

GST Saga on Health Care Services - Classification of sanitizers

Introduction

Good health and good sense are two of life's greatest blessings. The Indian Healthcare Industry is the largest producer for generics and now among of the major sectors with respect to revenue and to employment. The Pharma and Healthcare Industry has grown significantly and enjoys an important position in the global pharmaceuticals and medical field. As the population continues to grow, the need for better Healthcare Services is also growing and the expenditure on the same is increasing, so do revenues from taxes.

In the pre-GST regime, the health care services were not under the scope of levy of Service Tax. In the GST regime, the Government instead of giving full exemption to health care services, minimized the burden of tax by exempting certain health care services as a welfare measures for the citizen of the country.

Judicial Pronouncements

We bring you a capsule of the important judicial pronouncements under the GST regime related Health Care Services on various topics under the GST.

Sanitizers used for "care, not cure for COVID", not classifiable as 'Medicaments'

Facts:

M/s Wipro Enterprises Private Limited ("**the Applicant**") is engaged in manufacturing & marketing Hand Sanitizer at a large scale at their various factories. The Applicant was of the opinion that hand sanitizer should be classified under HSN 3004.

Issue:

What is the appropriate classification of hand sanitizer and the applicable rate of GST?

Held:

The AAR, Karnataka, in the matter of *M/S. Wipro Enterprises Private Limited [Advance Ruling No. KAR ADRG 08/2021, dated February 26, 2021]* classified 'Hand Sanitizer' under HSN 3808 and liable to tax at the rate of 18% GST. Held that, the alcohol-based

hand sanitizers, are primarily used for care rather than cure and to disinfect the skin surfaces or to sanitize the hands and hence cannot be covered under 'Medicaments'. Further held that, any goods to be covered under HSN 3004, should be for "therapeutic use" or "prophylactic use" and the hand sanitizers are used as an alternative to soap and not for treatment of an already prevalent disease in a patient nor they are available as tablets, ampoules etc., therefore the same cannot be said to have a therapeutic/prophylactic use.

Note: Similar stand was taken by AAR, Karnataka, in the matter of *M/S. Ce Chem Pharmaceuticals Private Limited [Advance Ruling No. KAR ADRG 07 / 2021 dated February 26, 2021]*

'Hand-Sanitizers' taxable at 18%, denies exemption as 'essential commodity' under GST

Facts:

M/S. Springfields (India) Distilleries ("**the Applicant**") is a partnership firm manufacturing hand sanitizers.

Issue:

What is the appropriate classification of hand sanitizer and the applicable rate of GST?

Held:

The AAR, Goa, in the matter of *M/S. Springfields (India) Distilleries Advance Ruling No. GOA/GAAR/1 of 2020-21/531, dated June 25, 2020* held that, hand sanitizer manufactured by the Applicant are of the category of alcohol-based hand sanitizers and are classifiable under HSN 3808 to which rate of GST applicable is 18%. As far as exempting hand sanitizers as essential commodity under the exempted goods vide *Notification No. 2 /2017- Central Tax (Rate) dated June 28, 2017 ("Goods Exemption Notification")*, and merely classifying any goods as essential commodity will not be the criteria for exempting such goods from GST.

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Flat no. 34B, Ground Floor, Pocket -1, Mayur Vihar, Phase -I, Delhi - 110091

Email: bimaljain@a2ztaxcorp.com; Web: www.a2ztaxcorp.com; Tel: +91 11 4242 7056

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