L&S UPDATE

An e-update to clients from Lakshmikumaran & Sridharan

2 JULY 2022

INDIRECT TAX

Healthcare Sector - Recommendations of 47th GST Council Meeting

UPDATE NO. 29 OF 2022

Lakshmikumaran & Sridharan attorneys

exceeding expectations
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RATIONALIZATION RECOMMENDED IN 47TH GCM

Recommendation	Present Position	Proposed Position	L&S Comments & Issues
Room rent (excluding ICU) exceeding Rs. 5,000 per day per patient charged by a hospital shall be taxed to the extent amount charged for the room at 5% without ITC.	• As per **Notification No.12/2017-CT(R)**, health care services are exempt. • Further, it was clarified that the supply of medicine, implants, room rent, and food are ancillary to the principal supply. • As result it is composite supply. Due to which it is fully exempt.	It has been recommended to exclude the room rent (excluding ICU) from the purview health care services and make it taxable separately at the rate of 5% (without ITC) if charges exceed Rs. 5,000 per day	• The recommendation seems to take out the element of room rent beyond a threshold from the bundle of healthcare services and tax it separately at the rate of 5% without ITC. • Whether ratio of ***Mohit Minerals*** is applicable on such taxability? • Whether entire amount will be taxed or only rent exceeding Rs. 5,000?

Recommendation	Present Position	Proposed Position	Issues
Like CETPs, common bio-medical waste treatment facilities for treatment or disposal of biomedical waste shall be taxed at 12% so as to allow them ITC	• As per **Notification No. 12/2017-CT(R)** services provided by the operator of common bio medical waste treatment facility or disposal is exempt.	It has been recommended by the Council to make the services of treatment or disposal of bio medical waste taxable at rate of 12%.	• Just like Common Effluent Treatment Plants, change proposes to provide ITC to the supplier. • Whether services would continue to be exempt when provided to Central Government, State Government, Union Territory, Local Authority or Govt. Authority?

Recommendation	Present Position	Proposed Position	Issues
Exemption withdrawn from services provided by the cord blood banks by way of preservation of stem cells	• As per **Notification No.12/2017-CT(R)** the services by the cord blood banks by way of preservation of stem cells or any other services are exempt.	• Now it has been prosed to withdraw the said exemption and made the services taxable.	• What would be the rate of GST applicable on such services? • Whether services can continue to be covered under exemption provided for health care services? • Is the law laid down by Madras High Court in ***Life Cell International*** correct or not?

CLARIFICATION PROVIDED IN 47TH GCM

Recommendation	Issues
Services in form of Assisted Reproductive Technology (ART) / In vitro fertilization (IVF) are covered under the definition of health care services for the purpose of exemption under GST.	• What would be the position for the taxpayers, who have paid GST for the past period? • Whether ITC is eligible for payment of GST in respect of past period?

CHANGES IN GST RATE RECOMMENDED IN 47TH GCM

Description	Present Rate	New Rate (w.e.f. 18th July 2022)
1) Ostomy Appliance	12%	5%
2) Orthopedic appliance- Splints and other fracture appliances; artificial parts of the body; other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability; intraocular lens	12%	5%
3) IGST on import of Diethylcarbamazine (DEC) tablets supplied free of cost for National Filariasis Elimination Programme	5%	NIL
4) Nicotine Polarilex Gum	NIL	18%

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