

**AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX,
DOOR NO.32, 5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI - 600 003.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING UNDER SECTION
98 OF THE GOODS AND SERVICES TAX ACT 2017.**

Members present are:

Shri R.Gopalsamy, I.R.S., Additional Commissioner / Member, Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600034	Tmt. N.Usha, Joint Commissioner (ST)/ Member, Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-600003
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Advance Ruling No.02 /ARA/2023 Dated: 27.03.2023

1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Rulings, Chennai, under Sub-Section (1) Section 100 of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.
2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-
 - (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling.
 - (b) on the concerned officer or the jurisdictional officer in respect of the applicant.
3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.
4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.
5. The provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

GSTIN Number, if any / User id		33AAAAU0279J1ZH
Legal Name of Applicant		United Planters Association of Southern India
Registered Address / Address provided while obtaining user id		No.11, Glenview, Church Road, Coonoor, The Nilgiris, Tamil Nadu - 643101
Details of Application		GST ARA - 01 Application Sl.No.17/2022 dated 05.04.2022
Concerned Officer		State :The Assistant Commissioner(ST)(FAC), Coonoor Assessment Circle, Coonoor - 643101. Centre : Coimbatore Commissionerate ; Division: Coonoor
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provider
B	Description (in brief)	The applicant is a mutual benefit association registered under the Tamil Nadu Societies Registration Act, 1975 established by the planters and growers of Tea, Coffee, Rubber, Pepper and Cardamom in southern India with the object to conduct research and analysis for the benefit of members in whole to achieve maximum productivity and quality in their plantation activities and to represent before various authorities for the welfare of members and such other welfare activities (training, meeting etc.,) collectively for their benefit. The Membership subscription fee received from them used for the above said activities and to meet out administration and other running cost of the association.
Issue/s on which advance ruling required		1. Applicability of a notification issued under the provisions of GST Act, 2. Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both within the meaning of that term.
Question(s) on which advance ruling is required		1. Whether the applicant is eligible to avail the benefit of Notification No. 14/2018 - Central Tax dated 26.07.2018 as the non-profit association registered under any law engaged for the welfare of farmers vide serial No.77A, Heading 9995?

	<p>2. Whether the doctrine of mutuality as laid down by the Supreme Court in various cases is applicable in our case?</p> <p>3. It is clear that the Finance Act, 1994 (as amended from time to time) does not abrogate or do away with the doctrine of mutuality. The question that now need to be answered is whether the introduction of GST abrogates or does away with the doctrine of mutuality as laid down by the Supreme Court in various cases.</p> <p>4. Is the applicant-association a person distinct from the member or a related person?</p> <p>5. Is there a transaction between the applicant-association and its members which are covered under Section 7(1) (a), (c) or (d) of the Central Goods and Services Tax Act, 2017?</p>
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The applicant M/s United Planters Association of Southern India, No.11, Glenview, Church Road, Coonoor, The Nilgiris, Tamil Nadu - 643101 (hereinafter referred as the applicant or UPASI is registered under the GST Act 2017 vide GSTIN No. 33AAAAU0279J1ZH. The Applicant has sought Advance Ruling on the following questions:

1. Whether the applicant is eligible to avail the benefit of Notification No. 14/2018 - Central Tax dated 26.07.2018 as the non-profit association registered under any law engaged for the welfare of farmers vide serial No.77A, Heading 9995?
2. Whether the doctrine of mutuality as laid down by the Supreme Court in various cases is applicable in our case?
3. It is clear that the Finance Act, 1994 (as amended from time to time) does not abrogate or do away with the doctrine of mutuality. The question that now need to be answered is whether the introduction of GST abrogates or does away with the doctrine of mutuality as laid down by the Supreme Court in various cases.
4. Is the applicant-association a person distinct from the member or a related person?

5. Is there a transaction between the applicant-association and its members which are covered under Section 7(1) (a), (c) or (d) of the Central Goods and Services Tax Act, 2017?

