



**CMA Debasis Ghosh**  
Cost Accountant

## **GST ON HEALTH CARE SERVICES - AN ANALYSIS OF ADVANCE RULING IN THE CASE OF BARODA MEDICARE**

---

With the introduction of Goods and Service Tax (GST), one challenging issue that emerged and has been the subject matter of many advance rulings is the taxation of supply of medicines, implants and consumables from own in-house pharmacy to indoor patients admitted in the hospital for treatment. By virtue of the principle enunciated unanimously by the advance ruling authorities (AAR), it is by now a well settled principle of law that supply of medicines, implants and consumables from own in-house pharmacy being integral to the supply of health care service assume the nature of composite supply and the principal supply being that of health care which is exempt from GST, such supply of medicines, implants and consumables is also exempt from GST. Similar ruling has been given by Advance Ruling Authority in the case of Baroda Medicare Private Limited, Sunshine Global Hospital.

What assumes significance in this case is the other issue referred by the applicant for ruling before the AAR. The issue that was referred is as under:

Whether the supply of Occupational Health Check-up service (OHC) by the hospital i.e. nursing staff, Doctors, Paramedical staff on hospital's payroll working in different corporate for providing health check-up service, ambulance facility, and allied medical services to their employees and also the camps conducted for health check-up outside the hospitals, to be treated as Health Care service and hence not taxable under CGST/SGST?

It was represented by the applicant that

- Companies operating in different sector consist of diverse industries producing different products and services. Many of such industries have machinery & objects that are harmful to individuals if exposed for a longer period of time, hence, it is important to screen all workers for occupational intervals.
- Some hazards are common for all industries like hazardous substances, dust, machinery related accidents, trips, and falls, physically demanding work, heat and cold, etc.
- The best way to avoid any accident to happen is to have preventive & safety processes in place & get an individual's health check done regularly. In many companies, it is becoming mandatory to have a Pre-employment health check-up done even before hiring an employee.

- The occupational health checks can be required for variety of staff at various stages of their occupation, starting before a new person is assigned to particular job. These are generally used for the following purposes:
  - (a) to establish that candidates are able to meet the physical requirements of the job prior to assignment;
  - (b) to prevent work related injuries, diseases and potential health hazards;
  - (c) to monitor health status at periodic intervals when the job involves occupational hazards and exposure such as toxins or the substances;
  - (d) to arrange immediate treatment as and when required which may involve getting ambulance services in case patient needs ICU or Ventilator or immediate hospital admission and other allied medical services;
  - (e) to establish that employees are able to return to work after prolonged absence for health reasons;
  - (f) to establish the conditions under which employees with illnesses, injuries or disabilities are able to continue working.
- These are the services which are provided by any clinical establishment through their Nursing staff, Doctors, Paramedical staff, etc., at their place to look after any medical emergencies, medical treatment, and health check-up of organization staff.
- The primary purpose is to offer timely health check-up, medical treatments, and other allied medical services as and when required by the Organization towards their staff needs in the workplace and allow the employer to make changes to improve worker health and safety. “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’.

It was observed by the AAR that the applicant’s hospital is providing health services to employees of the business entities, in relation to Occupational Health Check-up’(OHC) or preventive care along with ambulance facility, and allied medical services. Payment thereof is being made by such business entity directly to the applicant’s hospital. In this case, service provider is the hospital of the applicant and the service receiver is the business entity, who has made payments directly to the applicant. It was further observed that with the change in the style of functioning of the business organizations, health check-up is a routine facility provided by the employers to their employees. The main purpose is to ensure that the productivity of the organization is not adversely affected due to ill health of its employees. Such activities, commonly known as corporate health check-up schemes, are undertaken by designated hospitals in order to detect any medical indicator or to ensure timely diagnosis of any disease so that prophylactic measures can be taken. In such cases, the hospital providing these services, charge the employer i.e. the business organization and it constitutes expenditure for the latter. Thus, said services are being provided to the business entities and not to any patient. Hence, same are not covered under exempted “Health care services”.

On the basis of the aforesaid observations , it was ruled by the AAR that the applicant will be liable to pay GST @18% (CGST @9% +SGST@9%) on the payment received directly from the business entity for health services provided to employees of the business entities in relation to OHC or preventive care along with ambulance facility and allied medical services under “Human health and social care services”, in terms of S. No. 31 of the Table of the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017.

The AAR having admitted that that by way of OHC, the applicant undertakes preventive care to detect any medical indicator or to ensure timely diagnosis of any disease so that prophylactic measures can be taken, the ruling that such activities provided by a clinical establishment does not qualify for exemption for health care services, does not appear to be in conformity with the statutory provisions. The term “health care services” has been defined under the GST law to mean any services 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.

It would follow that “health care “ services are wide enough to include any time of health care service and does not in any way exclude preventive health care . Further the reasoning that the services are being provided to the employer does not also derive the support of law since such services cannot be provided to an intangible entity but can only be provided to a living being. Additionally, in the case of composite supply of health care services involving supply of medicines etc, for corporate patients, bills of supply are raised on the employer; but in such case, the exemption is admissible. If this be so, then payment being made by the employer cannot be ground for denial of exemption for OHC as health care services.

Therefore, it appears that given the provisions of law, the supply of OHC services by a clinical establishment will qualify for exemption from the levy of GST as health care service.