CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 27312 of 2013

(Arising out of Order-in-Appeal No. 3 & 4/2013- Service Tax dated 29.04.2013 passed by the Commissioner of Central Excise (Appeals), Cochin.)

Nagarjuna Ayurvedic Centre Ltd.
Thannipuzha, Kalady,
Ernakulam,
Kerala – 683 550.

Appellant(s)

VERSUS

Commissioner of Central Excise and Service Tax
C.R. Buildings,
Queen's Road,
Cochin – 18.

Respondent(s)

With

(i). Service Tax Appeal No. 27661 of 2013 (Nagarjuna Ayurvedic Centre Ltd.)

(Arising out of Order-in-Appeal No. 3 & 4/2013- Service Tax dated 29.04.2013 passed by the Commissioner of Central Excise (Appeals), Cochin.)

(ii). Service Tax Appeal No. 20325 of 2024 (Nagarjuna Ayurvedic Centre Ltd.)

(Arising out of Order-in-Original No. COC-EXCUS-000-COM-42-49/2021-22/ST/Commr dated 30.03.2022 passed by the Commissioner of Central Excise, Kochi.)

(iii). Service Tax Appeal No. 20326 of 2024 (Nagarjuna Ayurvedic Centre Ltd.)

(Arising out of Order-in-Original No. COC-EXCUS-000-COM-42-49/2021-22/ST/Commr dated 30.03.2022 passed by the Commissioner of Central Excise, Kochi.)

(iv). Service Tax Appeal No. 20327 of 2024 (Nagarjuna Ayurvedic Centre Ltd.)

(Arising out of Order-in-Original No. COC-EXCUS-000-COM-42-49/2021-22/ST/Commr dated 30.03.2022 passed by the Commissioner of Central Excise, Kochi.)

(v). Service Tax Appeal No. 20328 of 2024
(Nagarjuna Ayurvedic Centre Ltd.)

(Arising out of Order-in-Original No. COC-EXCUS-000-COM-42-49/2021-22/ST/Commr dated 30.03.2022 passed by the Commissioner of Central Excise, Kochi.)

(vi). Service Tax Appeal No. 20329 of 2024
(Nagarjuna Ayurvedic Centre Ltd.)

(Arising out of Order-in-Original No. COC-EXCUS-000-COM-42-49/2021-22/ST/Commr dated 30.03.2022 passed by the Commissioner of Central Excise, Kochi.)

(vii). Service Tax Appeal No. 20330 of 2024
(Nagarjuna Ayurvedic Centre Ltd.)

(Arising out of Order-in-Original No. COC-EXCUS-000-COM-42-49/2021-22/ST/Commr dated 30.03.2022 passed by the Commissioner of Central Excise, Kochi.)

(viii). Service Tax Appeal No. 20331 of 2024
(Nagarjuna Ayurvedic Centre Ltd.)

(Arising out of Order-in-Original No. COC-EXCUS-000-COM-42-49/2021-22/ST/Commr dated 30.03.2022 passed by the Commissioner of Central Excise, Kochi.)

(ix). Service Tax No. 20332 of 2024
(Nagarjuna Ayurvedic Centre Ltd.)

(Arising out of Order-in-Original No. COC-EXCUS-000-COM-42-49/2021-22/ST/Commr dated 30.03.2022 passed by the Commissioner of Central Excise, Kochi.)

APPEARANCE:

Mr. Kurian Thomas, Advocate for the Appellant

Mr. M.A. Jithendra, Assistant Commissioner (AR) for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20656 - 20665 / 2026

DATE OF HEARING: 27.01.2026
DATE OF DECISION: 30.04.2026

PER : DR. D.M. MISRA

These appeals are filed against respective Order-in-Original/Order-in-Appeal passed by the Principal Commissioner of Central Excise/Commissioner of Central Excise (A), Cochin. Since involve common issues are taken up together for hearing and disposal. The details of the appeals are detailed as below:

Sl. No.	Appeal No.	OIA/OiO No.	SCN No & Date	Period	Tax (Rs)
1	ST/27312/2013	OIA 03-04/2013 dated 29.04.2013	SCN No.16/2008/ST dt. 05.03.2008 SCN No. 36/2008/ST dt. 21.04.2008 SCN No. 87/2002/ST dt. 12.08.2008	01.10.2002 to 31.03.2007 April 2007 to September 2007 October 2007 to June 2008	38,04,382/- 6,85,218/- 12,12,718/-
2	ST/27661/2013	OIA 03-04/2013 dated 29.04.2013	SCN No. 36/2008/ST dt. 21.04.2008	01.07.2008 to 31.03.2009	9,41,787/-
3	ST/20325/2024	OIO No. 42-49/2021-22/ST/COMMR dated 30.03.2022	SCN No. 10/2010/ST dt. 09.02.2010	April 2009 to September 2009	6,74,688/-
4	ST/20329/2024		SCN No. 221/2010/ST dt. 02.12.2010	October 2009 to March2010	9,20,176/-
5	ST/20331/2024		SCN No. 114/2011/ST dt. 24.08.2011	April 2010 to March 2011	22,34,351/-
6	ST/20327/2024		SCN No. 130/2012/ST dt. 09.10.2012	April 2011 to March 2012	23,21,686/-
7	ST/20332/2024		SCN No.178/2013/ST dt. 10.10.2013	April 2012 to March 2013	34,20,654/-
8	ST/20326/2024		SCN No.100/2015/ST dt. 20.04.2015	April 2013 to March 2014	50,88,651/-
9	ST/20330/2024		SCN No. 414/2015/ST	April 2014 to June	85,32,500/-

			dt. 03.11.2015	2015	
10	ST/20328/2024		SCN No. 36/2018/ST dt. 07.04.2018	July 2015 to June 2017	2,27,26,950/-

2. Briefly stated the facts of the case are that the appellant during the relevant period has been running a Ayurvedic Medical Centre. Alleging that they were providing various ayurvedic therapies, treatment, etc., such as sauna and steam bath, Turkish bath, solarium, spas, reducing or slimming saloons, gymnasium, yoga, meditation, massage (excluding therapeutic massage) or any other like services fall under the taxable category of 'Health and Fitness Service'; show-cause notice was issued to them on 05.03.2008 demanding service tax for the period 01.10.2002 to 31.02.2007 along with interest and penalty. Thereafter, periodical show-cause notices were issued to the appellant alleging that the activities provided by them being taxable under the category of 'Health and Fitness Service', hence, required to discharge service tax on the same. For the period post 01.07.2012 also, show-cause notices were issued to the appellant alleging that the activities of the appellant are classifiable under the scope of 'Service' as per Section 65B(44) read with Section 66B of the Act and since the said service neither included in the Negative List mentioned under Section 66D of the Finance Act, 1994 nor exempted under Notification No.25/2012-ST dated 20.06.2012, service tax was demanded for the period from 01.07.2012 to 30.06.2017 along with interest and penalties. On adjudication, the demands were confirmed with interest and penalties. Wherever the orders are passed by the Additional Commissioner/Assistant Commissioner, appeals were filed before the learned Commissioner (A), who in turn rejected their appeals. Hence, the present appeals are against the respective orders.

