	<b>KERALA AUTHORITY FOR ADVANCE RULING</b> <b>GOODS AND SERVICES TAX DEPARTMENT</b> <b>TAX TOWER, THIRUVANANTHAPURAM</b>
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**BEFORE THE AUTHORITY OF :** *Shri. B.G. Krishnan IRS &*  
*: Shri. B.S. Thyagarajababu B.Sc, LL.M*

Legal Name of the applicant	M/s. Geojith Financial Services Ltd.
GSTIN	32AABCG1935E1Z6
Address	11 <sup>th</sup> Floor, 34/659-P, Civil Line Road, Padivattom, Kochi.
Advance Ruling sought for	<p>i) Whether computers, laptops etc. used by the applicant for providing output service would qualify as inputs for the purpose of availing transitional ITC under Section 140(3) of KSGST Act?</p> <p>ii) If the goods are physically available as closing stock as on 30<sup>th</sup> June, 2017, can the applicant avail ITC for the VAT paid?</p>
Date of Personal Hearing	19-09-2018
Authorized Representative	Adv. Jose Jacob

**ADVANCE RULING No. KER/ 13 /2018 Dt.19.09.2018**

The applicant is engaged in providing various retail financial services like stock broking, share broking, marketing of initial public offering of companies and mutual funds, corporate advisory services etc. which were not taxable under VAT Law. Based on the transitional provisions, they have claimed input tax credit on closing stock of computers, laptops and other goods lying in the physical possession of the applicant as on 30<sup>th</sup> June 2017. In the circumstances advance ruling is sought for on the following:

- i) Whether computers, laptops etc. used by the applicant for providing output service would qualify as inputs for the purpose of availing transitional ITC under Section 140(3) of KSGST Act?
- ii) If the goods are physically available as closing stock as on 30<sup>th</sup> June, 2017, can the applicant avail ITC for the VAT paid?

The authorized representative was heard. He has stated that by virtue of the statutory provisions, the applicant is entitled to get the input tax on the capital goods held during the transition period. As per Section 140(3) of the GST Act, a registered person who was not liable to be registered under the existing law or who was engaged in the sale of exempted goods or tax free goods, by whatever the name called, or goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State under the existing law, but which are liable to tax under this Act or where the person was entitled to the credit of input tax at the time of sale of goods, if any, shall be entitled to take, in his electronic ledger, credit of the value added tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the condition that:

- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of tax under the existing law in respect of such inputs; and
- (iv) such invoices or other prescribed documents were issued not earlier than 12 months immediately preceding the appointed day.

The issue was examined in detail. The applicant being a service provider had no tax liability under VAT regime. As per the proviso to Sub-Section (2) of Section 140 of the GST Act, a registered person shall not be allowed to take credit unless such credit was admissible as input tax credit under the existing law and is also admissible as input tax credit under GST Act. As per Section 2(59) of GST Act, 'input' means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. The computers, laptops etc. were used by the applicant for providing output service are capital assets. These capital goods are ineligible to claim input tax credit under VAT Laws. Section 2 (x) of Kerala Value Added Tax Act, define capital goods as follows:


*"Capital goods" means plant, machinery, equipments including pollution/ quality control, lab and cold storage equipments used in manufacture, processing, excluding for job works or rendering of services, packing or storage of goods in the course of business and delivery vehicles but shall not include such goods and civil structure as may be notified by Government.*

The applicant being a service provider, is not eligible to avail input tax credit on computers and laptops held during transition period. The proviso to Sub-Section (2) of Section 140 of the GST Act, is specific to the point that input tax credit not admissible as under the existing law is ineligible to claim input tax credit under GST Act. Section 140(2) of the Act covers transitional credit claim on capital goods by a dealer registered in earlier law.

Section 140(3) of the GST Act covers "credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day", hence, the transitional credit claim of the assessee in respect of capital goods is not acceptable.

In view of the observations stated above, the following rulings are issued:

- i) The computers, laptops etc. used by the applicant for providing output service would not qualify as inputs for the purpose of availing transitional ITC under Section 140(2) /140(3) of the KSGST Act.
- ii) The goods, even though physically available as closing stock as on 30<sup>th</sup> June 2017, ITC is not eligible for the VAT paid.



B.G. Krishnan IRS  
Joint Commissioner of Central Tax  
MEMBER



B.S. Thyagarajababu, B.Sc, LL.M  
Joint Commissioner of State Tax  
MEMBER

To

M/s. Geojith Financial Services Ltd.  
11<sup>th</sup> Floor, 34/659-P, Civil Line Road, Padivattom, Kochi.