

	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	
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BEFORE THE AUTHORITY OF : Dr S. L. Sreeparvathy, IRS &
: Shri Abraham Renn S., IRS

Legal Name of the applicant	M/s. FAIR TRADE ALLIANCE KERALA (FTAK)
GSTIN	32AAAAF1257B1ZJ
Address	Varakkadu, Kottamala, West Eleri, Kasaragod, Kerala 671314.
Advance Ruling sought for	<p>i) Whether the applicant an association of farmers, engaged in the supply of agricultural produce through the concept of fair trade, is liable to pay GST on the component of the 'Fair Trade Premium'?</p> <p>ii) Whether the component of 'Fair Trade Premium' constitutes consideration or additional consideration for the supply of goods made by the applicant.</p> <p>i) Whether component of 'Fair Trade Premium' can be treated as an ex gratia payment which is not liable for GST either as a supply of goods or as a supply of services.</p>
Date of Personal Hearing	25.10.2021
Authorized Representative	Adv. Sindhu Mangat

ADVANCE RULING No.KER/134/2021 Dtd.18-02-2022

1. M/s Fair Trade Alliance Kerala (hereinafter referred to as 'the applicant'), formed in 2006, is an association of over 4000 Small Holder Farmers in North Kerala.

2. At the outset, it is clarified that 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 the same except for certain provisions. Accordingly, a reference hereinafter to the provisions of the CGST Act, Rules and the notifications issued thereunder shall include a reference to the corresponding provisions of the KSGST Act, Rules and the notifications issued thereunder.

3. The applicant had requested an advance ruling on the following

3.1. Whether the applicant an association of farmers, engaged in supply of agricultural produce through concept of fair trade, is liable to pay GST on component of "Fair Trade Premium"?

3.2. Whether the component of 'Fair Trade Premium' constitutes consideration or additional consideration for supply of goods made by the applicant?

3.3. Whether component of 'Fair Trade Premium' can be treated as an ex gratia payment which is not liable for GST either as supply of goods or as supply of services?

4. Contentions of the applicant:

4.1. The applicant submits that they focus on issues of sustainable farming and trade justice. The intention is to enable farmers to access the global and pan Indian markets and improve their income following principles of "Fair Trade".

4.2. The applicant submits that Fair Trade is an organised social movement and market-based approach that aims to help producers in developing countries to obtain better trading conditions and promote sustainability. Generally, farmers and workers at the beginning of the chain do not always get a fair share of the benefits of trade. The system of Fair Trade ensures that the farmers who are at the beginning point of the supply chain are adequately compensated as being part of the Fair Trade community. The concept of Fair Trade has been in vogue as early as the 1970s but it assumed a structured and organised format governed by standards and certifications in the 1990s. Fair Trade operates mainly on the following ten principles; (1) Opportunities for disadvantaged producers; (2) transparency & accountability; (3) Fair Trade practices; (4) Fair payment; (5) No child labour, no forced labour; (6) No discrimination, gender equity, freedom of association; (7) Good working conditions; (8) Capacity building; (9) Promote fair trade; 10) Respect for the environment. These goals are achieved through the active contribution and participation of Fair Trade Enterprises involved in every limb of the production/supply chain. Fair Trade sets social, economic and environmental standards for both companies and the farmers and workers who grow the food. For farmers and workers, the standards include protection of workers' rights and the environment, for companies they include the payment of the Fair



Trade Minimum Price and an additional Fair Trade Premium to invest in business or community projects of the community's choice. The main regulatory bodies of Fair Trade across the world are Fairtrade International, WFTO [World Fair Trade Organisation], SPP Global [Symbol of Small Producers], Fair For Life, Ecocert Fair Trade, etc. Fairtrade International has its own certification body, Flocert, while most other Fair Trade schemes use independent certification bodies who audit farmer's organisations and businesses as per their schemes. Fair Trade Minimum Price [FTMP] is the minimum price that must be paid by buyers to producers for a product to become certified against the Fair Trade Standards. The FTMP is a floor price that covers producers' average costs of production and allows them access to their product markets. The FTMP represents a formal safety net that protects producers from being forced to sell their products at too low a price when the market price is below the cost of sustainably producing a product. It is therefore the lowest possible price that the Fair Trade payer may pay to the producer. When the relevant market price for a product is higher than the Fair Trade minimum price, then at least the market price must be paid. Fair Trade Minimum price is fixed taking into account various factors as cost of production and, other overheads. The price arrived at through such a scientific method of analysing cost, expense and profit will most often be above the prevalent general market price. The Fair Trade Minimum Price fixed are reviewed periodically depending on changed agrarian and market situation. Fair Trade Premium is an extra sum of money received by the farmers and workers for their produce or labour in addition to the price of the commodity. The availability of this incentive to the farmer/worker community is one of the prominent features of the fair trade concept.

