

	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	
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BEFORE THE AUTHORITY OF : Shri Jomy Jacob IRS&
: Shri Mansur M.I.

Legal Name of the applicant	M/s. Eastern Condiments Pvt. Ltd.
GSTIN	32AAACE5276F1ZX
ARN	AD320922001280S
Address	34/137 A, N H Bye Pass, Edappally, Kerala, 682024.
Advance Ruling sought for	1. The 'Transportation facility' and 'Canteen Facility' covered in the employment contract for providing services by employer to employee will not be subjected to GST. Therefore whether the same applies in respect of rented residential dwellings? 2. As there is an employer employee relationship and the accommodation is provided to the employees, whether RCM is applicable and if so whether the applicant can take GST input tax credit in respect of this RCM paid?
Date of Personal Hearing	21/06/2024 & 20/06/2025
Authorized Representative	Sri. Stanly James, Chartered Accountant

ADVANCE RULING No.KER/26/2025 Dated 27.08.2025

1. M/s. Eastern Condiments (P) Ltd (hereinafter referred to as the applicant) is registered taxable person bearing GSTIN 32AAACE5276F1ZX is engaged in the manufacture and supply of spice products along with a range of other allied goods.



2. In this Ruling, a reference hereinafter to the provisions of the CGST Act, Rules or the notifications issued thereunder shall include a reference to the corresponding provisions of the KSGST Act, Rules or the notifications issued thereunder.

3. The questions on which advance ruling sought are given in page 1 and are not being reproduced.

4. Contentions of the applicant:

4.1. The applicant is engaged in the manufacture and supply of spice products along with a range of other allied goods. In connection with its employee welfare and operational needs, the applicant provides staff quarters to its employees by renting residential dwellings from various unregistered persons. The total rent paid for such dwellings is approximately ₹6,00,000/- per month. As per the provisions of Notification No. 5/2022-Central Tax (Rate) dated 13th July 2022, services by way of renting of residential dwellings to a registered person are liable to Goods and Services Tax (GST) under Reverse Charge Mechanism (RCM). Accordingly, the applicant, being the registered recipient, is liable to discharge GST under Section 9(3) of the CGST Act, 2017. The applicant submits that, based on this provision, they are required to pay approximately ₹1,00,000/- per month under RCM. In this context, the applicant seeks a ruling on the correct legal position regarding their liability to pay GST under RCM on the rent paid for residential dwellings taken from unregistered persons for use as staff quarters.

4.2. The applicant refers to sub-sections (3) and (4) of Section 9 of the Central Goods and Services Tax (CGST) Act, 2017, concerning the applicability of Reverse Charge Mechanism (RCM), and also cites Notification No. 5/2022-Central Tax (Rate) dated 13.07.2022. The applicant submits that, in terms of Section 7(2)(a) of the CGST Act, read with Entry 1 of Schedule III, services provided by an employer to an employee in the course of employment shall neither be treated as a supply of goods nor a supply of services under the Act.



4.3. The applicant further contends that where the provision of canteen facilities is included as a part of the employment contract, such services should be construed as consideration for services rendered by the employee to the employer, and therefore, should not be subject to GST. In support, the applicant relies on the Press Release dated 10.07.2017 issued by the Government of India, which clarified that services supplied by an employer to an employee under a contractual agreement would not be liable to GST.

4.4. Additionally, the applicant refers to the ruling of the Maharashtra Authority for Advance Ruling (AAR) in the case of *Tata Motors Ltd.*, where it was held that nominal recoveries from employees for availing transportation services (which, by extension, the applicant argues, includes canteen services) cannot be treated as a taxable supply by the employer. However, the applicant acknowledges the contrary view taken by both the Kerala AAR and the Appellate Authority for Advance Ruling (AAAR) in the case of *Caltech Polymers Pvt. Ltd.*, where it was held that full or non-subsidized recovery of expenses from employees towards such services would be taxable under GST.

4.5. The crux of the applicant's argument is that if canteen and transportation services provided by the employer to employees are not liable to GST due to the employer-employee relationship and the provisions of Schedule III, then by analogy, the same treatment should apply to residential dwelling facilities provided to employees. The applicant further seeks clarity on whether Input Tax Credit (ITC) is admissible in respect of GST paid under RCM on procurement of such residential services for employees.

5. Comments of the jurisdictional officer:

The application was forwarded to the jurisdictional officer as per provisions of section 98 (1) of the CGST Act. The Jurisdictional officer, Superintendent Central GST and Central Excise, Munnar Range submitted that no proceedings against the applicant in connection with the question raised in the advance ruling application is pending or decided under any provisions of the Central GST Act 2017.