3. At the outset, the learned advocate for the appellant has submitted that appellant is engaged in the activity of providing healthcare services popularly known as Nagarjuna Ayurveda Hospital. They undertake specialized treatment for various ailments and treatments which are carried out by qualified Medical Professionals and Therapists under the Ayurvedic System of Medicine. The learned advocate has submitted that before the authorities below they have categorically argued that the services provided by them do not fall under the category of 'Health and Fitness Service' as defined under Section 65(51) of the Finance Act,1994, instead they are providing Healthcare Services following the Ayurvedic System of Medicine. They produced evidences to substantiate their claim of providing healthcare services which include the case-sheet of patients who had undergone treatments, invoices issued to the patients, registration certificates issued by the local authority accepting the appellant as a Ayurvedic Hospital, details of medical professional and qualified therapist and such other evidences which clearly prove that the appellant is a fully-fledged Ayurvedic Hospital providing healthcare services following Ayurvedic System of Medicine. During the course of hearing before the learned Commissioner on 30.03.2022, the appellant also referring to various patients' case-sheets, other supporting documents earlier submitted, an affidavit of the Senior Physicians working with the appellant in support of their defense; however, the same was not considered by the adjudicating authority and the impugned order was passed. Assuming that the non-consideration of the record is a *bona fide* error, they filed a rectification application, which was also erroneously rejected. Assailing the impugned order, he has submitted as follows:

- The issue involved is as to whether the activity undertaken by the appellant could be classified under the category "Health and Fitness Services". According to the orders impugned in the batch of appeals the appellant is undertaking only massages for the general well-being and not any therapeutic massages. There is however no material referred or placed on record to support the said stand taken in the orders. When it is settled in law that onus is on the revenue to prove with evidence in classification matters, the Adjudicating and Appellate Authorities could not have confirmed the demand, in the absence of material showing that the activity undertaken by the appellant is "Health & Fitness Services".

- The appellant right from the investigation stage produced materials to show that the activity performed by it is Healthcare Services following the Ayurvedic System of Medicine. The material produced included the details of the medical professionals, qualified therapists and the members of the Medical Board. It was specifically mentioned in the data provided to the Range Superintendent and the Adjudicating Authority that the Medical Board consisted of medical professionals of the Ayurvedic System of Medicine as well as the Allopathy System of Medicine as treatment needs to be planned after considering the various ailments and the existing medication of the patients coming for treatment. All these materials were left unconsidered by the adjudicating authority while deciding upon the classification issue.

- The orders of the adjudicating authorities do not give any proper reasoning as to how the activity undertaken by the appellant could be classified as "Health and Fitness Services", despite the materials placed on record by the appellant. When the documents placed on record by the appellant, show

that therapeutic and prophylactic care is provided by the appellant to its patients, the adjudicating authority should have adverted to the same, and to have given proper reasons to the conclusions in the impugned orders.

- The appellant apart from placing on record documents relating to the treatment undergone by the patients in the Hospital, also produce materials showing the facilities and protocols followed by the appellant. The documents also included that pertaining to certifications, accreditations, awards, etc., which clearly prove that the appellant is a full-fledged Ayurvedic Hospital providing Healthcare Services following the Ayurvedic System of Medicine.

- The lack of reasoning and non-consideration of the documents placed on record in the operative portion of the order of the Commissioner dated 30.03.2022, was addressed by the appellant through the rectification petitions. The summary dismissal of the rectification petitions would show that the non-consideration of the documents placed on record was not a mistake, but was to arbitrarily confirm the proposals in the show cause notice.

- The Commissioner at paragraph 30 of the impugned order observed that as the appellant did not produce a certificate of the District Medical Officer as in the case of Ayurvedic Centers runs in Hotels and Resorts, they are not running a medical centre. The Ld. Commissioner also held that the respondents in the case before this Hon'ble Tribunal in **Commissioner of Central Excise, Cochin vs. Coconut Lagoon Kumarakom: 2019 (21) GSTL 548 (Tri.-Bang.)** case, they provided Green Leaf Certification by the Government of Kerala for maintaining their standards and facilities and since the appellant having not produced Green Leaf Certificate and

Certificate from the Medical Officer, the activity undertaken by the appellant is to be treated as "Health & Fitness Services". When there were enough material produced showing the standard and facilities at the hospital of the appellant, and the nature of treatment undertaken therein, the Commissioner erred in arriving at such findings. The certifications were required by the respondents in the case before this Hon'ble Tribunal in the said case as those were Ayurvedic Centres run inside hotels or resorts. In the case of the appellant nothing of that nature is required as the appellant is not running an ayurvedic centre along with the main activity of providing accommodation services.

- The activity undertaken by the appellant was explained through the affidavit dated 25.03.2022 of K. Krishnan Namboori who is the holder of Bachelor's Degree in Ayurvedic Medicine and Surgery and who has proper knowledge and experience in the treatment procedure under the Ayurvedic System of Medicine. The nature of activity and facilities were explained by the expert in Ayurvedic System of Medicine supported by proper documents. This expert evidence was not considered by the Commissioner in the operative portion of the order, though specific reference was made to the same in paragraph 4 of the skeletal written submissions filed before the Commissioner.

- In all the orders issued for various periods penalty under Section 78 is imposed, alleging suppression. When it is the case of the appellant right from the investigation stage that it provides only Healthcare Services and not "Health & Fitness Services", it could not be said that the conditions of Section 78 are satisfied in the facts and circumstances of the case.

4. He has further submitted that the evidences that has been considered by the Tribunal in the case of **Commissioner of Central Excise, Cochin vs. Coconut Lagoon Kumarakom: 2019 (21) GSTL 548 (Tri.-Bang.)** in holding that when therapeutic treatments are provided under ayurvedic system be considered as Ayurvedic Treatment Centre and not as Health and Fitness service as defined under Section 65(51) of the Finance Act, 1994 was not considered by the Learned Commissioner. Also, they referred to the judgment of the Hon'ble Andhra Pradesh in the case of **Manthena Satyanarana Raju Charitable Trust vs. Union of India: 2017 (3) GSTL 213 (AP)** wherein providing of naturopathy therapy has been considered as clinical establishment and exemption under Notification No.25/2012-ST dated 30.06.2012 has been extended.

5. Learned Authorised Representative (AR) for the Revenue reiterating the findings of the authorities below, he has submitted that the department has consistently held that appellant was providing taxable services in the nature of health and fitness / wellness services not withstanding the appellant's claim that it is a hospital providing exempted healthcare services. Even though the appellant had produced patient records to show that it is a therapeutic and medical centre, however, no records were produced for the period 2002-2013 but it pertains to the period from 2014 only. After excluding records beyond June 2017, the appellant relies upon on 135 patients records for the entire appeal period of which 112 unique patients. Further, he has submitted that mere fact of being a hospital or following the regularized system of medicine would not automatically confers exemption from service tax for all services rendered. Service tax is neither levied nor exempted

based on the institute identity or nomenclature of service provider but is determined strictly on the nature, character and dominant purpose of the service actually rendered. Even if a fully recognized hospital is liable to service tax which are in the nature of diagnosis, treatment or care for illness. He has submitted that the documents produced by the appellant is for the period post 2014 and in the absence of patient records for the period from October 2002 to 2013 which constitutes more than 2/3rd of disputed period cannot support the case of the appellant that they were providing healthcare and fitness services. The evidentiary value cannot be brushed aside as a minor deficiency. He has further submitted that the fragility of evidentiary foundation is the pattern merging from UID numbers. The index reveals that multiple records pertain to the same patients, indicating repeat admissions or treatments of a very limited set of individuals. This reinforces the conclusion that the appellant is not placing before the Tribunal a representative cross-section of its clientele, but only a handful of patients whose records are repeatedly relied upon to create an impression of therapeutic medical practice.

6. Further, he has submitted that the discharge summaries reveal that patient admitted are predominantly young to middle aged individuals, largely within the age group of 30 – 35 years with only a negligible number of elderly patients. This demographic profile is inconsistent with that of a hospital engaged in the treatment of serious, acute or life-threatening medical conditions and instead reflects a clientele seeking relief from lifestyle related discomforts. Further, he has submitted that across the discharge summaries, the complaints are overwhelmingly functional and lifestyle oriented, such as neck pain, shoulder pain, low back pain, joint stiffness, body ache,

acidity, sleep disturbance and stress. There is no evidence of emergency admission, acute infection, trauma or serious systemic disease warranting hospitalization as a matter of medical necessity.