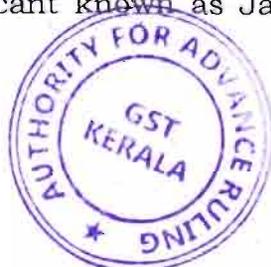
4.3. Products eligible for Fair Trade Premium: The Fair Trade premium is available in particular to export from developing countries to developed countries, most notably for coconut, cashew, spices, coffee, cocoa, sugar, tea, bananas, honey, cotton, wine, fresh fruit, nuts, handicrafts etc. The Fairtrade premium is calculated as a percentage of the volume of produce sold. The amount of premium, farmers receive differs from product to product and across regions. The price is reviewed every three to four years by the regulatory bodies to adjust to local inflation. The fair-trade premium is generally fixed on parameters as a certain fixed percentage of minimum fair trade price etc. The list of the fair trade price for the commodities coffee, cashew nuts and coconut for the period 2017-18, 2018-19 were also submitted by the applicant. The fair trade premium is not paid by any institution or organization but is a burden borne by the ultimate consumer. It is reflected in the higher market price they pay for the fair trade labelled product picked up from the shop shelves. The importer of Fair Trade products in the consuming country is the payer of the Fair Trade Premium and the exporter from the producing country is the conveyor of the FT premium to the Farmer's / producers' organisation. The percentage of such components is worked out as per the rates fixed by the relevant Fair Trade scheme. The amount paid as a fair trade premium by the ultimate consumer travels down the line of the supply chain and reaches the



farmer/worker through an established system. The use of the Fairtrade premium is restricted to investment in the producer's business, livelihood and community or the socio-economic development of the workers and their community. Its specific use is democratically decided by the producers through their democratically elected representatives.

4.4. The applicant submits that they are registered as a Society under the Societies Registration Act and has over 4,000 member farmers. The applicant was Fairtrade certified in 2006 for a wide range of products such as cocoa, coffee, cinnamon, cloves, ginger, nutmeg, mace, black and white pepper, cardamom, turmeric, cashew nuts, and coconuts. The applicant procures goods from the farmers at Fair Trade minimum price. Such prices are higher than the prevalent marketing prices.

4.5. The agricultural produce, after procurement, is sold to another company, which is also Fair Trade certified. Sample Copy of agreement between the applicant and the purchaser company, Sample copies of invoices of Fair Trade certified product sold to purchaser were submitted. The purchaser company is registered under GST. The purchaser company would export the goods either as such or after such processing as required. The exporter raises an invoice on the buyer abroad for a price that is inclusive of the premium at the percentage prescribed for each product. The foreign buyer would pay the invoice price. The price which is attributable as consideration for the supply is retained by the exporter. The component of a premium is passed on to the Applicant. The premium, received by the applicant is allocated for purposes as is decided by the premium committee of the applicant. The premium committee consists of members who are elected representatives of farmers forming the society. Few instances of the project for which premium have been used during the previous years were submitted before the authority. Accordingly, a large part of the Fairtrade Premium is invested in converting farms to organic production so that farmers can benefit from higher prices and access quality conscious markets. It is also used to defer the organic certification costs of farmers. In another instance, the premium has been invested in solar-powered electric fencing to protect farms on the edge of forests from wild animals including elephants. The fences act as a benign deterrent to the wild animals straying into farmlands. This has been hailed as an innovative effort to manage man-animal conflict and the UK charity, "The Elephant Family" characterized the cashews sourced from FTAK as Elephant Friendly Nuts. Another instance pointed out is that the premium has been invested in a disaster management fund. It is very important, especially for the farmers on the hillsides. At monsoon time there are landslides that can wreak havoc. Government aid is often delayed and inadequate and the farmers need immediate assistance, especially when they are left homeless and their crops destroyed. Premium is also used to create a common infrastructure for the organisation and has been invested in the construction of office premises. Other purposes of premium include the flagship project of applicant known as Jaiva jeevadhara project, community



drinking water schemes, interest-free loans for ancillary farm income activities, creation of indigenous seed banks and a host of activities that promote Bio-Diversity, Food Security and Gender Justice.

