

NATION TAX MARKET

KERALA AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX DEPARTMENT
TAX TOWER, THIRUVANANTHAPURAM

BEFORE THE AUTHORITY OF : Shri. B.G. Krishnan IRS &
 : Shri. B.S. Thyagarajababu B.Sc, LL.M

Legal Name of the applicant	M/s. The Cochin Plantations Ltd
GSTIN	32AAACT8901A1ZY
Address	1496, Oppoottil Building, KK Road, Kottayam.
Advance Ruling sought for	Whether quit rent / lease rent paid to Kerala Government on the land used for agricultural purpose (Coffee Plantation) be classified under HSN 9986 or HSN 9973.
Date of Personal Hearing	26.09.2018
Authorized Representative	Mr. Arun Kumar, Liaison Officer.

ADVANCE RULING No. KER/ 11 /2018 Dt. 20.10.2018

Applicant is holding 192.88 hectares of vacant land on perpetual lease from erstwhile Cochin State, now the Kerala Government. The applicant cultivated coffee plantation in the land. Applicant is paying quit rent or lease rent to Government through Forest Department. Forest Department is demanding 18% GST . It is alleged that as per HSN 9973 the lease rent paid by the applicant in connection with transfer of right in goods without the transfer of title. According to the applicant, as per Section 2(52) of GST Laws goods means every kind of movable property. Hence the land being an immovable property cannot be classified as goods and HSN 9973 will not applicable for rent on land leased for agriculture. As per HSN 9986 renting or leasing of vacant land for use relating to cultivation of plants or agricultural produce is exempted from tax. In the circumstances the applicant requested advance ruling on the following:

Whether quit rent / lease rent paid to Kerala Government on the land used for agricultural purpose (Coffee Plantation) be classified under HSN 9986 or HSN 9973.

The taxable event under GST is 'supply' of goods or services or both. So a transaction to become taxable it must covers within the meaning & scope of 'supply'. As per Sec 7 of the GST Laws the expression 'supply' includes 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. Therefore the term 'lease' is covered within the meaning and scope of "supply".

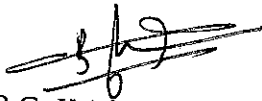
Sale of land doesn't attract GST as the State imposed stamp duty and registration fee on such transaction. But the grant of lease constituted 'supply' for a 'consideration' and thereby the

lease transactions covered under the category of 'Supply of Services'. Quit-rent is a tax or land tax imposed by Government on occupants of freehold or leased land in lieu of services to a higher landowning authority.

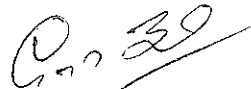
As per Notification No.12/2017- Central Tax (Rate) / SRO.No.371/2017 Government has exempted intra-state supply of services covered under Heading 9986. As per this notification services relating to cultivation of plants or agricultural produce by way of 'vacant land with or without a structure incidental to its use' is exempted from tax liability.

In the instant case vacant land was given by erstwhile Cochin State to the applicant for cultivation on lease rent. Accordingly the petitioner converted the vacant land to Coffee Plantation. Therefore the lease rent collected by Government through Forest Department is exempted from GST vide Heading 9986 of Notification No.12/2017- Central Tax (Rate) / SRO.No.371/2017. The lease rent received in relation to agricultural activities was also exempted under Service Tax regime also. In view of the observations stated above, the following rulings are issued:

The quit rent / lease rent paid to Kerala Government on the land used for agricultural purpose ie, Coffee Plantation be classified under HSN 9986 and eligible for exemption under GST.



B.G. Krishnan IRS
Joint Commissioner of Central Tax
MEMBER



B.S. Thyagarajababu, B.Sc, LL.M
Joint Commissioner of State Tax
MEMBER

To

M/s. The Cochin Plantations Ltd
1496, Oppoottil Building, KK Road, Kottayam.