1.2 The applicant submitted a copy of challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant M/s United Planters Association of Southern India (UPASI) is a mutual benefit association registered under the Tamil Nadu Societies Registration Act, 1975 established by the planters and growers of Tea, Coffee, Rubber, Pepper and Cardamom in southern India, viz., Tamil Nadu, Kerala and Karnataka, with the object to conduct research and analysis for the benefit of members in whole to achieve maximum productivity and quality in their plantation activities and to represent before various authorities for the welfare of members and such other welfare activities (training, meeting etc.,) collectively for their benefit. The membership subscription fee received from them used for the above said activities and to meet out administration and other running cost of the association.

2.2 UPASI is an apex body of planters in Southern India. It was formed during the British Era. The main aim behind forming UPASI was achieving the unity among the planters of southern region and requirement to have welfare association to put forth their troubles and requirements collectively before the Government and various authorities. Also helps among them to improve plantation activities in order to achieve maximum productivity and quality.

2.3 UPASI is running for welfare of its members by way of conducting analytical and research to improve the plantation activities by its members, inventing new crops by horticultural research for its members and their benefits, conducting soil, tea quality test and such other agricultural tests for its members to do effective plantation and growing activities, representation before various authorities for the benefit of its members. Apart from the said activities, the membership subscription fee received is utilized for conducting meetings and to meet out necessary running and administrative costs of the institution.

2.4 Under its by-laws, subscription amounts payable from its members are as fixed by the Executive Committee of the applicant, unless otherwise determined by

the General Meeting of the applicant. The applicant prevents a member from voting or standing for election if the member is in arrears of the subscription, and the Executive Committee of the applicant, at its discretion may consider any member whose subscription is in arrears for more than one year, to have ceased to be a member of the applicant. Any member classified as a 'retired planter member' has to only pay a one onetime life membership subscription of Rs.1000 irrespective of the rate of annual subscription adopted by the Budget General Meeting from time to time. The Executive Committee of the applicant may also waive the subscription to such extent and for such period as deemed necessary.

2.5 On interpretation of law, to avail benefit of Notification No.14/2018 CT dated 26.07.2018 vide Sl. No.77A, providing exemption for Services provided by an unincorporated body or non-profit association registered under any law for the time being in force engaged in activities relating to the welfare of industrial or agricultural labour or farmers, the applicant states that UPASI members comprise from small growers of tea, coffee, Rubber, Cardamom to large estates. All of them comes under the category of farmers.

2.6 The definition of farmer provided in section 2(l) of the Tamil Nadu Agricultural Produce and Livestock Contract Farming and Services (Promotion and Facilitation) Act, 2019 defines the farmer and agricultural produce as under:

"farmer" means a person, who is engaged in production of agricultural produce or rearing of livestock by himself or by hired labour or otherwise, including lessee, tenant and sharecropper;

"agricultural produce" includes all produce, whether minimally processed or not, of agriculture, horticulture, apiculture, sericulture, or forest / or any other such activity as specified in the Schedule to this Act;

2.7 All the members of UPASI are coming under the category of farmers and therefore, it is well eligible to avail the benefit of Sl. No. 77A of Notification No. 14/2018 - Central Tax dated 26th July, 2018 inserted by Notification No.12/2017 CTR dated 26.07.2017.

2.8 The applicant, with regard to questions 2, 3 and 4, relied on various pronouncements of judicial forums on doctrine of mutuality, its applicability under GST law and the relationship between applicant association and its members; so as to impress that subscription collected from the members are not towards service but

to meet various administrative expenses of the applicant association for the welfare of members.

2.9 The applicant relied on the definition of "Supply" under section 7 of GST Act, 2017 and insist that the applicant association and its members are one and the same, as amount received from oneself cannot be treated as consideration. They further state that the applicant association is neither a related person nor a distinct person from its members, thus GST cannot be levied under section 9 of CGST Act, 2017 as there is no supply under Section 7 CGST Act, 2017.