7. He has submitted that diagnoses recorded such as Greevagraha, Katigraha, Sandhigata Vata, Apabahukam and Agnimandhya are indicative of musculoskeletal, degenerative or lifestyle related conditions causing discomfort and stiffness, rather than acute or serious illnesses. The nature of treatment administered further confirms the true character of the services rendered. The treatments predominantly consists of massage centric Panchakarma therapies such as Abhyangam, Elakizhi or Podikizhi, Pizhichil, Njavara, Dhanyamladhara and Sirodhara. Further, he has submitted that a review of Samanya Pareeksha (General Examination), Srotho Pareeksha (Systemic Examination) and Ashta Sthana Pareeksha shows a consistent pattern and vital signs are mostly normal, blood pressure is normal or controlled, the respiratory, cardiovascular and neurological systems are recorded as normal. In many examination sheets, findings are explicitly recorded as normal. Therefore, the inference is that these patients were clinically stable and not suffering from serious medical illness but seeking relief from discomfort and lifestyle related issues. He has submitted that an exemption Notification be strictly construed and in case of ambiguity be decided in favour of the Revenue. In support of this, he has referred to the following judgments:

- Commissioner of Customs (Import), Mumbai vs. Dilip Kumar and Company & Ors.: (2018) 9 SCC 1
- CCE vs. Hari Chand Shri Gopal: (2011) 1 SCC 236
- CCE vs. Baidyanath Ayurved Bhawan Ltd.: (2009) 12 SCC Cosmetics

8. Heard both sides and perused the records. The issues involved in the present appeals for consideration are whether: (i) appellants are providing 'Health and Fitness Services' as defined under Section 65(51) and taxable service under Section 65(105)(zw) or 'Healthcare Services' from their Medical centre for the period from 01.10.2002 to 30.03.2012; and (ii) eligible to exemption from payment of service tax under 'Healthcare Services' under Notification No.25/2012-ST dated 20.06.2012 for the period from 01.07.2012 to 30.06.2017.

9. The definition of 'Health and Fitness Services' under Section 65(51), the taxable service under Section 105(zw) of the Finance Act,1994 and the exemption Notification No.25/2012-ST dated 20.06.2012 as amended allowing exemption to health care service are reproduced below for ease of reference.

> **Section 65(51) "health and fitness service"** means service for physical well-being such as, sauna and steam bath, Turkish bath, solarium, spas, reducing or slimming saloons, gymnasium, yoga, meditation, massage (excluding therapeutic massage) or any other like service;
>
> **Section 105(zw)** to any, by a health club and Fitness Centre in relation to health and fintness services
>
> **"Exemptions from Service tax — Mega Notifications - Notification No. 12/2012-S.T. dated 20.06.2012 as amended**
>
> In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act) and in supersession of notification number 12/2012-Service Tax, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 210(E), dated the 17th March, 2012, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the following taxable services from the whole of the service tax leviable thereon under section 66B of the said Act, namely :-
> 1. …….
>
> 2. **Health care services by a clinical establishment, an authorised medical practitioner or para-medics**;
> ……"

2. **Definitions.** - For the purpose of this notification, unless the context otherwise requires, –

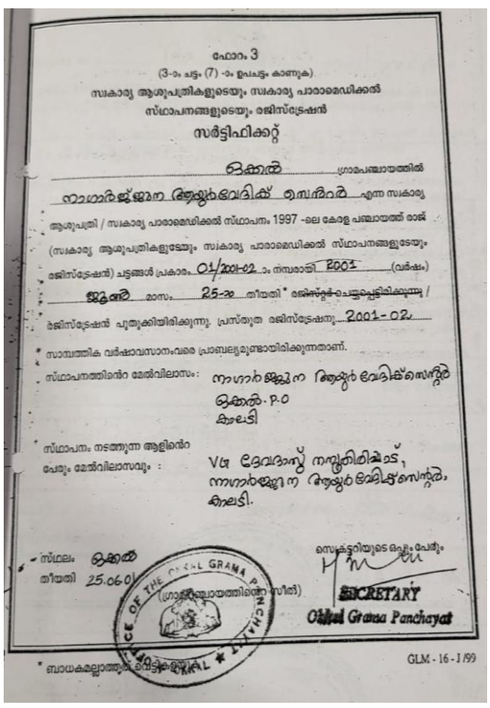
…..

(j) "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;

…..

(t) "health care services" means 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 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;

10. The undisputed facts of the case are that the appellants are issued license with the local Grama Panchayat to run private hospital since 1996. During the period in dispute, necessary licenses issued by the Grama Panchayat have been enclosed along with the paper-book, original as well as translated sample copy of said certificates are placed below:

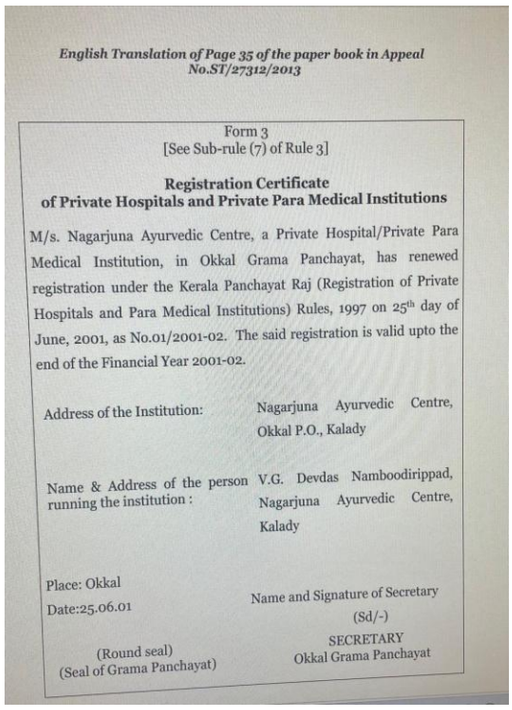


ഫോറം 3
(3-ാം ചട്ടം (7) -ാം ഉപചട്ടം കാണുക)
സ്വകാര്യ ആശുപത്രികളുടെയും സ്വകാര്യ പാരാമെഡിക്കൽ
സ്ഥാപനങ്ങളുടെയും രജിസ്ട്രേഷൻ
സർട്ടിഫിക്കറ്റ്

ഒക്കൽ ഗ്രാമപഞ്ചായത്തിൽ
നാഗാർജ്ജുന ആയുർവേദിക് സെന്റർ എന്ന സ്വകാര്യ
ആശുപത്രി / സ്വകാര്യ പാരാമെഡിക്കൽ സ്ഥാപനം 1997 -ലെ കേരള പഞ്ചായത്ത് രാജ്
(സ്വകാര്യ ആശുപത്രികളുടേയും സ്വകാര്യ പാരാമെഡിക്കൽ സ്ഥാപനങ്ങളുടെയും
രജിസ്ട്രേഷൻ) ചട്ടങ്ങൾ പ്രകാരം 01/2001-02 -ാം നമ്പരായി 2001 (വർഷം)
ജൂൺ മാസം 25-ാം തീയതി * രജിസ്റ്റർ ചെയ്തുകൊടുക്കുന്നു /
രജിസ്ട്രേഷൻ പുതുക്കിയിരിക്കുന്നു. പ്രസ്തുത രജിസ്ട്രേഷനു 2001-02
* സാമ്പത്തിക വർഷാവസാനംവരെ പ്രാബല്യമുണ്ടായിരിക്കുന്നതാണ്.
സ്ഥാപനത്തിന്റെ മേൽവിലാസം: നാഗാർജ്ജുന ആയുർ വേദിക് സെന്റർ
ഒക്കൽ. P.O
കാലടി
സ്ഥാപനം നടത്തുന്ന ആളിന്റെ
പേരും മേൽവിലാസവും : V.G. ദേവദാസ് നമ്പൂതിരിപ്പാട്,
നാഗാർജ്ജുന ആയുർ മെഡിക്കൽ സെന്റർ,
കാലടി.