4.6. The applicant reproduced the sections and rules, which are relevant for the decision of the issue for which the application is filed. The component of 'Fair Trade Premium' is taxable only when the same constitute component of a supply is liable to be taxed. They placed reliance on Section 9 of the CGST Act and Section 5 of the IGST Act.

4.7. Scope of Supply: Section 7 of CGST Act, provides that scope of supply includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal. The scope of supply also mandates fulfilment of the following parameters to attract the levy of GST;

- Supply should be made for a consideration
- Supply should be made in the course or furtherance of business
- Supply should be made by a taxable person
- Supply should be a taxable supply

4.8. In GST the tax is payable on an ad Valorem basis, i.e., a percentage of the value of the supply of goods or services. Section 15 of the CGST Act and Rules 27 to 35 of CGST Rules, 2017 contain provisions related to the valuation of the supply of goods or services made in different circumstances and to different persons.

4.9. The applicant submits that the value of Fair Trade Premium is not forming part of the consideration for the supply made by the applicant and is hence not forming part of the value of the supply of goods liable for GST. Relying on the definition of the term; "Consideration" under Section 2(31) of the CGST Act they submit that "Consideration" is any payment, made or to be made in money or otherwise in respect of the supply or for inducement of supply of goods or service or both; the payment is by the recipient or by any other person and the consideration shall not include any subsidy given by the Central or State Government. It is, therefore, interpreted that 'consideration' is a payment made or to be made in respect of a supply. In other words, the component of consideration is integrally connected with "Supply". Though supply, is not defined under the GST law, Section 7 of CGST Act, 2017, while dealing with the scope of 'supply', provides that supply includes 'sale'. There is no dispute regarding the fact that the transaction between the applicant and the buyer constitutes the sale of goods. The sale of goods is a bilateral transaction where the seller and buyer are the contracting parties. An essential ingredient of such a sale is the 'price' mutually agreed between the parties. Fixation of a price is a matter of agreement between the parties. Only such amounts which are made towards or in respect of sale alone can be treated as 'consideration'.



4.10. The starting point of the transaction is the procurement of agricultural produce from the farmers. The goods are procured by the applicant as per the price applicable for products involved in the fair trade scheme. The price paid is almost invariably above the market price and under no circumstances below it. At the second stage of the transaction, such goods are sold in the aggregate to the buyer, who is an exporter. The amount at which the buyer is purchasing is also above the market value. A sample copy of invoices issued to the buyer is enclosed. The third stage of the transaction is when the exporter, effects export supplies. An invoice is raised on the foreign buyer, which would have a break up of sale price as well as a component of Fair Trade Premium. The component of Fair Trade premium is shown in the invoice because the exporter is in a position to know the value of Premium applicable for the product at the time of supply as the same is prefixed for the respective products by the international regulatory bodies on Fair Trade. The exporter receives consideration from the foreign buyer, which price constitutes of component of the actual sale price and Fair Trade Premium. On receiving the Fair Trade Premium component, the exporter passes on such component of premium to the applicant. The Exporter is not retaining any portion of the Fair Trade premium. In other words, the role of the exporter is only that of a conveyor to pass on the premium to the eligible organisation. The applicant on receiving the premium would decide the activities for which such premium is to be allocated. The amount of premium is thus spent in ways decided by the applicant association as per its governance procedures.

4.11. The component of Fair Trade Premium, reaching the hands of the applicant, in the above manner is neither consideration nor additional consideration for the supply made by the applicant. The consideration mutually agreed between the parties for the transaction is the price as declared in the invoice of the applicant. In other words, the sale is not a conditional one, which is treated as complete, only when the amount of Fair Trade Premium is received. The component of Fair Trade Premium does not form part of the price bargain between the applicant and the first buyer, who is the exporter. The sale is concluded as and when the price as mentioned in the invoice raised by the applicant is paid by the exporter. As far as the exporter-buyer is concerned, his legal obligation to abide by the contract of sale is completed as soon as the invoice price is paid. There is no further legal obligation on the exporter to collect premium and pass it on to the supplier, though they are doing the same as part of their social obligation under the fair trade scheme. The component of the premium is not borne by the first buyer who is the exporter but is paid by the importer abroad while purchasing a fair trade certified product. The exporter is only a conduit in passing on the same to the supplier. His status in Fair Trade parlance itself is the conveyor. The supplier is also an agent for receiving and keeping the amount and using it for developmental activities.