3.1 The applicant was given an opportunity to be virtually heard on 15.06.2022. The authorized representative (AR) Sri D.Sethuraman, Chartered Accountant appeared before the authority and reiterated the submissions made. When asked about the difference between annual membership and one-time fee of current and retired members, the AR replied that the rate is per hectare. The AR was asked to submit detailed write-up on their structure, roles, and activities; Balance sheet and accounts relating to membership fees; pattern of membership fee charged; registration certificate under Societies Registration Act and membership fees collected substantiated with documentary evidences. Consequent to change of members of Authority, additional personal hearing was extended to the applicant. AR appeared for the virtual hearing on 09.11.2022, wherein he reiterated the facts involved. In response to the query as to what type of service is done by the applicant to farmers, the AR replied that it is mainly agricultural research. In response to the query as to whether UPASI Tea Research Foundation is a part of UPASI, AR replied in the affirmative and added that management of UPASI TRF vests with Board of Trustees nominated by UPASI. AR emphasized on By Law 11(1) of UPASI which deals with the definition of subscription of UPASI members and requested to consider the submissions, including written submissions, given in the previous personal hearing.

3.2 The applicant, inter alia, submitted a write-up on UPASI, Balance Sheet, Income and expenditure account for the year ended on 31.03.2021, Note on Subscription, Tax Invoice copies and copy of certificate of registration of societies.

3.2.1 In the write-up, it is stated that

- The United Planters' Association of Southern India (UPASI) is an apex body of planters of tea, coffee, rubber, pepper and cardamom in the Southern States of India viz. Tamil Nadu, Kerala, and Karnataka in existence since 1893.

- There are 3 State Planters' Associations and 13 District Planters' Associations affiliated with UPASI. It is the premier representative body of buyers, sellers, processors, exporters, co-operatives, and all other market intermediaries of tea, coffee, rubber, and spices. The Association's operations cover economic research, market intelligence, industrial relations, liaison, public relations, scientific research, and publication.
- The urge to unite for a common cause - very prevalent trait years ago and also now - gave birth to UPASI on 28th August 1893. Thirteen District Planting Associations assembled on 28th August 1893 in the Mayo Hall, Bangalore for a UNITED organization; thus The United Planters' Association of Southern India was formed.
- The total members are more than 1000 involving planted area of around one lakh hectares of tea, coffee, rubber and cardamom.
- UPASI is also engaged in preparing action plans for the development of the plantation industry; Involving in international negotiations relating to plantation commodities; Interacting with Commodity Boards to orient decisions/action of the Boards to be conducive to the growth of the planting industry; Analyzing international trends in the plantation commodities covered by UPASI and suggesting appropriate approach change to the planters; Overseeing/Coordinating the activities of the Tea Research Institute, Krishi Vigyan Kendra, Advisory Services etc. of Government of India
- Appreciating the fact that Research is the backbone of development, tea planters of South India set up a Tea Research Institute (TRI) in Tamil Nadu as early as 1936. TRI became a full-fledged Research Institute, headed by experienced and qualified Research Scientists.
- Appreciating the good work of the Tea Research Institute, Tamil Nadu Government allotted 90 acres of land near the Institute for conducting experiments on Tea Cultivation. This was followed by Tea Board obtaining another 90 acres land from the State Government and allotting the same to the Research Institute for experiments.

3.2.2 In the "Note on Subscription", it is stated that

- As per bye-Law 11 (1) of UPASI, definition for subscription is "Until otherwise determined by a resolution of the UPASI in General meeting, each member

shall be liable to pay to the UPASI by way of subscription for the expenses of the UPASI Annually".