സ്ഥലം ഒക്കൽ
തീയതി 25.06.01
(ഗ്രാമപഞ്ചായത്തിന്റെ സീൽ)
സെക്രട്ടറിയുടെ ഒപ്പും പേരും
SECRETARY
Okkal Grama Panchayat

* ബാധകമല്ലാത്തത് നീക്കം ചെയ്യുക
GLM - 16 - I /99



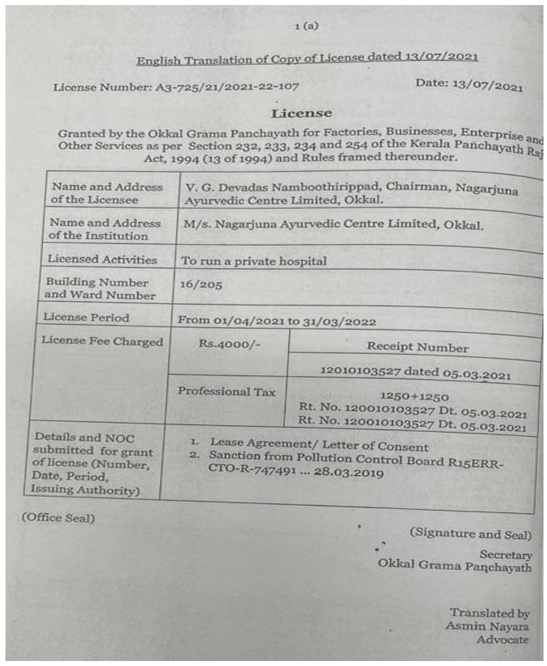
English Translation of Page 35 of the paper book in Appeal No.ST/27312/2013

Form 3
[See Sub-rule (7) of Rule 3]

Registration Certificate of Private Hospitals and Private Para Medical Institutions

M/s. Nagarjuna Ayurvedic Centre, a Private Hospital/Private Para Medical Institution, in Okkal Grama Panchayat, has renewed registration under the Kerala Panchayat Raj (Registration of Private Hospitals and Para Medical Institutions) Rules, 1997 on 25th day of June, 2001, as No.01/2001-02. The said registration is valid upto the end of the Financial Year 2001-02.

Address of the Institution:	Nagarjuna Ayurvedic Centre, Okkal P.O., Kalady
Name & Address of the person running the institution :	V.G. Devdas Namboodirippad, Nagarjuna Ayurvedic Centre, Kalady
Place: Okkal Date:25.06.01	Name and Signature of Secretary (Sd/-) SECRETARY Okkal Grama Panchayat
(Round seal) (Seal of Grama Panchayat)	



1 (a)

English Translation of Copy of License dated 13/07/2021

License Number: A3-725/21/2021-22-107 Date: 13/07/2021

License

Granted by the Okkal Grama Panchayath for Factories, Businesses, Enterprise and Other Services as per Section 232, 233, 234 and 254 of the Kerala Panchayath Raj Act, 1994 (13 of 1994) and Rules framed thereunder.

Name and Address of the Licensee	V. G. Devadas Namboothirippad, Chairman, Nagarjuna Ayurvedic Centre Limited, Okkal.	
Name and Address of the Institution	M/s. Nagarjuna Ayurvedic Centre Limited, Okkal.	
Licensed Activities	To run a private hospital	
Building Number and Ward Number	16/205	
License Period	From 01/04/2021 to 31/03/2022	
License Fee Charged	Rs.4000/-	Receipt Number
		12010103527 dated 05.03.2021
	Professional Tax	1250+1250 Rt. No. 120010103527 Dt. 05.03.2021 Rt. No. 120010103527 Dt. 05.03.2021
Details and NOC submitted for grant of license (Number, Date, Period, Issuing Authority)	1. Lease Agreement/ Letter of Consent 2. Sanction from Pollution Control Board R15ERR-CTO-R-747491 ... 28.03.2019	

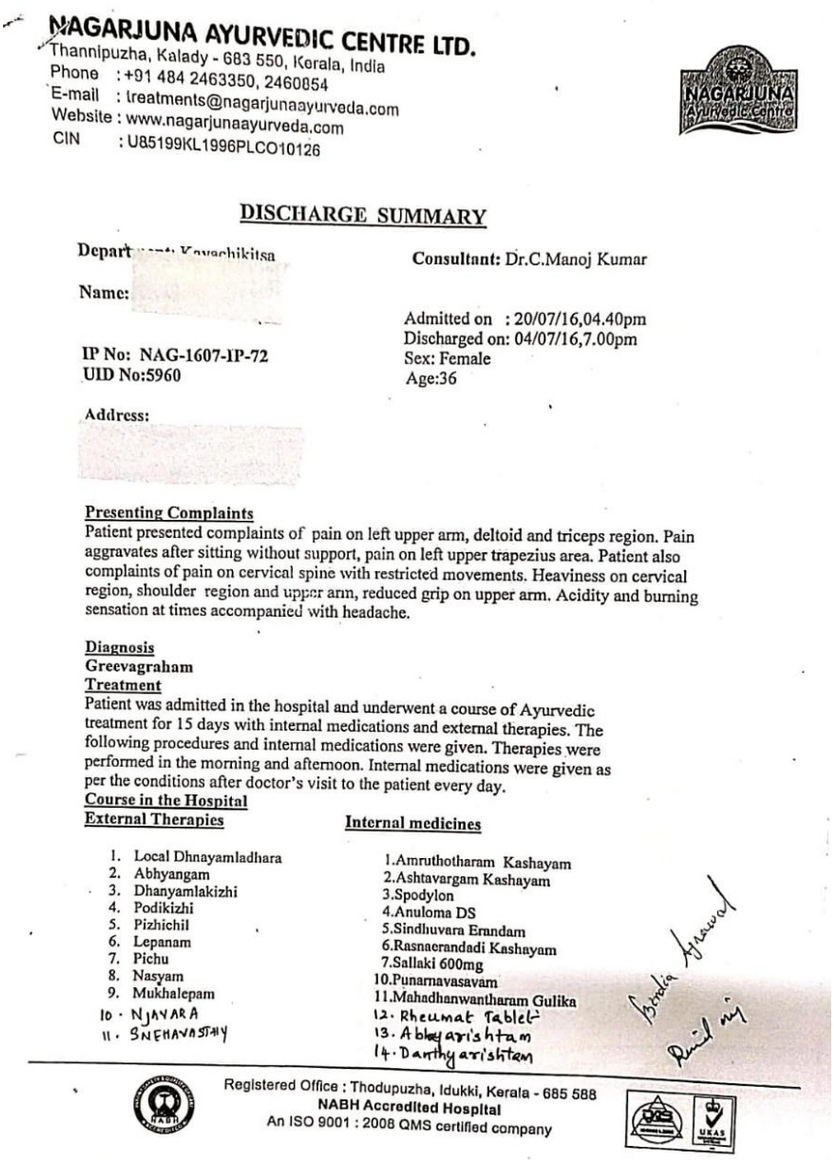
(Office Seal)

