

**AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH**

**Goods and Service Tax**

**O/o THE COMMISSIONER, COMMERCIAL TAX,**

**MOTI BUNGALOW,**

**MAHATMA GANDHI MARG, INDORE (M.P.) - 452007**

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**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING**  
**U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017**

**Members Present**

1. Rajiv Agrawal  
Additional Commissioner,  
Office of the Commissioner,CGST and Central Excise, Indore
2. Manoj Kumar Choubey  
Joint Commissioner,  
Office of the Commissioner of Commercial Tax, Indore Division-1

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|--|---|
| GSTIN Number. If any/User-id   | 23AAECJ1917G1ZX   |
| Name and address of the applicant  | M/s. J C Genetic India Private Limited,<br>7th Floor, 714-716, Princess Business Skypark,<br>PU-3 Commercial, Scheme No. 54, A.B. Road,<br>Indore (M.P.), |
| Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised | b) applicability of a notification issued under the provision of this Act;  |
| Present on behalf of applicant   | Shree S.C. Tiwari Authorized representative   |
| Case Number  | 23/2018   |
| Order dated  | 21-01-19  |

order No.

01/2019

**PROCEEDINGS**

(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and the Madhya Pradesh Goods & Service Tax Act, 2017)



1. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and MP Goods & Services Tax Act, 2017

(hereinafter also referred to CGST Act and MPSGT Act respectively) by M/s. J C Genetic India Private Limited, Indore (hereinafter referred to as the Applicant) , registered under the Goods & Services Tax.

2. The provisions of the CGST Act and MPGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.

### 3. BRIEF FACTS OF THE CASE:

3.1 The Applicant is a Healthcare company, engaged in the diagnosis pre and post- counselling therapy and prevention of diseases by providing necessary sophisticated tests. Further, the Applicant also provides genomic information which helps physicians and wellness professionals in curing diseases and improving human health. The Applicant is having a GST registration with GSTIN **23AAECJ1917G1ZX**.

3.2 The Applicant have collaboration with diagnostic Companies, accredited by NABL (National Accreditation Board for Testing and Calibration Laboratories) and DSIR (Department of Scientific and Industrial Research) certified to provide advance genetic tests that help in prevention and management of Cancer and various health & metabolic disorders.

### 4. QUESTIONS RAISED BEFORE THE AUTHORITY :-

The following questions have been posted before the Authority:-

1. Whether exemption provided under Sr.No.74 of Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 is applicable to the applicant.?
2. Whether applicant qualifies to be a “Clinical Establishment” under clause 2 (s) of the said Notification.?

5. **DEAPRTMENT’S VIEW POINT:** The Joint Commissioner, CGST & Central Excise, Indore vide his letter dtd.18.01.2019, has forwarded department’s view point in respect of the issue raised in the Application. It has been, interalia, opined that, ‘..... from the application, it is not clear that the applicant has collaboration directly with NABL and DSIR or whether they are providing services to the accredited agencies



authorized by the NABL or DSIR. The applicant has no where provided any documentary evidences in this connection. Further, the Notification No.12/2017-CTAX(Rate) dated 28.06.2017 provides exemption when the services are provided by way of healthcare services by a Clinical Establishment, an authorized medical practitioner or Para-medics. In the instant case for the reasons specified above, it is no where clear whether the applicant fits into the parameters of " Clinical Establishment". In fact , from the details provided by the applicant, it appears that the applicant have some arrangements/collaboration with the companies who are the accredited agencies of NABL & DSIR. It therefore, appears to be a sub-contracting arrangements made by the diagnostic companies.

In view of the above, it is not clearly established that the services provided by the applicant falls under the parameters of healthcare services by the clinical establishment. Therefore, the services offered/provided by the applicant does not appear to be eligible for exemption under Notification No.12/2017-CT(rate) dated 28.06.2017(SI.No.74).'

