1 NATION TAX MARKET	**KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM**	KERALA GST State Goods & Services Tax

BEFORE THE AUTHORITY OF : Shri. Jomy Jacob, IRS &

: Shri. Mansur M.I.

Legal Name of the applicant	INDIAN INSTITUTE OF INFORMATION TECHNOLOGY AND MANAGEMENT
GSTIN	32AABCI7625M1ZG
ARN	AD320924000912E
Address	IIITMK BUILDING, TECHNOPARK CAMPUS, KAZHAKUTTOM, Thiruvananthapuram, 695581
Advance Ruling sought for	1. Whether the cancellation of lease agreement executed on pre-GST Regime be treated as supply as per the terms of Section 7 of CGST Act? 2. If the answer to question no 1 is affirmative, whether the transaction will be treated as supply of service? 3. If the answer to question no 2 is affirmative, what is the SAC? 4. If the answer to question no 3 is affirmative, whether GST is payable on the transaction value?
Date of Personal Hearing	02-04-2025
Authorized Representative	Sri. Sreeram Sekar, Partner

ADVANCE RULING No.KER/01/2025 Dated 02.04.2025

1. The Indian Institute of Information Technology Management-Kerala (IIITMK), an autonomous premier educational institution established by the

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Government of Kerala in 2000 and registered as a Section 25 Company under the Companies Act 1956 (now Section 8 of the Companies Act 2013), entered into long-term lease agreements with Technopark, a government-owned autonomous society, for two parcels of land to facilitate its operations. The first lease, dated 21st January 2009, was for Land L1, a 96-cent plot at Technopark, for a period of 90 years (2009–2099), for which a down payment of ₹1 crore was made. Subsequently, as per a court order dated 29th May 2018, Technopark paid enhanced compensation of ₹3,60,25,636 to the original landowners and demanded the same amount from IIITMK vide letter dated 4th December 2018. This amount remains payable and has been added to the leasehold asset and amortised over the remaining lease period.

A second lease agreement was entered into on 15th March 2011 for Land L2, a 10.33-acre plot at the Technocity campus, also for 90 years. A down payment of ₹3,86,45,256 was made, which was similarly treated as an asset and is being amortised over the lease period. IIITMK commenced building construction on both lands, with the buildings capitalised and depreciated as per the Companies Act. Later, under Clause 7 of the Kerala University of Digital Sciences, Innovation and Technology Act, 2021, IIITMK was designated the sponsor of the University (KUDSIT), and share capital was granted to IIITMK by the Government for its formation. Since ownership of land is a pre-requisite for UGC approval of the University, and Clause 7 of the Government Order directs transfer of necessary assets, it has now been proposed to cancel the leases to facilitate transfer of land from Technopark to KUDSIT. Upon cancellation, Technopark is to refund IIITMK a proportionate amount corresponding to the unexpired lease periods: ₹83,13,604 for Land L1 and ₹6,95,11,463 for Land L2. After adjusting the outstanding payable of ₹3,60,25,636 by IIITMK, the net refund amount stands accordingly.

Later, the applicant submitted a correction to the 'Statement of Facts' filed with the application for advance ruling. The correction clarifies that the amount of ₹6,95,11,463.00 mentioned as refundable for Land L2 is the gross amount, and that ₹3,60,25,636.00 payable by IIITMK to Technopark for enhanced

compensation for Land L1 has to be set off against this. Therefore, the net receivable is ₹3,34,85,827.00. This corrected amount should be reflected in Point No. 7 of the "Interpretation & Understanding of the Provisions." Furthermore, even though the amount of ₹3,60,25,636.00 is currently unpaid, it should be treated as deemed consideration, since it is acknowledged and recorded in IIITMK's books. IIITMK requests that this correction be taken into account in the final advance ruling order and expresses regret for the earlier inadvertent error.

2. In this Ruling, a reference hereinafter to the provisions of the CGST Act, Rules or the Notifications issued thereunder shall include a reference to the corresponding provisions of the KSGST Act, Rules or the Notifications issued thereunder.

3. The details of the questions on which advance ruling is sought are given above and are not being reproduced.

4. The contentions of the applicant:

4.1 IIITMK entered into long-term lease agreements with Technopark for two parcels of land—Land L1 (96 cents) and Land L2 (10.33 acres)—on 21st January 2009 and 15th March 2011 respectively, both during the pre-GST regime when service tax was applicable. Under the Central Goods and Services Tax (CGST) Act, 2017, Section 7 and Schedule II define lease of land as a supply of service. However, since the original lease agreements were executed prior to the introduction of GST, no GST is applicable on those transactions. Furthermore, the proposed cancellation of the leases does not fall within the scope of "supply" as defined under the Act, since it involves surrendering the land rather than occupying it, and hence, is not considered a supply of service under Point 2 of Schedule II.

4.2 As part of the lease cancellation, Technopark will refund IIITMK a proportionate amount for the unutilised lease period: ₹83,13,604 for Land L1 and ₹6,95,11,463 for Land L2, after setting off the outstanding payable of ₹3,60,25,636. These refunds will be adjusted against the unamortised portion of

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the lease assets in IIITMK's books. The transaction does not result in any income for IIITMK and is purely an asset adjustment following lease surrender.

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 offered any comments and hence it is presumed that the jurisdictional officer has no specific comments to offer. It is also construed that there are no proceedings pending on the issue against the applicant.