(Signature and Seal)
Secretary
Okkal Grama Panchayath

Translated by
Asmin Nayara
Advocate

11. It is the case of the department that they have been running service centres which provides services such as sauna and steam bath, Turkish bath, solarium, spas, reducing or slimming saloons, gymnasium, yoga, meditation, massage (excluding therapeutic massage) or any other like services, hence, fall under the category of 'Health Club and Fitness Services'; whereas the appellant's claim is that their institution is purely an ayurvedic hospital and treatment given to the visiting patients are ayurvedic treatment. All treatments are based on the therapeutic system and carried out on the prescription and supervision of medical practitioners. They have been categorically denying the allegation that they were providing sauna and steam bath, Turkish bath, solarium, spas, reducing or slimming saloons, gymnasium, yoga, meditation, massage (excluding therapeutic massage) or any other like services, from the very inception of the investigation through their letters dated 14.02.2007, 18.04.2007 and 03.09.2007. Also, they have been submitting hospital records maintained by them time and again indicating the treatment procedure adopted, medicines,

outpatient record, clinical examination of patient, etc., before the authorities below which are also enclosed with the appeal paper-book in Appeal No.ST/27312/2013 (pages 49 to 136). Also, during the course of hearing, they have furnished records indicating the method of diagnosis and methods of treatment, booklet containing standard pattern of procedure for various treatments. A sample copy of treatment of patient is reproduced below:



NAGARJUNA AYURVEDIC CENTRE LTD.
Thannipuzha, Kalady - 683 550, Kerala, India
Phone : +91 484 2463350, 2460854
E-mail : treatments@nagarjunaayurveda.com
Website : www.nagarjunaayurveda.com
CIN : U85199KL1996PLCO10126

DISCHARGE SUMMARY

Depart...t: Kayachikitsa — **Consultant:** Dr.C.Manoj Kumar

Name:

Admitted on : 20/07/16,04.40pm
Discharged on: 04/07/16,7.00pm
Sex: Female
Age:36

IP No: NAG-1607-IP-72
UID No:5960

Address:

Presenting Complaints
Patient presented complaints of pain on left upper arm, deltoid and triceps region. Pain aggravates after sitting without support, pain on left upper trapezius area. Patient also complaints of pain on cervical spine with restricted movements. Heaviness on cervical region, shoulder region and upper arm, reduced grip on upper arm. Acidity and burning sensation at times accompanied with headache.

Diagnosis
Greevagraham
Treatment
Patient was admitted in the hospital and underwent a course of Ayurvedic treatment for 15 days with internal medications and external therapies. The following procedures and internal medications were given. Therapies were performed in the morning and afternoon. Internal medications were given as per the conditions after doctor's visit to the patient every day.
Course in the Hospital

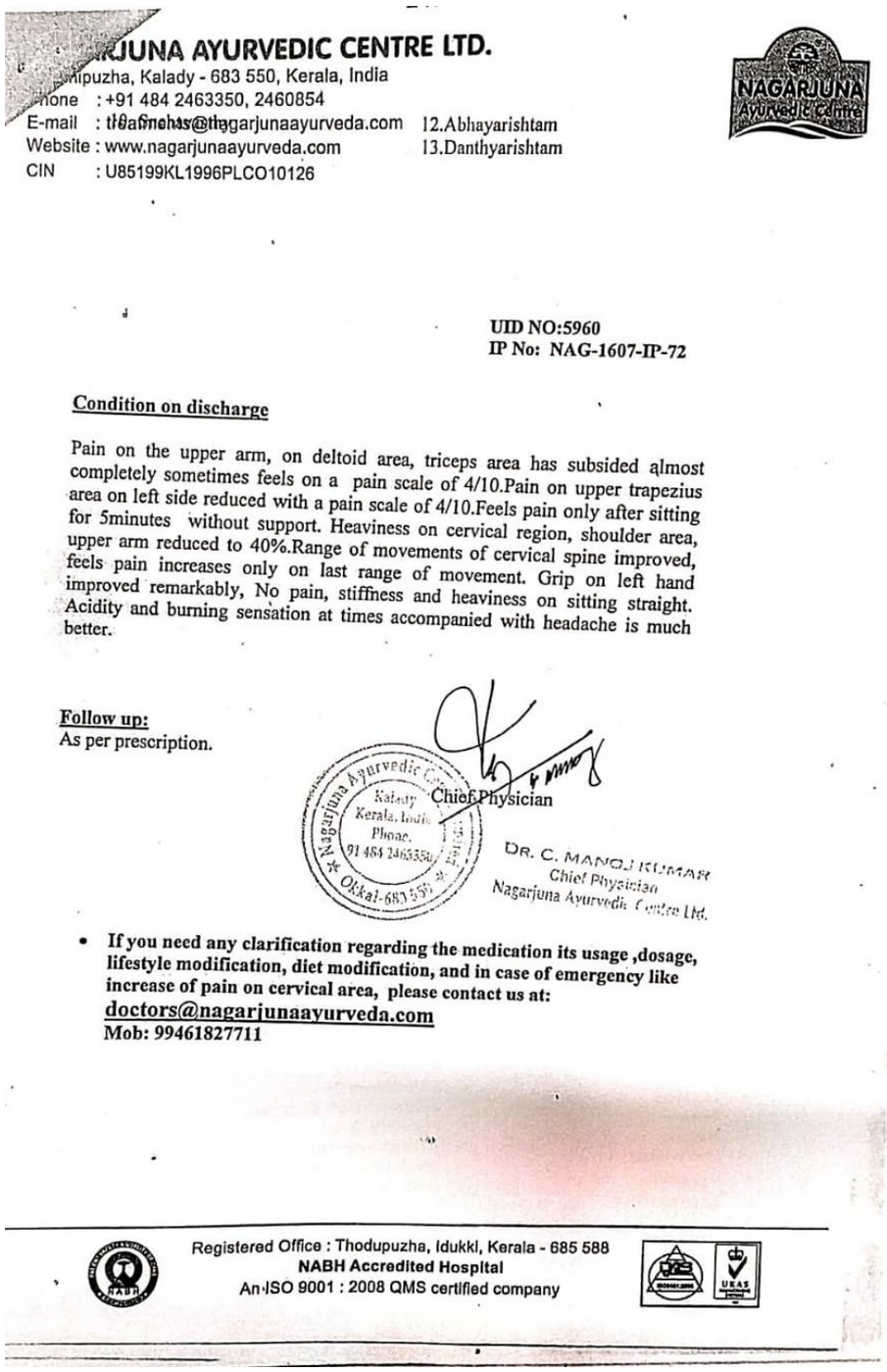
External Therapies

1. Local Dhnayamladhara
2. Abhyangam
3. Dhanyamlakizhi
4. Podikizhi
5. Pizhichil
6. Lepanam
7. Pichu
8. Nasyam
9. Mukhalepam
10. NJAVARA
11. SNEHAVASTHY

Internal medicines

1.Amruthotharam Kashayam
2.Ashtavargam Kashayam
3.Spodylon
4.Anuloma DS
5.Sindhuvara Erandam
6.Rasnaerandadi Kashayam
7.Sallaki 600mg
10.Punarnavasavam
11.Mahadhanwantharam Gulika
12. Rheumat Tablet
13. Ablayarishtam
14. Danthyarishtam

Registered Office : Thodupuzha, Idukki, Kerala - 685 588
NABH Accredited Hospital
An ISO 9001 : 2008 QMS certified company



RJUNA AYURVEDIC CENTRE LTD.
Thodupuzha, Kalady - 683 550, Kerala, India
Phone : +91 484 2463350, 2460854
E-mail : [illegible]@nagarjunaayurveda.com
Website : www.nagarjunaayurveda.com
CIN : U85199KL1996PLC010126

12.Abhayarishtam
13.Danthyarishtam

NAGARJUNA Ayurvedic Centre

UID NO:5960
IP No: NAG-1607-IP-72

Condition on discharge

Pain on the upper arm, on deltoid area, triceps area has subsided almost completely sometimes feels on a pain scale of 4/10.Pain on upper trapezius area on left side reduced with a pain scale of 4/10.Feels pain only after sitting for 5minutes without support. Heaviness on cervical region, shoulder area, upper arm reduced to 40%.Range of movements of cervical spine improved, feels pain increases only on last range of movement. Grip on left hand improved remarkably, No pain, stiffness and heaviness on sitting straight. Acidity and burning sensation at times accompanied with headache is much better.

