M/s Karnataka Co-operative Milk Producers Federation Limited (Formerly known as KMF), Bengaluru, GSTIN 29AAAAK1110G1Z7

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 27/2019 Dated **12.09.2019**

Q Questions Before the Authority

- Whether KMF is liable to deduct GST TDS under section 51 of CGST Act on the payments made to suppliers.

F Facts

The applicant is a society registered under the Karnataka Co-operative Societies Act, 1959, engaged in processing milk and milk products. Its shares are held entirely by district co-operative milk unions, and no Central or State Government or local authority holds any shares. Its 19-member board includes 14 directors nominated by the milk unions, 4 nominated by the State Government, and 1 nominated by the National Dairy Development Board. The applicant feared that the government-nominated directors might bring it within section 51 TDS, and it is not registered under the Societies Registration Act, 1860.

H Ruling

Whether KMF is liable to deduct GST TDS under section 51 of CGST Act on payments made to suppliers	**No. Not liable to deduct tax at source**	Not covered by clauses (a) to (d) of section 51(1) CGST/KGST Act 2017; the ruling is limited to the applicant.

The Authority held that the applicant is **not liable to deduct tax at source under section 51** of the CGST Act on payments to suppliers of taxable goods or services. The applicant is not covered by any of the clauses of section 51(1) of the CGST and KGST Acts, 2017. The ruling is expressed as applying to the applicant only.

R Reasoning

The Authority examined each limb of section 51(1). It found that the applicant was not a department or establishment of the Central or State Government or a local authority, since the government holds no shares and the milk unions hold the entire shareholding. It was not set up by an Act of Parliament or a State Legislature, was not established by any government with 51 per cent participation, was not a society under the Societies Registration Act, 1860, and was not a public sector undertaking, so it was not notified under clause (d) by Notification 33/2017-CT or its successor Notification 50/2018-CT. On the residual clause (c), 'governmental agency' is undefined, and the Authority held that the nominee directors were appointed only to safeguard the society's funds and that the applicant had not been given any governmental responsibilities. The Authority also noted the later provisos inserted by Notifications 57/2018, 61/2018 and 73/2018, which carve out certain supplies, but its decision rests on the coverage analysis rather than on those provisos.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

P Provisions Relied On

Section 51(1) of the CGST Act, 2017 (and the corresponding KGST Act provision)

Notification No. 33/2017-Central Tax dated 15.09.2017

Notification No. 50/2018-Central Tax dated 13.09.2018

Notification No. 57/2018-Central Tax dated 23.10.2018

Notification No. 61/2018-Central Tax dated 05.11.2018

Notification No. 73/2018-Central Tax dated 31.12.2018

Karnataka Co-operative Societies Act, 1959

Societies Registration Act, 1860

! For the Practitioner

This ruling helps co-operative societies whose boards include a minority of government-nominated directors, because nominee directors alone do not bring an entity within section 51(1). It settles that a society without government shareholding or statutory creation falls outside clauses (a), (b) and (d). It does not define 'governmental agency' under clause (c), and it does not decide cases involving government-controlled entities, which would need separate analysis. Because it is an advance ruling, it binds only the applicant.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> kar_aar_27_2019_kcmpfl_12.09.2019.pdf

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