

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 applicant¹ 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 ruling²

¹ M/s Ambara

² 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'³ 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 exempt⁴, the applicant is

³ Section 2(30) of the CGST Act, 2017

⁴ 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.⁵

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.

⁵ Section 17 of the CGST Act, 2017

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 AAR⁶ 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 AAR⁷.

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

⁶ M/s Columbia Asia Hospitals Private Limited

⁷ M/s Ernakulum Medical Centre Private Ltd

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