6. Personal Hearing:

6.1 The applicant was granted an opportunity for a personal hearing on 02.04.2025. Sri. Sreeram Sekar, Partner represented the applicant in personal hearing. In the hearing, the submissions made in the written statement were reiterated by the representative.

7. Discussion and Findings:

7.1 The applicant has presented the facts of the case along with their contentions. A lease agreement was executed with Technopark during the pre-GST regime, and the applicant now seeks to cancel that agreement. The primary question to be addressed is whether the cancellation of a lease agreement, originally executed under the pre-GST regime, would be treated as a "supply" under the provisions of Section 7 of the Central Goods and Services Tax (CGST) Act, 2017. The concept of "supply" is defined under Section 7 of the CGST Act, 2017, which states as follows:-

Section 7. Scope of supply.-

(1) For the purposes of this Act, the expression - "supply" includes-

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

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[1][(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation .-For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;]

(b) import of services for a consideration whether or not in the course or furtherance of business; [2][and]

(c) the activities specified in **Schedule I**, made or agreed to be made without a consideration; [3][****]

[(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.]

Schedule II of the Act is as follows

ACTIVITIES [1] [OR TRANSACTIONS] TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

1. ...

2. Land and Building

(a) any lease, tenancy, easement, licence to occupy land is a supply of services;

(b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

7.2 From the above, it is evident that while leasing of property constitutes a supply of service under the GST Act, the cancellation of a lease, in itself, does not constitute a taxable activity under the Act. In the present case, as outlined in the application, the applicant is receiving a proportionate amount

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corresponding to the unutilised period of the lease. The taxability of similar transactions has been addressed by the Central Board of Indirect Taxes and Customs (CBIC) in Circular No. 178/10/2022-GST dated 03-08-2022. In this circular, while clarifying the GST liability on compensation paid for cancellation of coal blocks, the CBIC gave the following clarification:

> *There was no agreement between the prior allottees of coal blocks and the Government that the previous allottees shall agree to or tolerate cancellation of the coal blocks allocated to them if the Government pays compensation to them. No such promise or offer was made by the prior allottees to the Government. The allottees had no option but to accept the cancellation. The compensation was given to them for such cancellation, not under a contract between the allottees and the Government, but under the provisions of the statute and in pursuance of the Supreme Court Order. Therefore, it would be incorrect to say that the prior allottees of the coal blocks supplied a service to the Government by way of agreeing to tolerate the cancellation of the allocations made to them by the Government or that the compensation paid by the Government for such cancellation in pursuance to the order of the Supreme Court was a consideration for such service. Therefore, the compensation paid for cancellation of coal blocks pursuant to the order of the Supreme Court in the above case was not taxable.*

The gist of the above is that the cancellation of coal blocks was not based on any agreement where prior allottees consented to or agreed to tolerate the cancellation in exchange for compensation. Instead, the cancellation was imposed by the Government under statutory provisions and pursuant to a Supreme Court order. The compensation paid was not contractual but statutory, and therefore did not involve any supply of service (such as agreeing to tolerate an act) under GST law. Hence, the compensation paid was not taxable under GST.

7.3 Proceeding on similar lines, the refund received by the applicant for the unexpired portion of the lease period is not liable to GST, as it does not involve any supply of service. The transaction does not entail any agreement to perform,

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refrain from, or tolerate an act, and is merely a return of consideration for the unutilized lease period.

However, it is important to note that if any additional amount is received by either party specifically under a pre-agreed arrangement for agreeing to refrain from an act, to tolerate an act or situation, or to do an act then the taxability of such payment must be examined separately. Such situations fall outside the scope of this Ruling and would require independent evaluation under the GST framework.

7.4 Since answer to question 1 is not in the affirmative, the remaining questions become void-ab initio.

In the light of the facts and legal position as stated above, the following ruling is issued:

RULING

Question:1. Whether the cancellation of lease agreement executed on pre-GST Regime be treated as supply as per the terms of Section 7 of CGST Act?

Ruling: No. The cancellation of the lease agreement, as described above, shall not be treated as a supply under the provisions of Section 7 of the CGST Act, 2017. However, this ruling is applicable only to the refund of the proportionate amount corresponding to the unexpired portion of the lease period. Any other amounts received by any person in connection with the cancellation of the lease, if any, are not covered under this ruling.

Question:2 to 4. Not relevant since answer to question No 1 is in the negative.

Jomy Jacob, IRS
Additional Commissioner of Central Tax
Member

Mansur M.I.
Joint Commissioner of State Tax
Member

To

M/s. Indian Institute of Information Technology and Management,
IIITMK Building, Technopark Campus, Kazhakuttom,
Kariavattom, Thiruvananthapuram, Kerala- 695581

Copy submitted 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; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram – 695002.
3. The Commissioner of Central Tax and Central Excise, Thiruvananthapuram Commissionerate, GST Bhavan, Statue, Thiruvananthapuram. (E-mail id: commr-tvmhqrs@gov.in)

Copy to :

1. The Additional Commissioner, TPS, HQ, Thiruvananthapuram.
2. The Deputy Commissioner, ITMD, Thiruvananthapuram.
3. The Assistant Commissioner/State Tax Officer, Tax payer services Circle, Kazhakoottam.
4. The Superintendent, Central Tax, Kazhakoottam Range, Thiruvananathapuram North Division.

