

TAX INFO

Dated: 07.10.2020

Latest update on GST Law: Information regarding **A non-banking financial institution is eligible to avail 50% ITC based on the Judgement issued by Kerala Authority for Advance Ruling.**

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Name of Applicant	In re: The Knanaya Multi Purpose Co-operative Credit Society Ltd.
Name of Court	AAR-Kerala
Appeal Number	KER/91/2020
Date of Judgement	20/05/2020

Facts of the Case:

The applicant M/s. The Knanaya Multi-Purpose Co-operative Credit Society Ltd. is a co-operative society registered with the Central Registrar of Co-operative Societies engaged in the business of accepting deposits and granting loans and advances. The applicant is engaged in the provision of both taxable as well as non-taxable services and is availing input tax credit as per provisions of Section 17(2) of the CGST/SGST Act.

Question on which Ruling is sought

Whether the applicant is considered as a financial institution as envisaged under 17(4) of the CGST Act and whether the applicant is eligible for availing the option provided under Section 17(4) of the CGST Act which prescribes to avail an amount equal to 50% of eligible credit of input tax on inputs, capital goods and input services in that month and the rest shall lapse?

Contention of Applicant:

The applicant states that they are collecting and paying tax on the services rendered in respect of admission fee, share transfer fee, notice charges, processing fee and Insurance charges etc and they are also availing credit of input tax on the service received on Telephone Bill payment, Printing charges, Advertisement charges, Stationary purchase etc. As they are engaged in provision of taxable as well as exempted services they are availing input tax credit calculated as per the provisions contained in Section 17 (2) of the CGST Act.

The applicant submits that the terms; "financial institution", "banking company" and "non-banking company" are not defined under the CGST Act, 2017; but as per explanation Section 13(8) of IGST Act 2017, the terms "banking company" and "financial institution" shall have the meaning assigned to it in Section 45-1(c) of the Reserve Bank of India Act, 1934.

According to Section 45-I(c) of RBI Act, 1934; "financial institution" means any nonbanking institution which carries on as its business or part of its business in financing, whether by way of making loans or advances or otherwise, of any activity other than its own. In order to qualify an institution as a financial institution, it must be a non-banking institution. Non- banking institution is defined as per Section 45-I(e) of RBI Act, 1934, as "a non- banking institution" means, "a company, corporation or co-operative society". Therefore, the applicant being a cooperative society registered with Central Registrar of Co-operative Societies engaged in the business of financing, by way of loan or advance, of any activity other than its own is qualified as a financial institution under the RBI Act, 1934.

It is stated that the applicant is categorized as a financial institution as per Section 45-I(c) and 45-I(e) of the RBI Act, 1934.

Accordingly, it is submitted by the applicant that they are engaged in provision of both taxable and exempted services and the two conditions that are required to be satisfied by a supplier, namely; the supplier shall be engaged in supplying services by way of accepting deposits, extending loans or advances and the supplier shall be either a banking company or a financial institution or a non-banking financial company are satisfied by them. Therefore, they are eligible to avail input tax credit as per the option under Section 17(4) of the CGST Act instead of complying with the provision of Section 17(2).

Observations:

It is evident that the applicant being a Co-operative Society registered with the Central Registrar of Co-operative Societies carrying on the business of financing whether by means of making loans or advances or otherwise, of any activity other than its own qualifies to be a "financial institution" as per the Reserve Bank of India Act, 1934 and consequently also under the CGST Act, 2017 and the applicant is eligible for availing the option provided under Section 17(4) of the CGST Act which prescribes to avail an amount equal to 50% of eligible credit of input tax, on inputs, capital goods and input services in that month and the rest shall lapse.

Ruling:

AAR ruled that the applicant Knanaya Multi-Purpose Co-operative Credit is a financial institution and is eligible for availing the option provided under Section 17(4) of the CGST Act which prescribes to avail an amount equal to 50% of eligible credit of input tax, on inputs, capital goods and input services in that month and the rest shall lapse.

Suresh Aggarwal, Advocate

Compliance & Litigation under GST

Address:House No. 54, Pocket A-3, Sector-5, Rohini- 110085

Phone:91-9810032846; 011 - 45131427

Email:sureshagg@gmail.com

Website:<http://www.sureshtaxation.com>