

	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	
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BEFORE THE AUTHORITY OF : Shri. Sivaprasad .S, IRS &

: Shri.B.S. Thyagarajababu, B.Sc, LL.M

Legal Name of the applicant	M/s. The Knanaya Multi Purpose Co-operative Credit Society Ltd.
GSTIN	32AADAT2449N1Z9
Address	Thekkanatt Arcade, Nagampadam, S.H.Mount P.O., Kottayam - 686006.
Advance Ruling sought for	<p>1. Whether the applicant is considered as a financial institution as envisaged under Section 17(4) of the CGST Act.</p> <p>2. Whether the applicant is eligible for availing the option provided under Section 17(4) of the CGST Act which prescribes to avail an amount equal to 50% of eligible credit of input tax, on inputs, capital goods and input services in that month and the rest shall lapse.</p>
Date of Personal Hearing	10-03-2020
Authorized Representative	Adv K.G. Vijayachandran

ADVANCE RULING No. KER/91/2020 Dated 20-05-2020

1. M/s. The Knanaya Multi Purpose Co-operative Credit Society Ltd (hereinafter referred to as the “applicant”) is a Co-operative society registered with the Central Registrar of Co-operative Societies engaged in the business of accepting deposits and granting loans and advances. The applicant is engaged in provision of both taxable as well as non-taxable services and are availing input tax credit as per provisions of Section 17(2) of the CGST/SGST Act. It is stated that the applicant is categorized as a financial institution as per Section 45-I(c) and 45-I(e) of RBI Act, 1934.

2. The applicant has sought advance ruling on the following:

- i. Whether the applicant is considered as a financial institution as envisaged under 17(4) of the CGST Act.
 - ii. Whether the applicant is eligible for availing the option provided under Section 17(4) of the CGST Act which prescribes to avail an amount equal to 50% of eligible credit of input tax on inputs, capital goods and input services in that month and the rest shall lapse.
3. The authorized representative of the applicant was heard. The applicant states that they are collecting and paying tax on the services rendered in respect of admission fee, share transfer fee, notice charges, processing fee and Insurance charges etc and they are also availing credit of input tax on the service received on Telephone Bill payment, Printing charges, Advertisement charges, Stationary purchase etc. As they are engaged in provision of taxable as well as exempted services they are availing input tax credit calculated as per the provisions contained in Section 17(2) of the CGST Act, which reads as follows;
- "(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies."
4. The applicant claims that being a financial institution, they are eligible for availing of input tax credit by exercising the option provided under Section 17(4) of the CGST/SGST Act which reads as follows;
- "(4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty per cent of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse."
5. The applicant submits that the terms; "financial institution", "banking company" and "non-banking company" are not defined under the CGST Act, 2017; but as per explanation to sub-section (8) of Section 13 of IGST Act 2017, the terms "banking company" and "financial

institution" shall have the meaning assigned to it in clause (c) of Section 45-I of the Reserve Bank of India Act, 1934.

6. According to Section 45-I(c) of RBI Act, 1934; "financial institution" means any non-banking institution which carries on as its business or part of its business in financing, whether by way of making loans or advances or otherwise, of any activity other than its own. In order to qualify an institution as a financial institution, it must be a non-banking institution. Non-banking institution is defined as per Section 45-I(e) of RBI Act, 1934, as "a non-banking institution" means, "a company, corporation or co-operative society". Therefore, the applicant being a co-operative society registered with Central Registrar of Co-operative Societies engaged in the business of financing, by way of loan or advance, of any activity other than its own is qualified as a financial institution under the RBI Act, 1934.

7. Accordingly, it is submitted by the applicant that they are engaged in provision of both taxable and exempted services and the two conditions that are required to be satisfied by a supplier, namely; the supplier shall be engaged in supplying services by way of accepting deposits, extending loans or advances and the supplier shall be either a banking company or a financial institution or a non-banking financial company are satisfied by them. Therefore, they are eligible to avail input tax credit as per the option under sub-section (4) of Section 17 of the CGST Act instead of complying with the provision of sub-section (2) of Section 17.

8. The matter was examined in detail. The activities of the petitioner by way of accepting deposits and extending loan or advances are exempt from GST as per Sl No. 27 of Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 in so far as the consideration is represented by way of interest or discount. Any charges or amounts collected over and above the interest or discount would represent taxable consideration and hence liable to GST. Any other services rendered by the applicant which are not exempted are also liable to GST. Section 17(4) of the CGST Act, 2017 provides that a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of section

17(2), or avail of, every month, an amount equal to 50% of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse. The applicant is rendering taxable supply of services like admission fee, share transfer fee, notice charges, processing fees, insurance charges etc and also exempted supply as stated above by way of accepting deposits and extending loans or advances and is availing credit of input tax on the common services received for supply of both taxable and exempted services. Therefore, the provisions of sub-section (2) of Section 17 of the CGST Act, 2017 are attracted in the case of the applicant. However, as per sub-section (4) of Section 17 an option is made available to a banking company or financial institution including non-banking financial company engaged in accepting deposits, extending loans or advances that chooses not to comply with the provisions of sub-section (2) of section 17 to refrain from availing input tax credit relatable to non-business purposes and those restricted under sub-section (5) of Section 17 and avail 50% of all other eligible credit.

