

	<b>KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM</b>	
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**BEFORE THE AUTHORITY OF:** Shri. Sivaprasad .S, IRS &  
: Shri. Senil A.K. Rajan.

Legal Name of the applicant	M/s. Chellanam Grama Panchayath
GSTIN	32AAAGC1236K1ZW
Address	Andikadavu – P.O., Ernakulam – 682008.
Advance Ruling sought for	Whether lease rent charged by Municipality / Panchayath for land i.e., water channel used for fish farming falls within the meaning of “ <i>services relating to rearing of all life forms of animals- by way of renting or leasing of vacant land</i> ” 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	05-01-2021
Authorized Representative	1.R Krishna Iyer & Co., CA 2.Chellanam Grama Panchayat represented by Panchayat Secretary

**ADVANCE RULING No. KER/100/2021 Dated 25-05-2021**

The applicant is a Local Self Government Institution and is engaged among other activities in leasing of wet land for fish farming. The applicant has allotted some wet land, i.e., water channel (paruthithodu chaal in Chellanam) on lease. The land is used for fish and crab farming. The person who has taken the wet land on auction has to pay the agreed auction amount.

2. At the outset, the provisions of the Central Goods and Services Tax Act, 2017 (**hereinafter referred to as CGST Act**) and the Kerala State Goods and Services Tax Act, 2017 (**hereinafter referred to as KSGST Act**) are same except

for certain provisions. Accordingly, a reference hereinafter to the provisions of the CGST Act, Rules and the notifications issued there under shall include a reference to the corresponding provisions of the KSGST Act, Rules and the notifications issued there under.

3. The applicant sought advance ruling on the following;

*Whether lease rent charged by Municipality / Panchayath 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.*

**4. Contentions of the Applicant:**

4.1. The applicant states 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. 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. The conditions to be satisfied for grant of exemption are; (a) activity carried should be cultivation or rearing; (b) Cultivation or rearing should be of agricultural produce or animals.

4.2. The activity carried out is fish and crab farming. The term "rearing" means bring up and care for until they are fully grown, or care for until they are fully grown.

The next condition is that the rearing should be of "animals". In this case, rearing is carried out in respect of fish and crab. The wet land is given on annual lease. This is clear from the allotment letter and agreement. The auction was carried out only to ascertain the tenant who quotes the highest rent. Merely for the reason that auction is done, does not take away the activity from renting. As per definition in 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, licensing or other similar arrangements in respect of immovable property. From the above definition, it is clear that the arrangement between lessee and Chellanam Grama Panchayath clearly comes within the meaning of renting.

4.3 The last 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 thus clear that canals also fall within the meaning of the term "land". The word 'chaal' used in Malayalam is synonymous with canal and forms part of land mass (in this case of paruthithodu chaal) and land referred at SI.No.54 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 therefore includes canals. Thus, all the conditions stipulated in SI No.54 of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 is satisfied and the lease of vacant land for fish farming qualifies for exemption as per the said entry.

## **5. Contentions of the Jurisdictional Officer:**

5.1. The jurisdictional officer submitted that SI.No.54 of Notification No.12/2017 Central Tax (Rate) dated 28.06.2017 says that "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” are exempt from GST.

5.2. The words such as “rearing of all life forms of animals” clearly reveal the legislative intention to include fish also, since they are aquatic animals. In the circumstance the lease rent charged by Municipality / Panchayath for land i.e; water channel used for Fish farming falls within the meaning of “service relating to rearing of all life forms of animals – by way of renting or leasing of vacant land” is 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.

#### **6. Personal Hearing:**

The applicant was granted opportunity for personal hearing on 05.01.2021. The Panchayat Secretary represented the applicant. He reiterated the contentions made in the application and requested to issue ruling on the basis of the submissions made by them.

#### **7. Discussion and Conclusion:**

7.1. The matter was examined in detail. The issue to be decided is whether the activity is covered by the exemption contained in the entry at SI No. 54 of Notification

No. 12/2017 – Central Tax (Rate) dated 28.06.2017. The entry at SI 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"

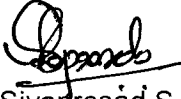
7.2. On a plain reading of the above entry, it is evident that the services relating to cultivation of plants and rearing of all life forms of animals by way of renting or leasing of vacant land with or without structures is exempted under the entry. The conditions to be satisfied are; (1) vacant land with or without structures is provided; (2) the land should be provided on lease or rent; and (3) the activity for which the land is provided should be cultivation of plants or rearing of animals. In the instant case the applicant is providing water channel (paruthithodu chaal in Chellanam) and there is no doubt that the water channel comes under the category of land. Thus the first condition is satisfied. The nature of provision of the land as evidenced by the allotment letter and agreement comes within the scope of definition of renting of immovable property in Para 2 (zz) of Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 and hence the second condition is satisfied. The vacant wet land is given on rent for rearing of fish and crabs. Thereby the third condition that the rearing should be of animals is satisfied. Therefore, the activity of renting / leasing the water channel by the applicant for fish farming for a consideration determined through auction is squarely covered under the exemption at entry at SI 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.

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

### RULING

Whether lease rent charged by Municipality / Panchayath 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  
Joint Commissioner of Central Tax  
Member



Senil A.K. Rajan  
Additional Commissioner of State Tax  
Member

To,

M/s. Chellanam Grama Panchayath  
Andikadavu – P.O.  
Ernakulam – 682008.

Copy to;

1. The Chief Commissioner of Central Tax and Central Excise,  
Thiruvananthapuram Zone, C.R.Building, I.S.Press Road, Cochin- 682018.  
[E-mail ID: cccochin@nic.in]
2. The Commissioner of State Goods and Services Tax Department,  
Tax Towers, Karamana, Thiruvananthapuram – 695002.
3. The State Tax Officer,  
2<sup>nd</sup> Circle, Maattancherry. [E-mail ID: cto2circlematty@gmail.com]