah Road, Kolkata-700033

Copy to:

- (1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-7000107
- (2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015
- (3) The Sr. JCCT, Behala Charge, 620, Diamond Harbour Road, Behala Industrial Complex, Kolkata-700 034
- (4) Office Folder