Follow up:
As per prescription.

Chief Physician

DR. C. MANOJ KUMAR
Chief Physician
Nagarjuna Ayurvedic Centre Ltd.

- **If you need any clarification regarding the medication its usage ,dosage, lifestyle modification, diet modification, and in case of emergency like increase of pain on cervical area, please contact us at:**
  doctors@nagarjunaayurveda.com
  Mob: 99461827711

Registered Office : Thodupuzha, Idukki, Kerala - 685 588
NABH Accredited Hospital
An ISO 9001 : 2008 QMS certified company

12. In their affidavit dated 25.03.2022 before the adjudicating authority, the Senior Chief Physician attached to the appellant's hospital who is a holder of Bachelor's Degree in Ayurvedic Medicine and Surgery and worked in various hospitals narrated

in detail the procedure adopted by the appellant. Relevant portion of the affidavit are reproduced below:

> "7. The hospital is run by a set of doctors led by myself and the therapies are carried out by qualified therapists based on the instruction given by the doctors. The Hospital has a full-fledged pharmacy, fresh medicine making unit, yoga centre, canteen where prescribed diet is served.
>
> 8. It would be worth mentioning that patients upon having a serious ailment and where they did not get relief from modern medicine, the patient looks at alternative methods and tends to reach Ayurveda. They contact the hospital through references or search on the website. Upon finding us they make an enquiry through online routes or telephone. The tele-consultation doctor reviews the case online or in Outpatient department through examinations, review of radiological and pathological investigation, and prescribes a line of treatment. This would be treated as OP or may be partly recommended as with admission and an In-Patient. In cases of outpatient treatment, the patient lives close by and comes to the hospital each day or on prescribed days to take treatment. For admitted patients, the normal duration is 7 days to 21 days, with about 3 therapies a day, and mostly four medicine doses a day. The treatment period mentioned above is the normal one and the duration of the treatment would depend on the nature of ailment. If prescribed by doctor, therapeutic yoga sessions are provided by the yoga master. The process of consultation, review of reports, process of conducting therapy, process of dispensing medicine, process of regular assessment, process of discharge, and process of post discharge care, etc., are defined in detail through a hospital operations manual that is certified by NABH.
>
> One of the highlights of Nagarjuna Ayurveda Hospital, what the patients appreciates much, is the integrative therapy that is practiced. The Hospital has tie-up with allopathy hospitals where the specialist reports from allopathy and treatment that has to be continued while taking Ayurveda treatment is collated through our collaborating hospital or specialist. The doctors at Nagarjuna Ayurveda Hospital would consult with the referring allopathic doctor wherever needed and a joint discussion of

the referring doctors and the collaborating doctor and patient's primary treating doctor at Nagarjuna Ayurveda Hospital would be conducted.

10. Nagarjuna Ayurveda Hospital also have doctors posted as Family physicians who are responsible for the patient relief and they cover through the specialist consultations, communication, operational coordination, documentation, and finally to motivate the patient to continue the medication and discipline, even after discharge.

11. Owing to the proper treatment standards maintained by the Hospital, insurance companies like New India Assurance Company Limited, Oriental Insurance Company Limited, United India Insurance Company Limited, HDFC Ergo, ICICI Lombard, Royal Sundaram, Bajaj Allianz, Tata AIA Insurance Company, Max Bupa Insurance Company, Star Health Insurance Company, Reliance Life Insurance Company, SBI Life Insurance Company etc, provide reimbursement of treatment expenses for the treatment done in NACL. The approval by the Insurance Companies is on account of the strict compliance to norms and systems associated with the NABH certification etc., and other standard operating procedures."

Thus from the evidences produced, it is clear that the appellant has been following a proper procedure of diagnoses and Ayurvedic treatment to the patients. They produced evidences indicating adoption of standard operating procedure for running the hospital, list of doctors and therapist with qualification, registration of patients, etc., which spread over 600 pages filed during the course of hearing. It reveals that the appellant is providing medical facilities to the patients from their Hospital. No contrary evidence has been placed by the Revenue. It is argued by the Revenue that the sample case history of patients produced do not cover the entire period, is devoid of merit. As the paper-book contains sample of case history, treatment procedure, etc., for the entire period 2006-2007, etc., the said

claim of Revenue is devoid of merits. The argument of the learned Authorised Representative (AR) for the Revenue is that no serious case of illness has been reported and the cases which are attended by the appellant are lifestyle diseases; hence, cannot be considered as that the appellant are providing medical services. The said argument is devoid of merit as similar kind of ailments has been considered by this Tribunal in the case of **CCE, Cochin vs. Coconut Lagoon Kumarakom** (supra) and also by the Hon'ble Andra Pradesh High Court in the case of **Manthena Satyanarana Raju Charitable Trust** (supra) and held to be Ayurvedic Treatment.

13. This Tribunal analysing the services rendered through Ayurvedic Centres and Resorts whether to be considered as therapeutic or otherwise in the case of **CCE, Cochin vs. Coconut Lagoon Kumarakom** (supra); more or less discussing similar circumstances observed as follows:

> "5. Heard both sides and perused the records available. The precise issue to be decided in these cases is as to whether the treatment given by the ayurvedic centres run by these resorts would come under therapeutic massages, etc.
>
> 5.1 We find that the CBEC vide Circular cited above, has clarified as follows:
>
> *"2. As per clause (42), "health and fitness service" means physical well being service such as, sauna and steam bath, turkish bath, solarium, spas, reducing or slimming salons, gymnasium, yoga, meditation, massage (excluding therapeutic massage) or any other like service. As per clause (90)(zw), the taxable service is any service provided to any person, by a health club and fitness centre in relation to health and fitness service. "Health club and fitness centre" means any establishment including a hotel or a resort providing health and fitness service.*

3. Health and fitness services are provided by clubs, fitness centers, health saloons, hotels, gymnasium and massage centers. The services which fall under this category might be for weight reduction and slimming, physical fitness exercise, gyms, aerobics, yoga, meditation, reiki, sauna and steam bath, Turkish bath, sun bath and massage for general well being. However therapeutic massage does not come in the ambit of taxable service. Therapeutic massage basically means a massage provided by qualified professionals under medical supervision for curing diseases such as arthritis, chronic low back pain and sciatica etc. Ayurvedic massages, acupressure therapy, etc. given by qualified professionals under medical supervision for curing diseases/disorders will come under the category of therapeutic massages. If the massage is performed without any medical supervision or advice but for the general physical well being of a person, such massages do not come under the purview of therapeutic massages and they would be liable to service tax".

5.2 On going through the records of the case, it is found that the different ayurvedic centres have the following common credentials:

(i) They are run under the supervision of a qualified ayurvedic doctors.
(ii) Having a license from Municipal Council or Gram Panchayat to run such ayurvedic hospitals
(iii) They have certificates given by the Department of Tourism also.

5.3 The department has attempted to contradict the claims of the respondents by saying that these resorts are only for pleasure and holidaying and massages are optional and invariably are of general well-being than treatment of a particular disease. However, ongoing through the records maintained by these ayurvedic centres, it is seen that they are maintaining case-sheets/treatment files and the treatment process schedule which is a normally done by hospitals also. By the mere fact that the ayurvedic centres are located in the premises of the resorts, it cannot be said that they cease to be ayurvedic centres coming to ayurvedic treatment *per se*.