6. Personal Hearing:

The applicant was granted opportunity for personal hearing on 21-06-2024 and a rehearing was conducted on 20/06/2025 due to the change of Central and State members. Sri. Stanly James, Chartered Accountant represented for the applicant in personal hearing. In the hearing, he reiterated the contentions in the application.

7. Discussion and Findings:

7.1. We have carefully examined the application, the statement of facts submitted, and the arguments put forth during the personal hearing. The questions on which the applicant seeks an advance ruling fall within the scope of clauses (b) and (c) of sub-section (2) of Section 97 of the Central Goods and Services Tax (CGST) Act, 2017.

7.2. The applicant has submitted that it provides staff quarters to its employees by entering into rental agreements with various unregistered persons for residential dwellings. Thus, there are two transactions involved, the first being the renting of houses by various land lords to the applicant and then letting of these houses by the applicant to their employees. The letting of the houses by the applicant to their employees is certainly in the nature of employer-employee relations. However, such a character does not apply to the renting of houses by various land lords to the applicant. Under this arrangement, the unregistered landlords are the suppliers of service, and the applicant is the recipient. Therefore, the provision of residential accommodation by unregistered persons to the applicant cannot be regarded as a service rendered by the employer (i.e., the applicant) to its employees. It is a separate and independent transaction between the landlord and the applicant.

7.3. To determine the applicability of GST on the rent paid by the applicant to these unregistered suppliers, we examined Notification No. 12/2017-Central Tax (Rate) dated 28th June 2017, as amended from time to time. The relevant entry under Sl. No. 12 of the said notification is reproduced below:



Sl No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (percent)	Condition
12	Heading 9972	Services by way of renting of residential dwelling for use as residence, except where the residential dwelling is rented to a registered person. Explanation 1. - For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, - (i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and (ii) such renting is on his own account and not that of the proprietorship concern. Explanation 2.- Nothing contained in this entry shall apply to- (a) accommodation services for	Nil	Nil



		students in student residences; (b) accommodation services provided by Hostels, Camps, Paying Guest accommodations and the like.		
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Since the applicant is a registered entity under GST and is not operating as a proprietorship concern, the exemption mentioned above will not be applicable to them. As a result, GST is payable on the rent paid by the applicant for the dwellings supplied to them by the land lords.

7.4. Therefore, to determine the applicability of the reverse charge mechanism (RCM), we went through Notification No. 5/2022-Central Tax (Rate) dated 13th July 2022, which amends Notification No. 13/2017-Central Tax (Rate) dated 28th June 2017. Sl. No. 5AA of Notification No. 13/2017-Central Tax (Rate), which was inserted with effect from 18th July 2022 by Notification No. 5/2022-Central Tax (Rate), is reproduced as follows:

Sl No.	Category of Supply of Services	Supplier of service	Recipient of Service
5AA	Service by way of renting of residential dwelling to a registered person.	Any person	Any registered person.

As per the above entry, it is obvious that GST on Service by way of renting of residential dwelling to a registered person shall be payable under sub-section (3) of section 9 of the CGST Act, 2017 as reverse charge by the registered recipient, i.e, the applicant.

7.5. Further, it was examined whether the provision of accommodation by the employer, i.e., the applicant, to its employees constitutes a "supply" under GST. In this regard, reference has been made to Circular No. 172/04/2022-



GST, dated July 6, 2022, issued by the GST Policy Wing of the CBIC. Specifically, as per the clarification provided under serial number 5 of the aforementioned circular, the following points have been elucidated:

Question: *Whether various perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST?*

Clarification: **Schedule III** to the CGST Act provides that "services by employee to the employer in the course of or in relation to his employment" will not be considered as supply of goods or services and hence GST is not applicable on services rendered by employee to employer provided they are in the course of or in relation to employment. Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by the employee to the employer in relation to his employment. It follows there from that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, **will not be subjected to GST** when the same are provided in terms of the contract between the employer and employee. In accordance with the aforementioned clarification, it is clear that the provision of accommodation by the applicant to its employees, as a perquisite under the contract, shall be treated as neither a supply of goods nor a supply of services.

7.6. The next issue for consideration is the eligibility of Input Tax Credit (ITC) in respect of GST paid under reverse charge on the rent paid by the applicant for residential dwellings. As per Section 16(1) of the CGST Act, 2017, a registered person is entitled to avail ITC on any input tax charged on the supply of goods or services or both, to the extent such supplies are used or intended to be used in the course or furtherance of business, subject to the prescribed conditions and restrictions. In the present case, it is not disputed that the applicant, a registered person, is receiving the input service of renting residential dwellings from unregistered persons in order to provide



accommodation to its employees, and such accommodation is claimed to be in the course or furtherance of business as a part of the employment contract and overall employee welfare and retention strategy.

