

# **ITC unavailable on medicines, food and beverages supplied to in-patients – Karnataka AAR**

13 November 2020



## Summary

The Karnataka Authority for Advance Ruling (AAR), in a recent case, has held that input tax credit (ITC) is to be restricted on medicines used in the course of supply of healthcare services and on supply of food and beverages to in-patients. Further, the AAR held that the ITC can be availed on medicines supplied to others i.e. customers, who are neither in-patients nor out-patients, as there is no healthcare services provided and such supply is liable to tax.

## Facts of the case

- The applicant<sup>1</sup> is engaged in the business of providing health care services through hospital.
- The applicant sought an advance ruling before the Karnataka AAR on availability of ITC in respect of medicines supplied to in-patients, out-patients, other customers as well as ITC in respect of supply food and beverages to in-patients.

## Karnataka AAR's observations and ruling<sup>2</sup>

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<sup>1</sup> M/s Ambara

<sup>2</sup> AAR no. KAR ADRG 51/2020 dated 08.10.2020

## Availability of ITC in respect of supply of medicines to in-patients:

- The AAR mentioned that supply of medicines is not a separate supply as the medicines are consumed in the course of supply of medical treatment.
- Therefore, the same would not constitute a 'composite supply'<sup>3</sup> as there is only one supply i.e. 'treatment of ailment' which is a health care service.
- Since, the outward supplies (health care services) are exempt<sup>4</sup>, the applicant is

<sup>3</sup> Section 2(30) of the CGST Act, 2017

<sup>4</sup> under entry No.74(a) of No. 12/2017-CTR dated June 28, 2017

not eligible to avail ITC on inward supply of medicines used for providing 'healthcare services' to the in-patients.

#### **Availability of ITC in respect of medicines supplied to out-patients:**

- The AAR observed that while the applicant is eligible to claim ITC on medicines sold from its pharmacy counter, however, ITC is ineligible on medicines supplied as part of healthcare services provided to out-patients.

#### **Availability of ITC on supply of medicines and other goods to other customers:**

- In this case, the applicant is selling the medicines as a trader and is liable to collect and pay the applicable tax on the goods sold and also is eligible to claim ITC like any supplier of taxable goods, subject to restrictions.<sup>5</sup>

#### **Availability of ITC in respect of supply of food and beverages to the inpatients:**

- The AAR held that if the supply of food and beverages is under the prescribed

diet as an integral part of the treatment process then the food and beverages loses its identity as a separate supply and merges with the supply of treatment service similar to supply of medicines.

- Therefore, it becomes an exempted supply on which the applicant cannot claim ITC.

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<sup>5</sup> Section 17 of the CGST Act, 2017

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## Our comments

The Karnataka AAR has held that the supply of medicines and other consumables during treatment to in-patients is not a separate supply as the same are consumed in the course of treatment. Thus, as the healthcare services are exempt, ITC in respect of such supply shall not be available.

It is pertinent to note that the Karnataka AAR has mentioned that such supply would not constitute a 'composite supply' as there is only one supply, i.e. 'treatment of ailment', which is a health care service. Contrary to this, the Karnataka AAR<sup>6</sup> had earlier held that supply of goods and services in conjunction with the healthcare services fall under the definition of composite supply. Further, similar ruling was also pronounced by the Kerala AAR<sup>7</sup>.

Even though advance ruling is applicable only to the applicant, the same acts as a guiding tool for other taxpayers with similar issues.

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<sup>6</sup> M/s Columbia Asia Hospitals Private Limited

<sup>7</sup> M/s Ernakulum Medical Centre Private Ltd

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<b>NEW DELHI</b> National Office Outer Circle L 41 Connaught Circus, New Delhi 110 001 T +91 11 4278 7070	<b>NEW DELHI</b> 6th floor, Worldmark 2, Aerocity, New Delhi – 110 037 T +91 11 4952 7400	<b>AHMEDABAD</b> 7th Floor, Heritage Chambers, Nr. Azad Society, Nehru Nagar, Ahmedabad – 380 015	<b>BENGALURU</b> 5th Floor, 65/2, Block A, Bagmane Tridib, Bagmane Tech Park, C V Raman Nagar, Bengaluru – 560 093 T+91 80 4243 0700	<b>CHANDIGARH</b> B-406A, 4th Floor, L&T Elante office Building Industrial area, Phase-I, Chandigarh 160 002 T +91 172 4338 000
<b>CHENNAI</b> 7th Floor, Prestige Polygon 471, Anna Salai, Teynampet Chennai - 600 018 T +91 44 4294 0000	<b>DEHRADUN</b> Suite No 2211, 2nd Floor Building 2000 Michigan Avenue, Doon Express Business Park, Subhash Nagar, Dehradun 248 002 T +91 135 264 6500	<b>GURGAON</b> 21st Floor DLF Square Jacaranda Marg, DLF Phase II, Gurgaon 122 002 T +91 124 462 8000	<b>HYDERABAD</b> 7th Floor, Block III White House Kundan Bagh, Begumpet Hyderabad 500 016 T +91 40 6630 8200	<b>KOCHI</b> 7th Floor, Modayil Centre Point, Warriam Road Junction, MG Road, Kochi 682 016 T +91 484 406 4541
<b>KOLKATA</b> 10C Hungerford Street 5th Floor, Kolkata 700 017 T +91 33 4050 8000	<b>MUMBAI</b> 16th Floor, Tower II One International Centre SB Marg, Prabhadevi (W) Mumbai 400 013 T +91 22 6626 2600	<b>MUMBAI</b> Kaledonia, 1st Floor, C Wing (Opposite J&J office) Sahar Road, Andheri East, Mumbai - 400 069 T +91 22 6176 7800	<b>NOIDA</b> Plot No. 19A, 7th Floor Sector – 16A, Noida 201 301 T +91 120 4855 900	<b>PUNE</b> 3rd Floor, Unit No 309 to 312, West Wing, Nyati Unitree Nagar Road, Yerwada Pune- 411 006 T +91 20 6744 8800

For more information or for any queries, write to us at [contact@in.gt.com](mailto:contact@in.gt.com)



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