5.4 We find that the learned Commissioner (A) has given a clear finding that the District Medical Officer of Kerala Government have certified that the ayurvedic kriyas (procedures) imparted by the respondents are based on ayurvedic method of treatment which is a system of medicine approved by Central Government of Indian Systems of Medicine. From the huge bunch of reports containing patient symptoms or diagnostic report and frequency and duration of treatment, prescription, it is seen that the duration is one week to four weeks and in some cases, patients return back for a repeat of the treatment; specific ailments mentioned in the Order-in-Original like back pain, shoulder pain, knee pain, frozen shoulder, blood pressure, blood circulation problems, etc. have been cured successfully as per the certificates of the patients. The ayurvedic doctors attached, supervise the treatment, prescribes food restrictions and the type of oil that should be used. The prescribed treatments are contained in Ayurvedic Pharmacopeia like Astanga Hridayam, Charaka Samhita and Susrutha Samhita, etc. It is therefore seen that these centres provide a holistic ayurvedic treatment which includes massages given by qualified professors under medical supervision for curing diseases. In the literature meant for therapies, it is also mentioned that the therapies at the centre are ayurvedic massages like Dhara, Pizhichil for curing all kinds of ailments are offered. It is also mentioned that the therapies at the centre are under the guidance of an export Vaidyan (Physician) who may be consulted for fuller understanding of symptoms and treatment.

5.5 In view of the clear findings of the Commissioner (A) and the documentary findings produced by the respondents, it is seen that the ayurvedic centres are providing therapeutic treatment under ayurvedic system. Going by the mere fact that the centres are located in the resorts and sometimes the duration of treatment is for one or two days, it cannot be concluded that the massages or treatments offered by these centres are only for general well-being and not for any therapeutic value. The Order-in-Original also refers to the ambience and the fees charged in the packages and finds that these cannot be equated to treatment. We fail to understand as to how the cost of treatment and the ambience of the treatment would render such treatments to be non-therapeutic and only

for well-being. For that matter, the duration of treatment is also no criteria. In case of consultations by psychiatrists, the sessions may last even one day, for that reason one cannot conclude that the psychiatrists ceases to be a doctor. The duration and the type of treatment depends on the diseases, the conditions of the patient, and the expertise of the doctor. It is not always necessary that the treatment should be only in the dull / dreary atmosphere of hospitals alone. If some well to do patients prefer to have treatment in a better circumstances and are willing to pay for the same, such treatments cannot be 'for that sole reason', held to be no treatment. It is common knowledge that a good number of foreign tourists visit Kerala during a particular season for pleasure as well as medical reasons. Not all the people who stay in the resort may take the treatment. What is important is whether such treatments are given by a qualified Doctor/Doctors and whether the procedures are prescribed under therapeutic tests. It is not the department's contention that the massages and panchakarma and other treatments provided by the respondents are not mentioned in ayurvedic texts. The learned counsel for the respondents have clearly brought out that these processes/treatments are emanating from the ayurvedic texts like Astangahrudaya, Sahasrayoga, Charakasamhitha, Susruthasamhitha, etc. Supervision of such treatments are being given by or given under the guidance of professional ayurvedic doctors. Such ayurvedic centres are licensed to function as ayurvedic centres by the respective authorities. Therefore, we find that all the required conditions for such treatments to be treated as therapeutic are specified and will fall under the exclusion provided by the Board Circular cited above.

14. The learned Commissioner has not followed/applied the said judgment to the present case observing that appellant had not produced any certificate from District Medical Officer of Kerala Government. We do not find substance in the said observation of the learned Commissioner since the appellant itself is registered as a hospital and are operating as a hospital; also revealed from the voluminous record produced as

Annexure-D to the Appeal paper book to obtain a certificate from District Medical Officer to prove that the treatments provided are therapeutic in nature. On the contrary, we find that though the said document/evidence produced by the appellant before the authorities below, the same were not considered and no findings has been recorded on the same. Besides, no contrary evidence has been produced by the Revenue to show that the Centre run by the appellant is not an Ayurvedic Hospital.

15, The Hon'ble Andhra Pradesh High Court in the case of **Manthena Satyanarana Raju Charitable Trust** (supra) while interpreting the scope of Clinical Establishment in the context of Notification No.25/2012-ST dated 20.06.2012 observed as:

> **"19.** One of us (VRS, J.) had an occasion to consider the significance of and the need to nurture indigenous systems of medicine, in a decision rendered on 12-3-2012 in *Dr. T. Arutselvam* v. *The Government of Tamilnadu*, (W.P. Nos. 3589 and 4452 of 2012 of the Madras High Court). Paragraph Nos. 53 to 60 of the said decision is extracted as follows :
>
> > 53. The history of Ayurveda and Siddha dates back to several centuries. Literally meaning the "science of life", Ayurveda is often used in a narrow sense as a "system of medicine", which considerably dilutes and distorts its real scope and objective. Health, according to Ayurveda is not only freedom from disease. According to Susruta, one of the great early practitioners, it is a state of the individual where, in addition to harmony among the functional units (dosas), digestive and metabolic mechanisms (agnis), structural elements (dhatus), and waste products (malas), a person should also be in an excellent state (prasanna) of the spirit (atman), senses (indriyas), and mind (manas). The Encyclopaedia Britannica states that Ayurvedic practitioners work in rural areas, providing healthcare to at least 5 million people in India. Pointing out that the golden age of Indian medicine from 800 B.C., till 1000 A.D., was marked by the production

of the medical treatises known as "caraka-samhita" and "susruta-samhita", the Britannica records in page 776 of Volume-23 (15th Edition) as follows :-

"In surgery, ancient Hindu medicine reached its zenith. Operations performed by Hindu surgeons included excision of tumours, incision and draining of abscesses, punctures to release fluid in the abdomen, extraction of foreign bodies, repair of anal fistulas, splinting of fractures, amputations, cesarean sections, and stitching of wounds.

A broad array of surgical instruments were used. According to Susruta the surgeon should be equipped with 20 sharp and 101 blunt instruments of various descriptions. The instruments were largely of steel. Alcohol seems to have been used as a narcotic during operations, and bleeding was stopped by hot oils and tar.

Hindu surgeons also operated on cataracts by couching or displacing the lens to improve vision."

54. In a Book titled "Man and Medicine - A History" authored by Farokh Erach Udwadia, an Emeritus Professor of Medicine (Allopathy) and published by Oxford University Press (2001 Edition), an interesting event is reported at page No. 43. It is about the documented performance of rhinoplasty (for which Susruta was famous) witnessed and recorded in 1793 in Pune. A Parsee gentleman by the name of Cowasjee, who was serving the English Army at the time of the Mysore War in 1792, was captured by the soldiers of Tipu Sultan. His nose and one hand was cut off. He and 3 of his friends, who had met with the same fate, consulted a person who was only a bricklayer by profession. The bricklayer performed a surgery, which was witnessed by Thomas Cruso and James Findlay, Senior British Surgeons in Bombay Presidency. They described and drew the skin graft procedure and the same was published in the Madras Gazette. It was later reproduced in the October 1794 issue of the Gentleman's

Magazine of London. The surgery was described in the following words :-

"A thin plate of wax is fitted to the stump of the nose so as to make a nose of a good appearance, it is then flattened and laid on the forehead. A line is drawn around the wax which is then of no further use and the surgeon then dissects off as much skin as it had covered, leaving undivided a small slip between the eyes. This slip preserves the circulation till a union has taken place between the new and old parts.

The cicatrix of the stumps of the nose is next paired off and immediately behind the new part an incision is made through the skin which passes around both alae, and goes along the upper lip. The skin now brought down from the forehead and being twisted half around, is inserted into this incision, so that a nose is formed with a double hold above and with its alae and septum below fixed in the incision.

A little Terra Japanica (pale catechu) is softened with water and being spread on slips of cloth, five or six of these are placed over each other to secure the joining. No other dressing but this cement is used for four days. It is then removed and clothes dipped in ghee (clarified butter) are applied. The connecting slip of skin is divided about the twentieth day, when a little more dissection is necessary to improve the appearance of the new nose. Four, five or six days after the operation, the patient is made to lie on his back and on the tenth day bits of soft cloth are put into the nostrils to keep them sufficiently open."

