



GST ON ROOMS OF CLINICAL ESTABLISHMENTS



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With effect from 18th July 2012, services provided by a clinical establishment by way of providing rooms [other than Intensive care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neonatal Intensive Care Unit (NICU)] having room charges exceeding Rs 5000/ per day to a person receiving health care services have been subjected to an overall rate of GST of 5% on the condition that the credit of input tax charged on goods & services used in supplying the said service has not been taken.

Simultaneously, an amendment has been brought about in serial no.74 of notification no.12/ 2017-Central Tax (Rate) dated 28/06/2017 to specify that services by way of health care services by clinical establishment shall not apply to the services by way of providing room [other than Intensive care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/ Neonatal Intensive Care Unit (NICU)] having room charges exceeding Rs.5000/ per day to a person receiving health care services. This would mean the exemption to the health care services in terms of clause (a) serial no.74 of the said notification shall not apply to services provided by clinical establishments by way of providing room other than those specified, having room charges exceeding Rs.5000/ per day to a person receiving health care services.

The above amendments appear to contradict

the concept of health care services in as much as no person would be staying in a room of a clinical establishment without having the requirement of health care services. Healthcare services provided by a clinical establishment that includes hospitals and nursing homes also apply to all patients staying there to receive healthcare services. The withdrawal of exemption for rooms in clinical establishments with room tariff exceeding Rs-5000/- or more per day is a forcible measure to deny the exemption that was hitherto applicable to clinical establishments irrespective of room tariff.

What appears to be more of an obvious contradiction to the concept of health care service envisaged under the GST law is flowing itself from the amendments of 18th July 2022, which specifically state that exemption from health care service will not be applicable by way of supply of rooms, other than those specified, having room charges exceeding Rs 5000/ per day to a person receiving health care services. Consequent to the said levy, the amendment has been brought about to take out of the scope of the exemption for the health care services in respect of such rooms. Therefore, all the amendments made in this regard do not at any time deny that the patients admitted in the taxable rooms are also in receipt of health care services; but to justify the levy, have denied the exemption of health care services to such rooms by way



of amendment. Therefore, so long these amendments admit that the patients undergoing health care services in the taxable room also receive health care services, the exemption from health care services cannot be denied in as much as it cannot under any logical analysis be said that for the sole reason of a patient undergoing treatment in a room with a higher tariff, the treatment provided to him, he is not receiving health care services that are exempt.

As mentioned earlier, the amendments do not appear to

be only discriminatory but also not issued in the public interest for the resultant effect of health care services becoming costlier based only on room rates when per se health care services are exempt under GST.

The GST Council may it deems so appropriate. bring about the necessary amendment to restore parity and uniformity in the taxation of health care services.