7.7. The outward supply made by the applicant, viz. the supply of residential dwellings to employees is 'neither a supply of goods nor a supply of services' and hence GST is not applicable on the said services. Therefore, the situation is such that the RCM payment has been made for an inward supply which is used for an outward supply which is outside the purview of GST. As per Section 17 (2), Where the goods or services or both are used by the registered person partly for effecting taxable supplies and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies. Therefore, if the final supply is an exempt supply, the tax payer is not eligible for ITC in respect of inputs or input services used for making such an exempted supply. As per Section 2 (47) of the CGST Act, 2017, (47) "*exempt supply means ... and includes non-taxable supply*". Therefore, a non-taxable supply, i.e., a supply outside the purview of GST, is an exempt supply and therefore, the supply of residential units by the applicant to their employees is an exempted supply. Therefore, Section 17 (2) read with Section 2 (47) makes it amply clear that the applicant is not eligible for ITC on the RCM paid by them on residential units taken from various landlords on rent.

7.8. Therefore, Section 17 (2) read with Section 2 (47) makes it amply clear that the applicant is not eligible for ITC on the RCM paid by them on residential units taken from various landlords on rent in so far as the outward supply involved is an exempt supply.

7.9. It is pertinent to clarify that the present ruling proceeds on the express assumption that the accommodation services provided by the applicant to its employees are extended as a part of the employment contract or company policy, and that no separate rent or recovery is charged by the applicant from the employees in respect of such residential quarters. The applicant has neither pleaded nor submitted that any consideration is recovered from the



employees for the same. Accordingly, such provision of residential accommodation is treated as a perquisite flowing from the contractual relationship of employment, and is thus covered under Schedule III to the CGST Act, being a transaction which is neither a supply of goods nor a supply of services. It is emphasized that if, in an alternative scenario, the applicant were to charge rent or make any recovery from employees, such transaction may amount to an outward supply for consideration, potentially attracting GST under the relevant provisions. However, the present ruling is confined strictly to the factual matrix as presented namely, that no such recovery is made, and the benefit is extended as a part of the employee's overall compensation or cost to company (CTC).

8. In the light of the facts and legal position as stated above, the following ruling is issued:

RULING

Question 1. The 'Transportation facility' and 'Canteen Facility' covered in the employment contract for providing services by employer to employee will not be subjected to GST. Therefore whether the same applies in respect of rented residential dwellings?

Ruling- As discussed supra, the renting of residential dwellings by the applicant from different landlords do not involve an employee employer relationship and is not akin to the act of providing transportation facility or canteen facility to employees. The act of taking residential dwellings from various unregistered persons attract GST on reverse charge basis under sl. no. 5AA of notification no. 13/2017-Central Tax (Rate) dated 28.06.2017, as amended vide Notification No 5/2022-Central Tax (Rate) dated 13th July 2022.

Question 2- As there is an employer-employee relationship and the accommodation is provided to the employees, whether RCM is applicable and if so whether the applicant can take GST input tax credit in respect of this RCM paid?

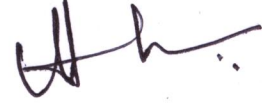


Ruling- In view of the above discussions, it is clear that there is no GST on accommodation provided to employees. But the act of renting of residential dwellings by the applicant from various unregistered persons attracts GST on RCM basis. However, the applicant shall not be eligible for ITC on the GST paid in this regard.



Jomy Jacob, IRS

Addl. Commissioner of Central Tax, Thiruvananthapuram Joint Commissioner of State Tax Member

Mansur M.I.

Member

To

M/s. Eastern Condiments (P) Ltd.
34/137 A, N H Bye Pass, Edappally, Kerala, 682024.

Copy submitted to,

1. The Chief Commissioner of Central Tax and Central Excise, Thiruvananthapuram Zone, C.R.Building, I.S.Press Road, Cochin-682018. [E-mail ID: cccochin@nic.in; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram - 695002.(email: cst.sgst@kerala.gov.in)
3. The Commissioner of Central Tax and Central Excise, Cochin Commissionerate.

Copy to:-

1. Additional Commissioner, TPS (HQ), Thiruvananthapuram .
2. The Deputy Commissioner, ITMD, Thiruvananthapuram
3. The Assistant Commissioner/The State Tax Officer, Tax Payer services Circle, Edappally.
4. The Superintendent, Central Tax, Ernakulam Division, Ernakulam Range-4.

