
	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 Manappuram Finance Limited
GSTIN	32AABCM6882E1ZK
Address	2-3154-105, Manappuram House, NH -17, Valappad, Thrissur - 680567.
Advance Ruling sought for	Whether the reverse charge liability under Notification No.13/2017 CT (Rate) dated 28.06.2017 is attracted on the payment made to the Government of Kerala under Section 27 A of Kerala Conservation of Paddy Land and Wetland Act, 2018 for change of description of land from wetland to ordinary land in Government of Kerala village office records and for permission for construction of office complex for the purpose of business.
Date of Personal Hearing	08.12.2021
Authorized Representative	K.R. Ramankutty, Chartered Accountant

ADVANCE RULING No.KER/13/2023 Dated 03.04.2023

1. M/s Manappuram Finance Limited (hereinafter referred to as the applicant) is a Non-Banking Financial Company registered under GST.



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 there under shall include a reference to the corresponding provisions of the KSGST Act, Rules and the notifications issued there under.

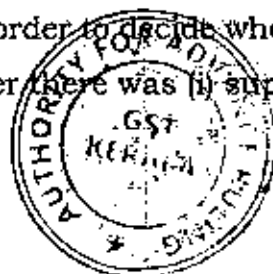
3. The applicant requested an advance ruling on the following:

Whether the reverse charge liability under Notification No. 13/2017 CT (Rate) dated 28.06.2017 is attracted on the payment made to the Government of Kerala under Section 27 A of The Kerala Conservation of Paddy Land and Wetland Act, 2018 for change of description of land from wetland to ordinary land in Government of Kerala village office records and permission for construction of office complex for the purpose of business.

4. The contentions of the applicant:

4.1. The applicant submits that their major business income consists of income from gold loans, income from money transfer business, purchase and sale of foreign currency etc. They discharge the GST liability on their output services and also discharge GST on reverse charge liability in terms of Notification No.13/2017 CT (Rate) dated 28.06.2017. They are regular in filing GST returns. They own 0.5 Ares (58 Cents) of land in Valapad village in Thrissur District which is a wetland as per the records of the village authorities. They wanted to change the description of the land from wetland to dry land in the village office records for the purpose of construction of office complex. For this purpose, they had to remit prescribed amount of fee to the government as per provisions of Kerala Conservation of Paddy Land and Wwetland Act 2018. Such payment is required under the provisions of the said Act with an objective of conservation or reclamation of paddy land and wetland in order to promote agriculture growth to ensure food security and to sustain the ecological system.

4.2. It is submitted that in order to decide whether or not GST liability is attracted it has to be examined whether there was (i) supply of service within the meaning of



section 7 of the CGST Act; (ii) any consideration for the supply of service. Section 9 of the CGST Act, which is the charging section states that there shall be levied a tax called Central Goods and Service Tax on all intrastate supply of goods or services or both as per the value determined under section 15. Section 7 of the CGST Act 2017 which deals with the scope of supply states that supply includes sale, transfer, barter, exchange, license etc made or agreed to be made for a consideration by a person in the course or furtherance business. Therefore, to determine whether or not GST liability is attracted on the payment made to government either under forward charge or as reverse charge liability the facts to be examined in the context of GST law are;

(i) Whether there was any supply of service within the meaning of Section 7 of CGST Act 2017; and

(ii) Whether there was any consideration for rendering the service by the service provider.

4.3. It is submitted that if there was a supply of service for a consideration and no exemption for such service under the CGST Act 2017 or the notifications issued there under the transaction will be taxable and will be liable for the reverse charge liability as service rendered by government is included as an item attracting reverse charge liability under Notification No. 13/2017 CT (Rate) dated 28.06.2017 or Notification No. 10/ 2017- IT(Rate) dated 28.06.2017.

4.4. As per Notification No. 14/2017 CT (Rate) dated 28.06.2017 the following activities or transactions undertaken by the Central Government or the State Government or any local authority in which they are engaged as a public authority shall be treated neither as a supply of goods nor a supply of service, namely; services by way of any activity in relation to a function entrusted to a Panchayat under Article 243 G of the Constitution.

4.5. The scope of this notification is that to become a non-supply as envisaged in the notification, service rendered by Central or State Government or local authority must be in relation to a function entrusted to a Panchayat under Article 243 G of the Constitution. "In relation to" means that services other than directly rendered by the Government for the purpose of any function entrusted to Panchayat



under Article 243 G of the Constitution also will qualify within the meaning of service rendered by the Government as per the Notification.