4.12. Another feature of consideration is that the supplier is entitled to appropriate the amount of consideration towards the sale price and there is no



obligation attached to the way of accounting or spending such amount. But in the present case, the Fair Trade premium at the hands of the applicant is to be used only for the developmental activities of the farmer community who are members of the applicant association. Further, the amount representing consideration comes with a legal right of recovery. It means, if the buyer is not paying the amount of consideration as agreed between them, the supplier has a legal right to sue the buyer for violation of the contract of sale. But in the case of fair trade premium, the supplier is not having a legal right to sue anyone, if no premium is received for the products. This is because the fair trade premium is a component contributed by the end customer by willingly participating in the system of Fair Trade. Further, it applies only if eventually the goods purchased from the applicant are sold by the purchaser/exporter as Fair Trade certified. It is entirely likely that all of it or a portion of it does not attract a Fair Trade buyer and the same is sold on non Fair Trade terms eventually. The consideration as agreed between the parties exclusive of Fair Trade Premium is the value of supply of applicant as per Section 15 of the CGST Act, 2017. Section 15 provides that the value of the supply of goods or services shall be the transaction value. The concept of the transaction value as laid down in Section 15 is summarized as follows; (i) Transaction value is the price actually paid or payable for the supply of goods or services or both; (ii) Transaction value is the price actually paid or payable when the recipient and supplier are not related; (iii) Transaction value applies when the price is the sole consideration for the supply.

4.13. The supplies between the applicant and the buyer and the applicant and the suppliers who are farmers are governed by transaction value, which is the invoice price. The component of 'Fair Trade Premium' cannot be treated as 'consideration' for the supply effected by the applicant and consequently is not forming part of 'transaction value' under Section 15 of CGST Act, 2017. The definition of the term 'Consideration' excludes any subsidy given by the Central or State Government. Even as per Section 15, only subsidies granted by the Central or State government is excluded from the value of supply. Therefore, any amount in the nature of subsidy, if granted or given by any party other than the government, is to be included in the value of supply. There is no dispute regarding the fact that the amount of Fair Trade Premium is not a subsidy given by the Central or State Government. Hence, the amount, is not at all, in the nature of subsidy, to be covered either in the definition of consideration or scope of the transaction value. Further 'Subsidy' is defined as money given as part of the cost of something to help or encourage it to happen; [Cambridge Dictionary] a grant or gift of money; [Merriam Websters]. A subsidy is generally understood as a payment made to help the consumer to receive a commodity at a reasonable price and to compensate the supplier for supplying the commodity at a subsidized price. In other words, a subsidy is a payment made to make up the difference in price, when a commodity is supplied to someone at a subsidized rate. For an amount to be considered as subsidy, the price payable by the purchaser must be fixed in such a way that it diminishes in proportion to the subsidy granted to the seller or supplier of the goods or



services, which therefore constitutes an element in determining the price demanded by the supplier.

4.14. In order to subject the component of subsidy to tax, there should be a direct link between the subsidy and the goods or services at issue. The price payable by the purchaser must be fixed in such a way that it diminishes in proportion to the subsidy granted to the seller or supplier of the goods or services, which therefore constitutes an element in determining the price demanded by the latter. These components are completely absent in the case of the Fair Trade Premium. The price payable by the buyer remains the same, irrespective of whether the premium is received or not. The amount of Fair Trade Premium is in no way intended to reduce the price of a commodity. The applicant is procuring goods from the farmers at a value higher than the market price and is selling the same at a price higher than the market price. Therefore, there is no reduction of the price at any stage, which should be compensated by a component of 'Fair Trade Premium'. The payment of premium is not intended as any kind of 'support price' for the agricultural produce and is hence not in nature of 'subsidy'. Even in the case of government subsidies, it has consistently been held under the erstwhile tax regime that they are not liable to form part of the turnover of suppliers. The principle laid down in this regard is that an amount that flows from the purchaser to the seller alone would form part of the turnover of the seller. Any sum received dehors the contract of sale from another entity, whether it be Government or anyone else, cannot be regarded as being an amount that would form part of the sale price on which tax is payable.