9. The conditions to be fulfilled for exercising the option under sub-section (4) of Section 17 is that the supplier shall be engaged in supplying services by way of accepting deposits, extending loans or advances and the supplier shall be a banking company, a financial institution or a non-banking financial company. Both the conditions shall be simultaneously satisfied to be eligible to exercise the option as provided under sub-section (4) of Section 17 of the CGST Act, 2017.

10. Admittedly, the applicant is engaged in supplying services by way of accepting deposits, extending loans or advances. Therefore, the issue to be determined is whether the applicant qualifies to be a banking company, a financial institution or a non-banking financial company. The terms banking company, a financial institution or a non-banking financial company are not defined under the CGST Act, 2017. However, the terms are defined in the explanation to sub-section (8) of Section 13 of the Integrated Goods and Services Act, 2017. Even though, the definition in the explanation is for the purpose of that sub-section, the definition can be adopted in the instant case also as the terms are not elsewhere defined in the IGST Act or the CGST Act. The Explanation (b), (c) and (d) to sub-section (8) of Section 18 of the IGST Act, 2017 reads as follows;

(b) "banking company" shall have the same meaning as assigned to it under clause (a) of section 45A of the Reserve Bank of India Act, 1934;

(c) "financial institution" shall have the same meaning as assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934;

(d) "non-banking financial company" means,— (i) a financial institution which is a company; (ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner; or (iii) such other non-banking institution or class of such institution as the Reserve Bank of India may, with the previous approval of the Central Government and by notification in the Official Gazette, specify."

11. As per the above explanation, "financial institution" shall have the same meaning as assigned to it in Section 45-I(c) of the Reserve Bank of India Act, 1934. Section 45-I(c) and (e) of the Reserve Bank of India Act, 1934 is reproduced below;

"(c) "financial institution" means any non-banking institution which carries on as its business or part of its business any of the following activities, namely:-- (i) the financing, whether by way of making loans or advances or otherwise, of any activity other than its own; (ii) the acquisition of shares, stock, bonds, debentures or securities issued by a Government or local authority or other marketable securities of a like nature; (iii) letting or delivering of any goods to a hirer under a hire-purchase agreement as defined in clause (c) of section 2 of the Hire-Purchase Act, 1972 (26 of 1972); (iv) the carrying on of any class of insurance business; (v) managing, conducting or supervising, as foreman, agent or in any other capacity, of chits or kuries as defined in any law which is for the time being in force in any State, or any business, which is similar thereto; (vi) collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lump sum or otherwise, by way of subscriptions or by sale of units, or other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person, but does not include any institution, which carries on as its principal business,-- (a) agricultural operations; or (aa) industrial activity; or (b) the purchase, or sale of any goods (other than securities) or the providing of any services; or (c) the purchase, construction or sale of immovable property, so, however, that no portion of the income of the institution is derived from the financing of purchases, constructions or sales of immovable property by other persons;

Explanation.--For the purposes of this clause, "industrial activity" means any activity specified in sub-clauses (i) to (xviii) of clause (c) of section 2 of the Industrial Development Bank of India Act, 1964 (18 of 1964)"

"(e) "non-banking institution" means a company, corporation or co-operative society."

12. On a conjoint reading of the provisions of clauses (c) and (e) of Section 45-I of the Reserve Bank of India Act, 1934 it is evident that the applicant being a Co-operative Society registered with the Central Registrar of Co-operative Societies carrying on the business of financing whether by means of making loans or advances or otherwise, of any activity other than its own qualifies to be a "financial institution" as per the Reserve Bank of India Act, 1934 and consequently also under the CGST Act, 2017.

13. In the light of the discussion as above, the applicant satisfies both the conditions to be eligible for exercising the option provided under sub-section (4) of Section 17 of the Central / State GST Act, 2017.

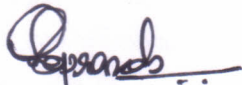
14. In view of the observations stated above, the following rulings are issued:

- i. Whether the applicant is considered as a financial institution as envisaged under Section 17(4) of the CGST Act.

Yes.

- ii. Whether the applicant is eligible for availing the option provided under Section 17(4) of the CGST Act which prescribes to avail an amount equal to 50% of eligible credit of input tax, on inputs, capital goods and input services in that month and the rest shall lapse.

Yes.



Sivaprasad S. IRS
Joint Commissioner of Central Tax
Member



B.S. Thyagarajababu, B.Sc, LL.M.
Additional Commissioner of State Tax
Member

To

M/s. The Knanaya Multi Purpose Co-operative Credit Society Ltd.
Thekkanatt Arcade, Nagampadam, S.H.Mount – P.O., Kottayam 686006.