## 6. RECORD OF PERSONAL HEARING:

6.1 Shree S.C. Tiwari Authorized representative of the applicant for Personal Hearing The submissions already made in the application. The Applicant have further submitted the entire information about Healthcare services provided by them at their clinic :-

6.2 The Applicant deals in genetic testing for prevention, management and precision diagnostics in detecting origin of the Cancer and thereby predicting risk of various diseases and providing precise medicines for the diseases and overall healthcare. The applicant is also providing Genomic information which helps physicians and wellness professionals in curing disease and improving human health.

6.3 Genetic testing provides all information about whole genome (Complete DNA), which is responsible for every activity in body like nutritional needs, disease occurrence, Cancer threats, specific drugs activity & absorption in body etc. Genes/ DNA carries the information that determines a person's traits which are features or characteristics that are inherited from your parents.



6.4 Further, the applicant also provides complete blend of information about genetic mismanagement going on in body, alongwith the personalized nutritional and preventive solutions on that, which help individuals to predict risk factors of various conditions e.g.Cancer, Diabetes, Arthritic, IBS, Heart disease, Renal disease etc. The applicant helps people to make careful and thoughtful decisions regarding their own health and family health. The applicant also provides non-invasive DNA testing by Saliva sample of humans.

6.5 The applicant also provides required treatment by Physician for oncology, Cardiology, Nephrology, Dermatology, Neurology, Haematology, Rheumatology, Gastroenterology, Immunology, Retinopathy etc. They also provide sophisticated and relevant tests by sequencing BRCA 1 & BRCA 2 gene mutation tests and also predict patient risk for ovarian cancer.

6.6 The Applicant have further submitted that as per their view the aforementioned services covered under "Healthcare Service" and applicant qualifies to be a "Clinical Establishment" therefore the service provided by them, falls under Nil rates supply . In support of their view, the Applicant have put forwarded following points:

(A) Clause 2 (zg) of the Notification No.12/2017 – Central Tax (Rate) dated 28<sup>th</sup> June 2017 defines "Health Care Services: as under :

**2(zg) "Health care services" means any service by way of diagnosis or treatment or care for illness, injury deformity, abnormally or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.**

The applicant is involved in providing the services of diagnosis, pre & post counselling, therapy and prevention of diseases by providing tests that are sophisticated and relevant. The medical team of the applicant is involved in



the complete cycle and hence they facilitate the diagnosis process. Therefore, the services provided by the applicant qualify to be health care service.

(B) Clause 2 (s) of the Notification No.12/2017 – Central Tax (Rate) dated 28<sup>th</sup> June 2017 defines clinical establishment as under :

**2(s) "Clinical establishment" means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases;**

The applicant offers services/ facilities requiring diagnosis such as patient counselling, suggestion and relevant tests for the patient, collecting samples, obtaining the result of tests sharing the test results and post counselling. Applicant provides services in Allopathic system of medicine, recognised in India. After proper diagnosis they provide required treatment by physicians, for oncology, cardiology, nephrology, dermatology, neurology, haematology, rheumatology, Gastroenterology, immunology, retinopathy etc. Therefore, applicant qualifies to be clinical establishment.

In view of above, the Applicant has filed the instant application seeking applicability of Notification.

## **7. DISCUSSIONS AND FINDINGS:**

7.1 We have carefully considered the submissions made by the applicant in the application, the pleadings on behalf of the Applicant made during the course of personal hearing. We find that the issue raised in the Application is squarely covered under Section 97(2)(b) of the CGST Act 2017 being a matter related to applicability of a Notification and the applicant have complied with the all the requirements for filing this application as laid down under the law. We therefore admit the application for consideration on merits.

7.2 The Applicant has submitted detailed information about services, provided by them at their place. Further they have



also mentioned in their submission that they have a collaboration with diagnostic companies, accredited by NABL (National Accreditation Board for Testing and Calibration Laboratories) and DSIR (Department of Scientific and Industrial Research), which are certified to provide advance genetic tests that help in prevention and management of Cancer and various health & metabolic disorders. A team of bio – technology scientists and a medical team are involved in complete cycle of testing processes beginning with patient counselling.