55. The learned author of the Book Mr. Udwadia, goes on to say that the above occurrence caught the attention of J.C. Carpue, a 30 year old Surgeon in London. He successfully used the same skin graft procedure for nose repair on a patient in 1814. He reported his successful results in 1816, introducing the "Hindu Surgical Technique" and with it, "The Indian Nose" to the West.

56. After pointing out that Susruta recommended the use of a facial skin flap for repair of a cleft lip, the author of the book states that Carl Ferdinand Von Graefe (1747-1840) popularised the Indian Surgical Technique of plastic reconstruction of the nose in Germany and Europe.

57. It is common knowledge that smallpox vaccine was invented by Dr. Edward Jenner, an English Physician in 1798. But on the occasion of the opening ceremony of the King's Institute of Preventive Medicine in February 1905 at Madras, the then Governor of Madras, Lord Ampthill, said the following :-

"It is also very probable, so Colonel King assures me, that the ancient Hindus used animal vaccination secured by transmission of the smallpox virus through the cow, and he bases this interesting theory on a quotation from a writing by Dhanwantari, the greatest of the ancient Hindu physicians, which is so striking and so appropriate to the present occasion that I must take the liberty of reading it to you. It is as follows :

"Take the fluid of the pock on the udder of the cow or on the arm between the shoulder and elbow of a human subject on the point of a lancet, and lance with it, the arm between the shoulders and elbows until the blood appears : then mixing the fluid with the blood the fever of the smallpox will be produced. This is vaccination pure and simple. It would seem from it that Jenner's great invention was actually forestalled by the ancient Hindus."

58. As is the case with Ayurveda, the Siddha System of Medicine also has a history which dates back to several centuries. Traditionally believed to have been developed by 18 Siddhas including Sage Agasthiya, the Siddha System of Medicine has its own merits. But unfortunately, due to lack of patronage for the culture of the ancient times, this system of Medicine also suffered to a great extent under

the colonial rule. It will be of interest to know that an Allopathy Doctor and Professor by name Dr. C.N. Deivanayagam, who is a Fellow of the Royal College of Physicians (Edinburgh), who retired as the Superintendent of the Government Hospital of Thoracic Medicine, Tambaram, presented a paper titled "HIV/AIDS and Siddha System of Healthcare - an experience of 13 years". He reported in the said paper that after the Government Hospital of Thoracic Medicine at Tambaram adopted an open door policy for HIV/AIDS in 1992, there was an exponential increase in the number of HIV sufferers seeking care and treatment. While the number of patients were only 2 in 1993, it rose upto 365 in 1996 and 6,791 in the year 2000. Since ARV Drugs could not be provided by the Government to all the patients, the Hospital invited 90 Siddha Physicians to a Seminar to identify suitable Siddha formulations to combat the killer disease. All of them agreed on formulations containing processed Sulphur and processed Mercury to fight the disease. As a consequence, a formulation known as RAN was born as the child of Tambaram. The acronym RAN stands for Rasagandhi Mezhugu, Amukkira Chooranam and Nellikkai Ilagam. It has become an immunogenic and adaptogenic drug. The said Medical Practitionaer demonstrated through laboratory evidence that there was clinical improvement in more than 60% of the patients who received either RAN alone or in combination with OL controlling drugs (reported in the publication "Evaluation of Siddha Medicare in HIV Disease" - JAPI March 2001, 49 : 390-1. - an indexed Journal).

59. Keeping the above historical perspective in mind, if we look at what happened in the country during colonial rule, it would be clear that there was a systematic campaign, in a subtle manner, to make the indigenous systems of medicine fade away from the public domain. In a paper submitted by Ms. Padma Srinivasan, a Senior Research Officer at the Indian Institute of Health Management Research in the World Health Forum (Vol. 16 - 1995), the Author pointed out that during 19th and first half of the the 20th Century, the traditional systems of medicine were gradually replaced by modern medicine, under the influence of The British Raj. During the

period 1920-1940, Provincial Governments and popular leaders like Mahatma Gandhi, made various efforts to reverse this trend. But unfortunately, the country's first National Healthcare Policy outlined in 1946 by Bhore Committee completely ignored the traditional practices. Subsequent Committees attempted to correct this error and in 1961, the Mudaliar Committee made strong recommendations for integrating modern medicine with the traditional medicine. But by that time, the dominance of modern medicine had become irreversible. The learned Author also made an interesting observation in the said article about the role played by the Central Government vis-a-vis the State Governments. The observations read as follows :-

> *"At present, most of the larger institutions promoting indigenous systems of medicine are controlled and financed by the State Governments, and little interest is shown at the central level. This is probably because the Central Government depends on support for healthcare from international organisations backed by rich Western countries. Extensive promotion of indigenous systems might jeopardise this support and discourage foreign investment in drugs and healthcare.*
>
> ** * * * * * **
>
> *Two World Bank reports (1, 2) recommend that the Government should leave tertiary curative healthcare to the private sector and concentrate on primary healthcare in the rural areas, immunisation and disease eradication programmes. This implies that India should go deeper into international debt by borrowing more money for these programmes, thus supporting the propagation of Western medicine on behalf of the multi-national drug and healthcare companies. Apart from the questionable economics of this prescription, it completely overlooks the existence of alternative systems of medicine and the possibility of using them to ensure healthcare coverage for the rural and urban populations of the nation."*

60. Therefore, it is clear that there has been some resistance worldwide, to the Government patronage of indigenous systems of

medicine. But Latin American countries and even China, spend millions of dollars for developing indigenous systems of medicine. The National Health Service of the United Kingdom is said to be funding billions of pounds every year on Homeopathy, despite opposition. In February, 2010, the Science and Technology Committee of the British Parliament submitted a report alleging that there is no evidence to show that Homeopathic treatments work better than a placebo. Therefore, the Committee recommended that the National Health Service should cease to provide funds for Homeopathic Hospitals and that Doctors in the N.H.S. System should not refer patients to Homeopaths. The Committee even recommended that the Medicines and Healthcare Products Regulatory Agency (MHPRA) should bar homeopathic treatments from displaying medical claims on their labels. The British Medical Association Junior Doctors Committee even went to the extent of terming Homeopathy as witchcraft. But it is reported in the Print and Electronic Media that the campaign initiated by the Orthodox Medical Profession was effectively countered by a campaign called H:MC21 (Homeopathy: Medicine For the 21st Century) pointing out that more than 100 million European Union citizens, including Prince Charles use Homeopathy for their health care. This has made it difficult for the Science and Technology Committee of the British Parliament to make inroads into State funding of homeopathy.

20. Therefore an exemption notification, which is understood by the respondents to confer a benefit upon the clinical establishments, cannot be made inapplicable to a holistic health care institution such as the petitioner herein, as the same would tantamount to killing our indigenous system of health and well being. A system of medicine which focused mainly on healthy living and not merely a prolonged existence cannot be denied the benefit of the exemption notification on the basis of a misconception that a clinical establishment is one that would treat people after they fall ill and not one which will prevent people from falling ill."

16. Thus, from the overwhelming evidences produced by the Appellant and the judgments referred above, it is clear like daylight that the appellant throughout the disputed period has provided Ayurvedic Treatment to patients from their Centre, an Ayurvedic Hospital; hence, fall outside the taxable category of 'Health and Fitness Service' till 30.06.2012 and from 01.07.2012 exempted under Notification No.25/2012-ST dated 20.06.2012 as amended.

17. In the result, the impugned orders are set aside and the appeals are allowed with consequential relief, if any, as per law.

(Order pronounced in Open Court on 30.04.2026.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

RV.....