

GIB/TN/CO-ORPORATIVE SILK/22.10.2019/AAR-211

Advance Ruling Category : Taxability

State : Tamil Nadu

Order No.: GIB/TN/CO-ORPORATIVE SILK/22.10.2019/AAR-211

Name of Entry :

TAMIL NADU COOP. SILK PRODUCERS FEDERATION LTD

Date : 21-03-2020

Breif Issue :

Issue & Fact of the Case:

Whether TDS provision (Notification no 33/2017 dated 15.09.2017) under GST Act is applicable to the Co-operative Society since it is registered under Tamil Nadu Cooperative society Act of 1975 and not under Society registration act 1860.

The applicant is a cooperative Apex Body controlled by the Tamilnadu cooperative Societies Act 1983. It is not a Society under Societies Registration Act 1860.

The applicant has stated that the objective of their society is to support the development of sericulture activities in Tamil Nadu by supplying good quality silk in sufficient quantity at reasonable price. Its main income is from the godown rent.

The submission of the applicant states that the equity share holding of the government had been 38.86% in 1980 and currently at 30%.

The equity ownership at present or in the past never beyond 51%, nor is it under the control of the government as the management do not have any voting rights as stipulated in its bye laws and Tamil nadu co-operative societies Act 1983.

Section 51 of CGST Act 2017, stipulates the Class of Persons liable to deduct TDS. For ease of Reference the same is reproduced as under 51(1) Notwithstanding anything to the contrary contained in this Act, the Government may mandate- (a) a Department or establishment of the Central Government or State Government; or (b) local authority or (c) Governmental agencies Or (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council.

The persons or category of persons under **Section 51(d)**, namely: -

(a) an authority or a board or any other body, -(i) set up by an Act of Parliament or a State Legislature; or (ii) established by any Government, with fifty-one percent or more participation

by way of equity or control, to carry out any function

(b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860)

(c) public sector undertakings Provided that the said persons shall be liable to deduct tax from the payment made or credited to the supplier of taxable goods or services or both with effect from a date to be notified subsequently, on the recommendations of the Council, by the Central Government. **(Notification 33/2017 (CT) dated 15.09.2017 as amended and Notification No. II(2)/CTR/783(c-3)/2OLT vide G.O. (MS) No. 107 dated 75.09.2017)**

Decision of Advance Ruling Authority :

Decision:

TDS Provision is not applicable to the applicant as he is not a persons or category of persons stipulated under notification No. 33/2017 dated 15.09.2017 {Refer Section 51(d)} , the category/eligibility is specifically mentioned in the said notification.