4.6. Article 243 G of the Constitution of India and the Eleventh Schedule is reproduced below;

243G. Powers authority and responsibilities of Panchayath: Subject to the provisions of this Constitution the Legislature of a State may by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level subject to such conditions as may be specified therein with respect to -

(a) The preparation of plans for economic development and social justice.

(b) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh schedule.

4.7. The functions entrusted to a Panchayat under the Eleventh Schedule to Article 243 G of the Constitution are as under:

1. *Agriculture, including agricultural extension.*
2. *Land Improvement, implementation of land reforms, land consolidation and soil conservation.*
3. *Minor Irrigation, water management and watershed development.*
4. *Animal husbandry, dairying and poultry.*
5. *Fisheries.*
6. *Social forestry and farm forestry.*
7. *Minor forest produce.*
8. *Small scale industries, including food processing industries.*
9. *Khadi, Village and Cottage industries.*
10. *Rural housing.*
11. *Drinking Water.*
12. *Fuel and fodder.*
13. *Roads, culverts, bridges, ferries, waterways and other means of Communication.*



14. *Rural electrification, including distribution of electricity.*
15. *Non-conventional energy sources.*
16. *Poverty alleviation programme.*
17. *Education, including primary and secondary schools.*
18. *Technical training and vocational education.*
19. *Adult and non-formal education.*
20. *Libraries.*
21. *Cultural activities.*
22. *Markets and fairs.*
23. *Health and sanitation, including hospitals, primary health centers and dispensaries.*
24. *Family welfare.*
25. *Women and child development.*
26. *Social welfare, including welfare of the handicapped and mentally retarded.*
27. *Welfare of the weaker sections and in particular of the scheduled castes and Scheduled tribes.*
28. *Public Distribution System.*
29. *Maintenance of the Community assets.*

4.8. Article 243 G(a) and (b) read with Serial No.1 to 3 of the Eleventh schedule covers the activity undertaken by government in preserving the wetland for conservation of paddy land for promoting the agricultural growth. The payment was made to the Government under Section 27 A of the Kerala Conservation of Paddy land and Wetland Act 2018, to get the description of land in the village records from wetland to ordinary land. Kerala Conservation of Paddyland and Wetland Act, 2018 was enacted to provide for the conservation of paddy land and wetland and to restrict the conservation or reclamation thereof, in order to promote agricultural growth to ensure food security and to sustain the ecological system in the State of Kerala.

4.9. Section 27 A of the Kerala Conservation of Paddy Land and Wetland Act 2018 is reproduced below;

27A. *Change of nature of unnotified land.*



(1) *If any owner of an unnotified land desires to utilize such land for residential or commercial or for other purpose he shall apply to the revenue divisional officer for permission in such manner as may be prescribed.*

(2) *Notwithstanding anything contained in any judgement decree or order of any court or tribunal or any other authority, the Revenue Divisional Officer may after considering the reports of the village officer concerned, pass such orders as deemed fit and proper, on such applications, ensuring that there is no disruption to the free flow of water to the neighbouring paddy lands, if any, through such water conservancy measures as is deemed necessary.*

4.10. As per Section 27A of the Act while allowing an application under section (permission for utilizing unnotified land for residential or commercial purpose) the Revenue Divisional Officer should ensure that there is no disruption to the free flow of water to the neighbouring paddy lands, if any, through such water conservancy measures as is deemed necessary. Further, as per Section 5 of the said Act there shall be a local level monitoring committee in each panchayat or municipality consisting of members specified in sub-section (2) for the purpose of monitoring the implementation of the provisions of the Act.

4.11. The functions performed under the Kerala conservation of paddy land and wetland Act is for preventing use of wet land and unnotified land for any use other than agriculture and there by promoting agriculture sector in Kerala. While allowing conversion, the permitting authority should ensure water conservation measures in the said land and free water flow into neighbouring fields. Therefore, even though the functions are performed by Revenue Divisional Officer the functions under the Act are related to the functions entrusted to Panchayat under 11th Schedule of Article 243 G which are (1) Agriculture including agricultural extension; (2) Land improvement, implementation of land reforms, land consolidation and soil conservation; (3) Minor irrigation, water management and water shed development. Therefore the activity undertaken by the government in granting permission under Section 27A of the Kerala Conservation of Paddy land and Wetland Act, 2018 is an activity in relation to a function entrusted to Panchayat under Article 243G of the Constitution and Notification No. P4/2017 Central Tax (Rate) dated 28.06.2017



squarely applies to the facts and circumstances of the case and hence there is no supply of service attracting GST liability and consequently reverse charge liability is also not attracted.

