

	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	GEORGE JACOB
GSTIN	Un-registered
Address	Pallathuseril House, Anathanam, Managanam – P.O., Kottayam – 686018.
Advance Ruling sought for	Whether lease rent charged by municipality for land i.e., water channel used for fish farming falls within the meaning of “services relating to rearing of all life forms of animals – by way of renting or leasing of vacant land” eligible for GST exemption as per Sl No. 54 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 and corresponding notification under Kerala GST.
Date of Personal Hearing	10-03-2020
Authorized Representative	R. Krishna Iyer &Co.

ADVANCE RULING No. KER/95/2020 Dated 20-05-2020

1. The applicant is the successful bidder of the auction of wet land namely; Paruthithodu water channel conducted by the Chellanam Grama Panchayat for fish farming in the canal for the period from April 2019 to March 2020. The bid amount was Rs.22,22,000/-. In pursuance of the acceptance of the bid of the applicant in the auction the applicant entered in to an agreement dated 12.03.2019 with the Secretary, Chellanam Grama Panchayat. The Grama Panchayat informed the applicant that the applicant is also liable to pay GST at the rate of 18% of the bid amount along with the bid amount as the auction of water channel is not covered by the exemption under Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017.
2. The applicant has sought advance ruling on the following;

Whether lease rent charged by the municipality for land i.e., water channel used for fish farming falls within the meaning of “services relating to rearing of all life forms of animals – by way of renting or leasing of vacant land” eligible for GST exemption as per Sl.No.54 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 and corresponding notification under Kerala GST.

3. The authorized representative of the applicant was heard. It is stated that the applicant is paying lease rent to Panchayat towards water channel used for fish farming. The Panchayath has informed that GST at the rate of 18% in addition to rent is liable to be paid by the applicant as the exemption under Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 does not cover auction of “chaal” [water channel]. It is also pointed out that as per Sl No. 5A of Notification No. 13/2017 – Central Tax (Rate) dated 28.06.2017 the GST in respect of the services supplied by a local authority by way of renting of immovable property to a registered person shall be paid on reverse charge basis by the registered person who is the recipient of the service.

4. The applicant submitted that as per Sl No. 54 of Notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017; under Heading 9986 - services relating to rearing of all life forms of animals by way of renting or leasing of vacant land with or without a structure incidental to its use are exempted from GST. The applicant is carrying out fish and crab farming in wet land taken on lease from the Grama Panchayat. As per the said entry exemption is available for services relating to cultivation and rearing of all forms of animals. The services can be by way of; (i) agricultural operations; (ii) supply of farm labour; (iii) process carried out at an agricultural farm; (iv) renting or leasing of agro machinery or vacant land; (v) loading and unloading of agricultural produce; (vi) agricultural extension services and (vii) services by any agricultural produce marketing committee. Therefore, the conditions to be satisfied for exemption under the said entry is that the activity carried out should be cultivation or rearing of animals or agricultural produce and the services provided shall conform to any of the descriptions enumerated therein.

5. The term “rearing” means bring up and care for until they are fully grown. They take care of the fish / crab from the point they are eggs until they are fully grown up by providing them with feed and also taking care in all possible ways. The next condition is that the rearing should be of animals. They are rearing fish and crab and there is no dispute that fish and crab are animals. The next condition is that the land should be provided on rent or lease. It is clear from the allotment letter and agreement that the wetland is taken on annual lease. The auction is carried out only to ascertain the person who offers the highest rent and does not affect the nature of activity; i.e; renting. As per the definition in Para 2 (zz) of Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017; “renting in relation to immovable property” means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property. From the above, it is clear that the arrangement between the applicant and the Chellanam Grama Panchayat is renting of immovable property. The next condition is that the renting should be of vacant land with or without structure incidental for its use. As per Black’s Law Dictionary; “Land” includes not only the soil or earth, but also things of a permanent nature affixed thereto or found therein, whether by nature as water, trees, grass, herbage, other natural or perennial products, growing crops or trees, mineral under the surface, or by hand of man, buildings, fixtures, fences, bridges as well as works constructed for use of water, such as dikes, canals etc. It is therefore, clear that all the conditions stipulated in Sl No.54 of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 is satisfied and hence the rent paid to the Grama Panchayat is exempt from GST.

6. The matter was examined in detail. The Chellanam Grama Panchayat has confirmed the bid for Paruthithodu water channel fish farming to the applicant. On perusal of the documents submitted by the applicant including the copy of the agreement dated 12.03.2019 entered into between the applicant and the Secretary of Chellanam Grama Panchayat it is evident that the nature of the transaction is renting / lease of water channel for fish farming and hence the activity is covered under the definition of renting of immovable property as per Para 2 (zz) of the

Notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017. Now, the issue to be decided is whether the activity is covered by the exemption contained in the entry at Sl No. 54 of Notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017. The entry at Sl No. 54 of the said notification read as follows;

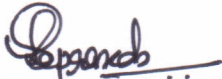
"54. Heading – 9986 - Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of— (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour; (c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market; (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use; (e) loading, unloading, packing, storage or warehousing of agricultural produce; (f) agricultural extension services; (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce; (h) services by way of fumigation in a warehouse of agricultural produce. – Nil"

7. On a plain reading of the above entry, it is clear that the services relating to cultivation of plants and rearing of all life forms of animals by way of renting or leasing of vacant land with or without structures is exempted under the entry. In the instant case, there is no doubt that the fish and crabs being reared by the applicant in the water channel taken on rent / lease are animals and the service of renting / leasing of the water channel has been availed by the applicant for the rearing of the animals. Therefore, the activity of renting / leasing the water channel by the Grama Panchayat to the applicant for fish farming for a consideration determined through auction is squarely covered under the exemption entry at Sl No. 54 of Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 as services relating to rearing of all life forms of animals by way of renting or leasing of vacant land.

8. In view of the observations stated above, the following rulings are issued;

Whether lease rent charged by municipality for land i.e., water channel used for fish farming falls within the meaning of "services relating to rearing of all life forms of animals – by way of renting or leasing of vacant land" eligible for GST exemption as per Sl.No.54 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 and corresponding notification under Kerala GST.

Yes.



Sivaprasad S, IRS
Joint Commissioner of Central Tax
Member



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

To

Sri. George Jacob,
Pallathuseril House, Anathanam,
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