TAMIL NADU COOP. SILK PRODUCERS FEDERATION LTD., IND 944

Authority for Advance Ruling — Tamil Nadu

Order No.49/ARA/2019 Dated **22.10.2019**

Q Questions Before the Authority

- Whether TDS provision under GST Act is applicable to the Co-operative Society since it is registered under the Tamil Nadu Cooperative Society Act of 1975 and not under the Societies Registration Act 1860 (21 of 1860)?
- As modified at the hearing: whether Notification No. 33/2017-C.T. dated 15.09.2017, as amended by Notification No. 50/2018-C.T. dated 13.09.2018, applies to the applicant.

F Facts

The applicant is a federation of silk producer cooperative societies, registered under the Tamil Nadu cooperative law, that buys raw silk through the Government Anna Silk Exchange and sells it to twister members. The twisted yarn is then sold to silk handloom weavers' cooperative societies, with raw silk exempt and twisted yarn taxable at 5%. The applicant asked whether the TDS obligation under section 51 of the CGST Act, as notified, applies to it.

H Ruling

Applicability of Notification No. 33/2017-C.T. dated 15.09.2017 (as amended by No. 50/2018-C.T.) and the State notification G.O.(Ms) No. 107 dated 15.09.2017 to the applicant, i.e. whether TDS applies to the cooperative federation	**Not applicable to the applicant**	The applicant is not an authority or body with 51% or more government participation or control, is not a society under the Societies Registration Act 1860 set up by government, and is not a public sector undertaking.

The Authority ruled that Notification No. 33/2017-C.T. dated 15.09.2017, as amended, and the corresponding State notification, G.O.(Ms) No. 107 dated 15.09.2017, as amended, are **not applicable** to the applicant. The applicant does not fall within any category of persons notified for TDS. The Authority found that the Government's equity share never exceeded 51% and that the Government does not control the board.

R Reasoning

Section 51(1)(d) of the CGST Act allows the Government to notify categories of persons who must deduct TDS. Notification 33/2017-C.T., superseded by Notification 50/2018-C.T. with effect from 1 October 2018, covers three categories: bodies set up by statute or government with 51% or more equity or control, societies under the Societies Registration Act 1860 set up by government, and public sector undertakings. The Authority found that the applicant is a cooperative apex society under the Tamil Nadu Cooperative Societies Act, that government equity peaked at about 38.86% and is now about 30%, and that elected A-class members control the board, so government does not control it. The applicant was therefore held outside all three categories.

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 TNGST provision)
- Section 51(1)(d) of the CGST Act 2017
- Notification No. 33/2017-C.T. dated 15.09.2017
- Notification No. 50/2018-C.T. dated 13.09.2018
- G.O.(Ms) No. 107 dated 15.09.2017 (Notification No. II(2)/CTR/783(c-3)/2017)
- Societies Registration Act 1860 (21 of 1860)
- Tamil Nadu Cooperative Societies Act (section 33 on management and voting; section 80(9) on audit report)
- G.O.(Ms) No. 832 dated 31.05.1979 (constitution of the federation)

! For the Practitioner

A cooperative apex federation whose government equity is below 51% and which is not controlled by government can rely on this ruling to show it is outside the TDS notification categories. The ruling is fact-specific, turning on the shareholding pattern and board composition found here. It does not decide whether TDS applies to other cooperative bodies with different equity or control structures, and it does not answer the broader validity of section 51 itself.

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 -> tn_aar_49_2019_22.10.2019_tncspfl.pdf

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