4.12. As per Section 7 of the CGST Act, 2017; the supply must be for a consideration. Consideration is defined in Section 2(31) of the CGST Act. Any payment made in response to or for the inducement of supply of goods or service or both is a consideration. As there is no supply as discussed above in view of Notification No. 14/2017 the amount paid as fee to the government is not a consideration for any supply and cannot be taxed. The fee paid is a statutory payment under Section 27A of the Conservation of Paddy land and Wetland Act, 2018 to get certain privilege under statute and is not a consideration for rendering any service. Fee payable under a statute has to be distinguished from a consideration which is outcome of an agreement entered into to get service. In view of the fact that (i) there was no supply as per Notification No. 14/2017; and (ii) there was no consideration for rendering any service, service tax liability is not attracted and consequently reverse charge liability also is not attracted.

5. Comments of the Jurisdictional Officer:

The application was forwarded to the jurisdictional officer as per provisions of Section 98(1) of the CGST Act. The jurisdictional officer has not submitted any remarks and hence it is presumed that the jurisdictional officer has no specific comments to offer. It is also construed that no proceedings are pending on the issue against the applicant.

6. Personal Hearing:

The applicant was granted an opportunity for a personal hearing on 08.12.2021. Shri. K. R. Ramankutty, Chartered Accountant represented the applicant in the personal hearing. The representative 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 question to be answered is whether reverse charge liability under Notification No. 13/2017 CT (Rate) dated 28.06.2017 is attracted on the payment made by the applicant to the Government of Kerala under Section 27 A of The Kerala Conservation of Paddy Land and Wetland Act, 2018 for change of description of land from wetland to ordinary land in revenue records. The contention of the applicant is that the activity being undertaken by the State Government as a public authority in relation to a function entrusted to a Panchayat under Article 243 G of the Constitution is neither a supply of goods nor a supply of service in terms of Notification No. 14/2017 CT (Rate) dated 28.06.2017 and therefore there is no supply attracting GST liability and consequently reverse charge liability is also not attracted.

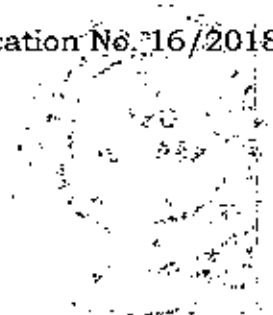
7.2. The text of the Notification No. 14/2017 - Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 16/2018 - Central Tax (Rate) dated 26.07.2018 is reproduced below;

G.S.R.....(E).- *In exercise of the powers conferred by sub-section (2) of section 7 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council hereby notifies that the following activities or transactions undertaken by the Central Government or State Government [or Union territory]¹ or any local authority in which they are engaged as public authority, shall be treated neither as a supply of goods nor a supply of service, namely:-*

"Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution [or to a Municipality under article 243W of the Constitution]²."

2. This notification shall come into force with effect from the 1st day of July, 2017.

^{1&2} Inserted by Notification No. 16/2018 Central Tax (Rate) dated 26.07.2018.



7.3. As per the above notification, an activity shall be treated as neither a supply of goods nor a supply of service, if the following conditions are satisfied;

1. The activity shall be undertaken by the Central Government or State government or Union territory or local authority as public authority;
2. The activity shall be in relation to any function entrusted to a Panchayat under Article 243 G of the Constitution or in relation to any function entrusted to municipality under Article 243 W of the Constitution.

7.4. Now, it is to be examined whether the activity under discussion satisfies the above conditions to be covered under Notification No. 14/2017 CT (Rate) dated 28.06.2017.

7.5. The Kerala Conservation of Paddy Land and Wetland Act, 2018 is an act to conserve the paddyland and wetland and to restrict the conversion or reclamation thereof, in order to promote growth in the agricultural sector and to sustain the ecological system, in the State of Kerala. The Preamble of the said Act reads as follows;

"Whereas it has come to the notice of the Government that indiscriminate and uncontrolled reclamation and massive conversion of paddy land and wetland is taking place in the State;

And whereas there is no existing law to restrict effectively, the conversion or reclamation of paddy land;

And whereas the Government are satisfied that it is expedient, in the public interest to provide for the conservation of paddy land and wetland and to restrict the conversion or reclamation thereof, in order to promote agricultural growth, to ensure food security and to sustain the ecological system in the State of Kerala.