4.15. Fair Trade Premium is in nature of an 'ex gratia payment' and is not liable for GST. The component of Fair Trade Premium is paid to carry out common welfare/developmental activities among the farmers. The use of the Fair Trade Premium is restricted to investment in the producer's business, livelihood and community or the socio-economic development of the workers and their community. Its specific use is democratically decided by the producers jointly or the association of producers. The applicant is utilizing the premium amount for such intended activities which is evident from the details of the expense statement submitted by the applicant. Ex gratia means a payment made 'as a favour'. An ex gratia payment can move from any person including a customer or consumer and is made as a goodwill gesture. Such payments are outside the scope of GST since the amount is completely detached from the consideration of the product. The component of such ex gratia payment is further distinguishable by the fact that there is no obligation on part of the payee to make the payment. In other words, the supply would happen, irrespective of whether the premium is paid or not. Therefore, Fair Trade Premium is not a consideration/additional consideration or subsidy liable for GST but is an ex gratia payment that is outside the scope of GST law.

4.16. The applicant submits that in the regime prior to GST, the issue of whether the component of Fair Trade Premium is to be added to the turnover



of applicant organization had come up for consideration before the Deputy Commissioner, Appeals, KVAT in the context of VAT Assessments for the period 2011-12 to 2014-15. The issue has been decided in favour of the applicant by Order dated 24.07.2019, holding that the component of Fair Trade Premium is not forming part of the turnover of the applicant. The Appellate authority had categorically observed that Fair Trade Premium cannot be treated as a balance of sale consideration for the reason that as per the settled position of law dealing with payment by way of reimbursement of balance price, it is applicable only in the case where the dealer purchases goods and then sells the same at a price lower than the price at which it is purchased and that in case of the appellant, the goods are always sold above the purchase price.

5. Remarks of the Jurisdictional officer

5.1. The application was forwarded to the jurisdictional officer as per provisions of Section 98(1) of the CGST Act. The jurisdictional officer submitted that the applicant is dealing with agricultural produce viz; Cashew nut, Coffee, Pepper, Copra etc on the strength of fair trade certification. The applicant used to purchase agricultural produce from farmers and such goods are sold in the aggregate to the buyer who is an exporter and also a fair trade certified buyer. When the exporter effects export supplies, the exporter receives consideration from the foreign buyer, which price constitutes a component of the sale price and fair trade premium. The exporter passes on such element of fair trade premium to the applicant as and when it is received. On verification of the statutory audit report in GSTR 9C and GSTR 9 filed by the applicant for the years 2017-18 and 2018-19 it is found that the fair trade premium received in the respective years are included in the total turnover of outward supply and remitted GST at the rate of 18% due thereon. The component of the Fair Trade premium constitutes consideration or additional consideration for the supply of goods made by the applicant. The term consideration is defined as "any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person". The element of fair trade premium is linked with the supply of goods made by the applicant. The exporter passed on the component of fair trade premium to the applicant on the basis of the supply of goods effected to the exporter. If there is no supply of goods, there is no premium. Hence, the component of fair trade premium constitutes consideration and is leviable to GST.

6. Personal hearing

6.1. The applicant was granted an opportunity for a personal hearing on 25.10.2021. Smt. Sindhu M, Advocate represented the applicant in the personal hearing. The counsel submitted additional documents and reiterated the contentions made in the application and requested to issue a ruling based on the submissions in the application.



7. Discussion and Findings

7.1. The issue was examined in detail. The application is admissible under subsection (2) of Section 97 of the Act. The questions to be clarified are as follows:-

- i) Whether the applicant is liable to pay GST on the component of fair trade premium?
- ii) Whether fair trade premium comes under the concept of consideration or additional consideration in connection with the supply of goods effected by the applicant?
- iii) Whether the fair trade premium is an ex gratia payment that is not liable to GST?

7.2. To determine the above issues the definition of the term 'Consideration' and the provisions governing the value of supply under the CGST Act is to be looked into. Section 2(31) of the CGST Act defines consideration as follows;

"consideration" in relation to the supply of goods or services or both includes,-

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Govt. or a State Govt.:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply".

7.3. The provisions governing the value of supply of goods and/or services that are contained in Section 15 of the CGST Act reads as follows:-

"Value of taxable supply.—(1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.



