L&S UPDATE
An e-update to clients from Lakshmikumaran & Sridharan

18 JULY, 2022

INDIRECT TAX

GST Update for Healthcare sector

UPDATE NO. 41 OF 2022

Lakshmikumaran & Sridharan attorneys

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NOTIFIED BY NN. 03/2022 C.T (RATE)

Notified	Position (Till 17 July 2022)	Position (w.e.f. 18 July 2022)	L&S Comments & Issues
1) 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 INR 5000 per day to a person receiving health care services.	• As per **Entry No. 12 of Notification No.12/2017 -CT(R)**, health care services are exempt. • Further, it was clarified vide **Circular No. 32/06/2018-GST** that food provided to patients is ancillary to the principal supply. • As result it is a composite supply, due to which it is fully exempt. • Along the above lines, advance ruling authorities ruled that medicines, consumables and implants would be considered as ancillary as well.	• **Notification no. 11/2017-CT(R) Entry 31A** - Room rent (excluding ICU, CCU, ICCU,NICU) to be excluded from the purview of health care services and would be made taxable separately at the rate of 5% (without ITC) if charges exceed INR 5,000 per day.	• The notification 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? • Applicability for instances where patients are charged on a per bed basis instead of room rent?

Notified	Position (Till 17 July 2022)	Position (w.e.f. 18 July 2022)	L&S Comments & Issues
2)Services by way of treatment or disposal of biomedical waste or the processes incidental thereto by a common bio-medical waste treatment facility to a clinical establishment	• As per **Entry No. 75 Notification No. 12/2017-CT(R)** services provided by the operator of common bio medical waste treatment facility or disposal were exempt.	• As per **Entry No. 32ia of Notification No. 11/2017-Central Tax (Rate)** Services of treatment or disposal of bio medical waste is taxable at the rate of 12%.	• Whether services would continue to be exempt when provided to Central Government, State Government, Union Territory, Local Authority or Government Authority under Entry 3 of Notification no 12/2017-Central Tax (Rate)?
3)Exemption withdrawn from services provided by the cord blood banks by way of preservation of stem cells.	• As per **entry No. 73 of 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.	• Supply would be taxable, however, specific entry not notified	• 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? • Applicability of law laid down by Madras High Court in *Life Cell International?*

RATE NOTIFIED BY N.N-6/2022 C.T(RATE)

Description	Position (Till 17 July 2022)	Position (w.e.f. 18 July 2022)	L&S Comments
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%	NPPA Implications must be analyzed w.r.t price changes.

LOCATIONS

www.lakshmisri.com

NEW DELHI
5 Link Road, Jangpura Extension,
New Delhi 110 014
PHONE: 011-4129 9800

B-6/10, Safdarjung Enclave,
New Delhi 110 029
PHONE: 011-4129 9900
E-MAIL: Lsdel@lakshmisri.com

MUMBAI
2nd Floor, CNERGY IT Park,
Old Standard Mill,
Appa Saheb Marathe Marg,
Prabhadevi,
Mumbai 400 025
PHONE: 022-2439 2500
E-MAIL: Lsbom@lakshmisri.com

CHENNAI
2, Wallace Garden, 2nd Street,
Chennai 600 006
PHONE: 044-2833 4700
E-MAIL: Lsmds@lakshmisri.com

BENGALURU
World Trade Center,
No. 404-406, 4th Floor, South Wing,
Brigade Gateway Campus,
No. 26/1 Dr. Rajkumar Road,
Malleswaram West,
Bengaluru 560 055
PHONE: 080-4933 1800
E-MAIL: Lsblr@lakshmisri.com

HYDERABAD
'Hastigiri', 5-9-163, Chapel Road,
Opp. Methodist Church, Nampally,
Hyderabad 500 001
PHONE: 040-2323 4924
E-MAIL: Lshyd@lakshmisri.com

AHMEDABAD
B-334, SAKAR-VII,
Nehru Bridge Corner, Ashram Road,
Ahmedabad 380 009
PHONE: 079-4001 4500
E-MAIL: Lsahd@lakshmisri.com

PUNE
607-609, Nucleus,
1 Church Road, Camp
Pune 411 001
PHONE: 020-6680 1900
E-MAIL: Lspune@lakshmisri.com

KOLKATA
2nd Floor, Kanak Building,
41, Chowringhee Road,
Kolkata 700 071
PHONE: 033-4005 5570
E-MAIL: Lskolkata@lakshmisri.com

CHANDIGARH
SCO No. 59, 1st Floor,
Sector 26, Madhya Marg,
Chandigarh 160 026.
PHONE: 0172-492 1700
E-MAIL: Lschd@lakshmisri.com

GURUGRAM
OS2 & OS3, 5th Floor,
Corporate Office Tower,
AMBIENCE Island, Sector 25-A,
Gurugram 122 001
PHONE: 0124-477 1300
E-MAIL: Lsgurgaon@lakshmisri.com

PRAYAGRAJ (ALLAHABAD)
3/1A/3, (Opp. Auto Sales)
Colvin Road, Lohia Marg,
Prayagraj 211 001
PHONE: 0532-242 1037/242 0359
E-MAIL: Lsallahabad@lakshmisri.com

KOCHI
1st Floor, PDR Bhavan,
Palliyil Lane, Foreshore Road,
Ernakulam, Kochi 682016
PHONE: 0484-486 9018/486 7852
E-MAIL: Lskochi@lakshmisri.com

JAIPUR
2nd Floor (Front side),
Unique Destination, Tonk Road,
Near Laxmi Mandir Cinema Crossing,
Jaipur, Rajasthan 302 015
PHONE: 0141–456 1200
E-MAIL: Lsjaipur@lakshmisri.com

NAGPUR
1st Floor, HRM Design Space,
90-A, Next to Ram Mandir,
Ramnagar, Nagpur 440033
PHONE: +91-712-2959038/2959048
E-MAIL: Lsnagpur@lakshmisri.com

Lakshmikumaran & Sridharan attorneys

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