7.6. Section 2 (iii) of the Kerala Conservation of Paddy Land and Wetland Act, 2008 defines; "conversion" as follows;



“conversion” means the situation whereby, the land that has been under paddy farming and its allied constructions like drainage channels, ponds, canals, bunds and ridges are put to use for any other purpose.

7.7. As per Section 2 (xv) of the said Act; “reclamation” means such acts or series of acts whereby a paddy land or a wetland, as defined in this Act is converted irreversibly and in such a manner that it cannot be reverted back to the original condition by ordinary means.

7.8. As per Section 2 (i) and (xviiA) of the said Act as amended by the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018; “Change of nature of unnotified land” means such act or series of acts whereby the nature of an unnotified land is changed or has been changed irreversibly and in such a manner that it cannot be reverted back to the original condition by ordinary means; and “unnotified land” means the lands within the area of jurisdiction of the Committee which have been included as paddy land or wetland in the basic tax register maintained in Village offices, but are not notified as paddy land or wetland under sub-section (4) of section 5 or where data bank has not been published under the provisions of clause (i) of sub-section (4) of section 5, the lands which are already been filled up on the date of commencement of this Act and are not paddy land according to the report of the Kerala State Remote Sensing Centre and the Local Level Monitoring Committee or where the report of the Kerala State Remote Sensing Centre is not available, lands which are not paddy land according to the report of the Local Level Monitoring Committee.

7.9. Section 27 A of the Kerala Conservation of Paddy Land and Wetland Act 2008 as inserted by the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018 is reproduced below;

“27A. Change of nature of unnotified land - (1) If any owner of an unnotified land desires to utilize such land for residential or commercial or for other purpose he shall apply to the Revenue Divisional Officer for permission in such manner as may be prescribed.



(2) Notwithstanding anything contained in any judgment decree or order of any court or tribunal or any other authority, the Revenue Divisional Officer may after considering the reports of the village officer concerned, pass such orders as deemed fit and proper, on such applications, ensuring that there is no disruption to the free flow of water to the neighbouring paddy lands, if any, through such water conservancy measures as is deemed necessary:

Provided that, if the area of such parcel of land where the application is allowed is more than 20.02 ares, ten percent of such land shall be set apart for water conservancy measures.

(3) If the application is allowed, the applicant shall be liable to pay a fee at such rate as may prescribed:

Provided that, no such fee shall be collected if the applicant proves that the land where the application is allowed is, filled up or naturally filled up before the 4th day of July, 1967, the date of commencement of the Kerala Land Utilization Order, 1967, after completing such procedure, as may be prescribed.

(4) If the application is allowed, the Revenue Divisional Officer shall ensure that the reclamation of the unnotified land shall not adversely affect the cultivation of paddy or any other crops, if any, in the adjoining land and shall specify such water conservancy measures as is necessary to ensure such cultivation:

Provided that in specifying such water conservancy measures, the Revenue Divisional Officer may, if he deems fit, refer to satellite maps of the area maintained by Government agencies.

(5) No permission under this section shall be necessary where the purpose for which the unnotified land is converted or attempted to be converted or utilized or attempted to be utilized is for paddy cultivation.

(6) Notwithstanding anything contained in the Kerala Panchayat Raj Act, 1994 or in the Kerala Municipality Act, 1994, no permission under this



section shall be necessary for constructing a residential building having a maximum area of 120 square meters in a maximum extent of 4.04 ares of land or a commercial building having a maximum area of 40 square meters in a maximum extent of 2.02 ares of land:

Provided that the construction of a housing complex or complexes or flats or multi-storied residential complexes shall not come within the meaning of residential building specified in this sub-section:

Provided further that this exemption shall be granted only once.

(7) The exemption under sub-section (6) shall be applicable only to owners of unnotified lands under the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018:

Provided that if the area of the residential building or commercial building exempted under sub-section (6) is subsequently increased by new extension, the exemption under sub-section (6) shall cease to have effect and the owner of the land as on the date of detection of the new extension shall be liable to pay fee as per sub-section (3).

