

Occupational health check-up service provided by the clinical establishment to business entity is a health care service exempt from GST – Gujarat AAAR

13 June 2022



## Summary

The Gujarat Appellate Authority of Advance Ruling (Gujarat AAAR) has held that the supply of occupation health check-up service by a hospital by way of providing staff<sup>1</sup> to different corporates for providing health check-up services, ambulance facility and allied medical services to their employees and the camps conducted for health check-up outside the hospitals are to be treated as a health care service. Further, such health care services are exempted under GST<sup>2</sup>. The GAAAR stated that the Gujarat Authority of Advance Ruling (Gujarat AAR) has failed to appreciate that the definition of healthcare service is similar in GST regime as compared to the Finance Act, 1994 under which the service was exempted<sup>3</sup>. The Gujarat AAAR further stated that the AAR has failed to examine that the services provided by the appellant are covered<sup>4</sup> in the exemption notification. The Gujarat AAAR also ruled that there is no disparity when health care services are provided by a clinical establishment to a patient inside the clinical establishment or outside the said establishment.

## Facts of the case

- The appellant<sup>5</sup> is running three multi-specialty hospitals under the Brand name Sunshine Global Hospitals.
- The appellant provides occupational health check-up (OHC) service which are provided by any clinical establishment to the business entities and camps conducted for health check-up outside the hospitals. The appellant filed an advance ruling<sup>6</sup> before the Gujarat AAR that supply of these services shall be treated as health care service and not taxable under GST.
- The Gujarat AAR held that such services provided by the appellant are not covered under the ambit of health care service and shall be covered under Human health and social care services and therefore taxable @ 18% under GST.
- The aggrieved appellant filed an appeal before the AAAR and submitted that such services are not in the nature of social services but are health care services.
- The appellant has placed reliance on the judgment<sup>7</sup> delivered by the European court of Justice wherein it had been held that conducting medical examinations or taking medical samples of individuals for employers or insurance companies or certification of medical fitness are exempt, if such services are principally intended to protect health of person concerned.

<sup>1</sup> i.e. nursing staff, Doctors, Paramedical staff on hospital's payroll

<sup>2</sup> in terms of Entry at Sr.No.74 of NotificationNo.12/2017-Central Tax (Rate) dated 28.06.2017 and Notification No. 12/2017-State Tax (Rate) dated 30.06.2017, as amended.

<sup>3</sup> Vide Notification No. 30/2011-ST dated 25.04.2011

<sup>4</sup> Sr. No. 74

<sup>5</sup> M/s Baroda Medicare Private Limited

<sup>6</sup> Advance Ruling No. GUJ/GAAR/R/106/2020 dated 30.12.2020

<sup>7</sup> Peter d'Ambrumenil, Dispute Resolution Services Ltd. Vs. CCE [2012] 36 STT 537 (ECJ)

- The appellant contended that as per the notifications<sup>8</sup> under service tax and GST, the OHC service is fully exempt.

### Gujarat AAAR observations and ruling<sup>9</sup>:

- **Services under health care services:** The AAAR referred to the definition<sup>10</sup> of health care services and stated that any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India is covered under the definition of health care service.
- **Health care services includes OHC services:** The definition of diagnosis is broad enough to include OHC within the meaning. The Gujarat AAAR stated that OHC provide preventive care which falls in the scope of the word care. Further, as per the definition of health care services, there is no disparity when such services are provided by a clinical establishment to a patient inside or outside the clinical establishment. However, GAAR erred in holding that health care services do not include the services of OHC or preventive care.
- **Exempt service under Service tax and GST:** The OHC services were exempted by the government under the service tax regime. Further, the definition of healthcare service is similar in GST regime when compared to the Finance Act, 1994. The appellant has classified its service under heading 9993 which is squarely covered in the description of

service as mentioned in exemption notification.

### Our comments:

The Gujarat AAAR has rightly modified the ruling pronounced by the Gujarat AAR to hold that the supply of OHC services provided by the hospital to the employees of business entities are covered under health care services. These services are exempt under GST irrespective of the place wherever these services are provided.