*NABL : National Accreditation Board for Testing and Calibration Laboratories) is a an autonomous body under the aegis of Department of Science and Technology, Government of India which has been authorised as the sole accreditation body for Testing and calibration laboratories. NABL accredits the laboratories that have aligned their quality management system with internationally accepted standards and guidelines i.e. ISO/IEC17025:2005.*

*DSIR (Department of Scientific and Industrial Research), The DSIR programs have been catering to all aspects concerned with the transformation of an innovation from mind to market. E.g. it has been assisting entrepreneurs with innovative ideas towards setting up potentially successful knowledge based companies, supporting up-scaling of technologies at the proof of concept stage up to pre-commercialization and also providing support for the marketing of such technologies for commercial application.*

7.3 Having considered the factual position as detailed by the Applicant, we find that the applicant has categorically mentioned that they have collaboration with companies, which in turn are accredited by NABL and DSIR. We find that the Applicant is has neither come forward with the names of such companies with which the Applicant claims to have collaboration, nor have the Applicant produced any document evidencing their own status of accreditation by NABL, which obviously is the sole accreditation body for testing and calibration laboratories. In absence of anything brought on record by the Applicant, we are compelled to believe that the Applicant is making a vain attempt to circumvent the essential



condition for qualification of Clinical Establishment. Needless to say that irrespective of the work being undertaken by the Applicant, we do not have any evidence before us even to indicate that the Applicant is a Clinical Establishment. Mere involvement in sophisticated testing and providing consultancy would not be a sufficient criterion, though necessary, for qualifying as a Clinical Establishment *per se*.

7.4 We also observe that the applicant admittedly have a collaboration with diagnostic companies accredited by NABL and DSIR. That in itself indicates that the Applicant do not have their own authority for giving clear report/ opinion of their own for the tests, and they have to get all the tests conducted and certified by the said NABL accredited laboratory. To put it in precise words, the Applicant are functioning as sub-contractors to the said accredited companies and not as an independent Clinical Establishment.

7.5 We find that the instant application seeks Ruling on applicability of a Notification issued under the provision of the Act, (1) Whether exemption provided under Sr. No.74 of Notification No.12/2017- Central Tax (Rate) dated 28<sup>th</sup> June 2017 and corresponding notification issued under MPGST Act is applicable to them (2) Whether applicant qualifies to be a "Clinical Establishment" under Clause 2(s) of the said Notification.

7.6 As the applicant have failed to prove their own authority and recognition for testing and giving clear report/ opinion of their own, which can only be done by a NABL accredited laboratory, the Applicant do not stand qualified to avail the benefit as envisaged under exemption Notification of 12/2017-CT(Rate) dtd.28.06.2017 [S.No.74 and 2 (s)] and corresponding notification issued under MPGST Act, for "healthcare services" and "clinical Establishment" is not applicable to them.

7.7 It is pertinent to mention here that the exemption for which the instant Application has been filed is Service Specific as well as Service Provider Specific. Thus to qualify for the said exemption an establishment has to satisfy dual conditions of providing Healthcare Service as well as being a Clinical Establishment. Thus while the service provided by the



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Applicant may be Healthcare Service, they do not qualify to be a Clinical Establishment as observed *supra*.

7.8 We therefore observe that the Applicant has failed to prove their legal status as Clinical Establishment and they are merely working as ancillary or sub-contractors to other accredited companies, and accordingly the Applicant are not entitled to avail exemption under Notification no.12/2017-CT(Rate) and corresponding notification issued under MPGST Act. We hold accordingly.

### 8. RULING

(Under section 98 of Central Goods and Services Tax Act, 2017 and the Madhya Pradesh Goods and Services Tax Act, 2017)

1. The Applicant is not entitled for the benefit of serial no. 74 and para 2 (s) of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 and corresponding notification issued under MPGST Act.
2. This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act.

*Sd/*  
RAJIV AGRAWAL  
CHOUBEY (MEMBER)

*Sd/*  
MANOJ KUMAR  
(MEMBER)

Copy to:- *No.24/2018/A.A.R/R-28/01*

*INDORE dt. 21/01/19*

1. Applicant
2. The Principal Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST) Indore
4. The Commissioner, CGST & Central Excise, Indore
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central



*Choubey*

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