(8) Where conversion of an unnotified land is required for any public purpose, the Revenue Divisional Officer shall submit a report to the Government outlining the measures to be adopted to ensure that the reclamation shall not disrupt the free flow of water to the neighbouring paddy lands, if any, and shall suggest such water conservancy measures as is necessary to ensure this.

(9) The Government may, on receipt of a report under sub-section (8), issue permission to reclaim unnotified land for public purpose:

Provided that where permission is granted, the Government may make necessary modifications to the recommendations of the Revenue Divisional Officer as deemed fit:

Provided further that, if the area of such parcel of land where the application is allowed is more than 20.2 ares, ten percent of such land shall be set apart for water conservancy measures.



(10) The order issued under sub-section (2) and (9) shall clearly indicate the survey number of the lands and the extent of the land in each survey number for which sanction has been accorded, the extent of the land in which water conservancy measures are to be adopted by the applicant and a sketch of such land indicating the aforementioned details shall be appended to the order.

(11) The Revenue Divisional Officer may, either suo moto or on the application of any aggrieved party, cancel any order issued under sub-section (2) if the conditions specified in the order issued therein are not complied by the applicant, either fully or partially.

(12) No order of cancellation under sub-section (11) shall be made by the Revenue Divisional Officer unless the applicant thereof has been given an opportunity of being heard in the matter.

(13) Any application received for the change of nature of unnotified land from the date of commencement of the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018 shall be considered and disposed of only in accordance with the provisions of the Act.^b

7.10. On a combined reading of the definitions and the provisions of Section 27A of the said Act as extracted above, it is clear that the provision is about restrictions that may be imposed and the levy of fees and hence it is essentially an activity of permitting the use of unnotified land for residential, commercial or other purposes. The permission for conversion of unnotified land which has been included as paddy land or wetland in the basic tax register maintained in Village offices for residential, commercial or another use subject to conditions and levy of fees is primarily an activity in the interest/or for the benefit of the persons who are applying for such conversion. Therefore, permitting such conversion of unnotified land which has been included as paddy land or wetland in the basic tax register maintained in Village offices for residential, commercial or other use subject to conditions and levy of fees cannot be considered as an activity in relation to any of the functions entrusted to Panchayat under Article 243 G of the



Constitution as listed in Sl. Nos (1) Agriculture including agricultural extension; (2) Land improvement, implementation of land reforms, land consolidation and soil conservation; or (3) Minor irrigation, water management and watershed development of the 11th Schedule as contended by the applicant.

7.11. Therefore, the fees charged by the State Government for permitting the conversion of unnotified land which have been included as paddy land or wetland in the basic tax register maintained in Village offices for residential, commercial or other users can only be considered a consideration/compensation charged for conferring such private benefit at the cost of the public good of conservation of paddy land and wetland.

7.12. In the light of the discussion above, it is concluded that though the activity of allowing change of nature of the unnotified land subject to conditions and on payment of prescribed fees in terms of the provisions of Section 27A of the Kerala Conservation of Paddy Land and Wetland Act 2008 as inserted by the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018 is an activity undertaken by the State Government as a public authority the same cannot be considered to be an activity in relation to any function entrusted to a Panchayat under Article 243 G of the Constitution. Therefore, the activity cannot be treated as 'neither a supply of goods nor a supply of service' in terms of Notification No. 14/2017 Central Tax (Rate) dated 28.06.2017 as amended.

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


RULING

Question: Whether the reverse charge liability under Notification No.13/2017 CT (Rate) dated 28.06.2017 is attracted on the payment made to the Government of Kerala under Section 27 A of Kerala Conservation of Paddy Wetland Act 2018 for the change of description of land from wetland to ordinary land in Government of Kerala village office records and for permission for construction of office complex for the purpose of business?



Ruling: Yes. The activity cannot be treated as 'neither a supply of goods nor a supply of service' in terms of Notification No. 14/2017 Central Tax (Rate) dated 28.06.2017 as amended.

~~Sreeparvathy S. L.~~
Additional Commissioner of Central Tax
Member


Abraham Renn S.
Additional Commissioner of State Tax
Member

To

M/s Manappuram Finance Limited
2-3154-105, Manappuram House, NH-17,
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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: cccocchin@nic.in; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram - 695002.
3. The Assistant / Deputy Commissioner of Central GST, Thrissur Division, Thrissur. [E-mail ID: cgst.ti03@gov.in]
4. The Superintendent of Central GST, Guruvayoor Range, Guruvayoor. [E-mail ID: cgst.ti0304@gov.in]