(2) *The value of supply shall include,—*

(a) *any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act if charged separately by the supplier;*

(b) *any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;*

(c) *incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;*

(d) *interest or late fee or penalty for delayed payment of any consideration for any supply; and*

(e) *subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.*

Explanation:—For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

(3) *The value of the supply shall not include any discount which is given,—*

(a) *before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and*

(b) *after the supply has been effected, if,—*

(i) *such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and*

(ii) *input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.*



(4) Where the value of the supply of goods or services or both cannot be determined under sub - section (1), the same shall be determined in such manner as may be prescribed.”

7.4. As per Section 15(1) of the CGST Act, the value of a supply of goods or services or both shall be the transaction value, which is explained as the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. Sub-sections (2) and (3) of Section 15 list out the inclusions and exclusions to the value of supply. The stages of the transaction as revealed from the submissions made by the applicant are as follows; The starting point of the transaction is the procurement of agricultural produce from the farmers. The goods are procured by the applicant from farmers at the fair trade minimum price; i.e., as per the price applicable for products involved in the fair trade scheme. According to the applicant, the price paid is almost invariably above the market price. The second stage of the transaction is that the goods procured in the first stage are sold in the aggregate to the buyer/exporter by the applicant. As per the applicant, the amount at which the buyer/exporter is purchasing is also above the market value. The buyer/exporter is further exporting the products by raising an invoice to the buyer abroad for a price that is inclusive of the Fair Trade Premium at the percentage prescribed for each product.

7.5. On a combined reading of the above provisions, it is clear that any payment made or to be made whether in money or otherwise in respect of or in response of inducement of supply of goods or services or both forms part of the consideration and should form part of the value of taxable supply. The definition of the term consideration is inclusive which not only includes the payment received by the supplier in relation to the supply from the recipient but also from any other person. The Fair Trade Premium is calculated as a percentage of the volume of produce sold. The amount of premium farmers receive differs from product to product and across regions. The statement of facts in the instant case reveals that the applicant receives the fair trade premium from the recipient of supply itself and fair trade premium has a clear nexus with the supply of goods as it is determined/calculated as a prescribed percentage of the volume/quantity of each produce/commodity sold and it is collected from the ultimate consumer as a component of the price of the product itself. Therefore, the fair trade premium received by the applicant is nothing but part of the price that is actually paid/received in response to the supply of the goods made by the applicant and invariably constitutes an additional consideration received in respect of the supply of goods and is to be added to the taxable value of the respective goods supplied and liable to GST at the same rate as applicable to the goods supplied.

7.6. Further, the applicant has stated that before GST under the VAT regime, the question of whether the Fair Trade Premium is to be added to the turnover of the applicant had come up before the Deputy Commissioner (Appeals),



KVAT and the Appellate Authority by Order dated 24.07.2019 held that the component of Fair Trade Premium does not form part of the turnover of the applicant. The order of the appellate authority pertains to the interpretation and applicability of Explanation VII of clause 1(ii) of Section 2 of the KVAT Act and hence is not relevant to this issue given the definition of consideration and the provisions of Section 15 of the CGST Act governing the value of taxable supply.

Given the observations stated above, the following rulings are issued;

RULING

1. Whether the applicant an association of farmers, engaged in supply of agricultural produce through concept of fair trade, is liable to pay GST on component of "Fair Trade Premium"?

Ruling: Yes, The Fair Trade Premium forms part of the consideration and value of taxable supply of the goods supplied and the applicant is liable to pay GST on the same rate as the rate applicable to the respective goods supplied.

2. Whether the component of 'Fair Trade Premium' constitutes consideration or additional consideration for supply of goods made by the applicant.

Ruling: Yes, the Fair Trade Premium forms part of the consideration for the goods supplied.

3. Whether component of 'Fair Trade Premium' can be treated as an ex gratia payment which is not liable for GST either as supply of goods or as supply of services.

Ruling: No, in view of the reasons stated above.

~~Sreeparvathy S. L.
Joint Commissioner
Member Central Tax~~



Abraham Renn S.
Abraham Renn S.
Additional Commissioner
Member State Tax

To

M/s. FAIR TRADE ALLIANCE KERALA (FTAK)
Varakkadu, Kottamala, West Eleri, Kasaragod,
Kerala 671314.

Copy to

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2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram – 695002.
3. The Deputy Commissioner of State Tax, Special Circle, Kasaragod. [E-mail ID: ksdspl.ctd@kerala.gov.in]