Further, the AAAR has elucidated that health care services are not limited to specified or particular conditions, diseases or anatomical reasons. These services can be provided in general practitioner's practices and also delivered by outpatient clinics, at home, in firms, schools, etc. or by phone, internet or other means. It means that there is a broad scope to cover services under healthcare services to provide exemption benefits under GST.

At present, healthcare services are important and therefore as a facility, many business entities make arrangements with hospitals to provide regular services to their employees. This is a welcome ruling for all such business entities as there shall be no GST implications. Further, the ruling is likely to set precedence in similar matters.

<sup>8</sup> Notification No. 30/2011-Service Tax dated 25.04.2011, Sr. No. 2 of Notification No. 25/2012-ST dated 20.06.2012 was similar to Entry No. 74 of Notification No. 12/2017-Central Tax (Rate)

<sup>9</sup> Advance Ruling No GUJ/GAAAR/APPEAL/2022/09  
<sup>10</sup> Para 2 of the Notification No. 12/2017-Central Tax (Rate)

# Contact us

To know more, please visit [www.grantthornton.in](http://www.grantthornton.in) or contact any of our offices as mentioned below:

---

## NEW DELHI

National Office,  
Outer Circle,  
L 41, Connaught Circus,  
New Delhi - 110001  
T +91 11 4278 7070

## NEW DELHI

6th Floor, Worldmark 2,  
Aerocity,  
New Delhi - 110037  
T +91 11 4952 7400

## AHMEDABAD

Unit No - 603 B, 6th Floor,  
Brigade International  
Financial Center,  
GIFT City Gandhinagar,  
Ahmedabad - 382355  
T +91 79 6900 2600

## BENGALURU

5th Floor, 65/2, Block A,  
Bagmane Tridib,  
Bagmane Tech Park,  
CV Raman Nagar,  
Bengaluru - 560093  
T +91 804 243 0700

---

## CHANDIGARH

B-406A, 4th Floor,  
L&T Elante Office Building,  
Industrial Area Phase I,  
Chandigarh - 160002  
T +91 172 433 8000

## CHENNAI

9th floor, A wing, Prestige  
Polygon, 471 Anna Salai,  
Mylapore Division, Teynampet,  
Chennai - 600035  
T +91 44 4294 0000

## DEHRADUN

Suite No 2211, 2nd Floor,  
Building 2000, Michigan Avenue,  
Doon Express Business Park,  
Subhash Nagar,  
Dehradun - 248002  
T +91 135 264 6500

## GURGAON

21st Floor, DLF Square,  
Jacaranda Marg,  
DLF Phase II,  
Gurgaon - 122002  
T +91 124 462 8000

---

## HYDERABAD

Unit No - 1, 10th Floor,  
My Home Twitza, APIIC,  
Hyderabad Knowledge City,  
Hyderabad - 500081  
T +91 40 6630 8200

## KOCHI

6th Floor, Modayil Centre Point,  
Warriam Road Junction,  
MG Road  
Kochi - 682016  
T +91 484 406 4541

## KOLKATA

10C Hungerford Street,  
5th Floor,  
Kolkata - 700017  
T +91 33 4050 8000

## MUMBAI

11th Floor, Tower II,  
One International Center,  
SB Marg Prabhadevi (W),  
Mumbai - 400013  
T +91 22 6626 2600

---

## MUMBAI

Kaledonia, 1st Floor,  
C Wing,  
(Opposite J&J Office),  
Sahar Road, Andheri East,  
Mumbai - 400069

## NOIDA

Plot No 19A, 2nd Floor,  
Sector - 16A,  
Noida - 201301  
T +91 120 485 5900

## PUNE

3rd Floor, Unit No 310-312,  
West Wing, Nyati Unitree,  
Nagar Road, Yerwada  
Pune - 411006  
T +91 20 6744 8800

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



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