- Subscriptions are collected on the planted area of each commodity of the member for Estate category and there are other categories of subscription viz., Small Grower Member, Firm Member, Association Member, Pepper Member and Retired planter Member.
- Any member holding crop area above 20 hectares are categorized as **Estate Member** and subscription are also collected crop wise over and above the general subscription on the total planted area.
- Subscription collected on Tea from Estate Members are used for Research purpose through UPASI Tea Research Foundation which is established for the Research purpose in tea. The researched technologies on Tea are disseminated to tea Estate members. These members could also utilize the technical expertise available with the Association through UPASI Tea Research Foundation.
- Subscription is collected from Estate members holding Coffee and Rubber crop for the purpose of contingency which may arise subject to requirement.
- Capital subscription is collected from Estate member for the purpose of improving infrastructural requirement of the Association.
- Estate or small grower members owning Pepper crop within the plantation also subscribe for pepper membership.
- Subscription collected from **Small Grower Members** are fixed for all crops up to 20 hectares viz., holding up to 4 hectares, above 4 and up to 8 hectares, above 8 and up to 12 hectares above 12 and up to 16 and above 16 hectares up to 20 hectares. The members also have the benefit of accessing the technical support for Tea specially and any other benefits that are disseminated for other crops as well. Annual Subscription ranges from Rs.1000, 1200, 1400, 1600 and 1750/- based on the extent of area registered.
- **Firm Member** subscriptions have no specific classification. Member with Agricultural interests are members of UPASI. They could either be a Tea factory or supplier of fertilizer / manure / equipment, etc., that are being used for the benefit of the plantation Industry. Technical experts and other

consultants also choose to be a member of UPASI to access the plantation industry. An amount of Rs.3000/- is collected as Firm Member annual subscription.

- **Association Member** subscription are collected from various other Association who use the affiliated services through UPASI. An amount of Rs.250/- is collected as Association Member annual subscription.
- Provision of becoming a **Retired planter member** is open to persons retiring from the Plantation industry and having specific interest in plantations. Rs.50/- is collected as annual subscription from such members. These members also have the option of taking a life time membership by paying one-time fee of Rs.1000/- per member.

3.2.3 The Income & Expenditure account is maintained separately for UPASI and Tea Research. In the Income & Expenditure account of UPASI for the year ended 31.03.2021, income received towards Subscription is grouped under Firm Members, Association Members, Retired Planter Members, Small Grower Members, Pepper Members and Estate members. Subscription income from Estate Members constitutes 96.57% of the total subscription income. As per the Income & Expenditure account of Tea Research for the year ended 31.03.2021, 51% of the gross income is contributed to Tea Research Foundation (TRF) and 44% of gross income is transferred to Tea Research Reserve. As per Balance Sheet as on 31.03.2021 of UPASI, Fixed Deposits with Banks increased by Rs.177 lakhs, which is more than the gross subscription income of UPASI. Subscription income accounts for 82% of the gross income.

3.2.4 UPASI have issued Tax Invoice to Member with GST @ 18% on the amount of subscription. Tax Invoices issued to Members mentioned the area in hectares with name of crop. The Invoices, issued to Estate Members, included details of subscription towards General, Research and Capital for separately for each crop, viz Tea, Coffee, Rubber and Cardamom.

3.2.5 As per copy of Certificate of Registration of Societies, United Planters Association of southern India has been registered under the Societies Registration Act, 1860 on 03.07.1963.

4. The applicant is under the administrative control of Central Tax. The said jurisdictional authority was addressed to report if there are any pending proceedings

against the applicant on the issues raised by the applicant in the ARA application and for comments on the issues raised. The said authority furnished their comments vide letter No. GEXCOM/TECH/GST/1160/2022-Tech dated 04.05.2022 and stated that no pending proceedings against United Planters Association of Southern India and are eligible for exemption under Notification No.14/2018 CT dated 26.07.2018.

5. The State Tax Officer vide letter Ref. No.214/2022/A2 dated 25.04.2022 stated that no pending proceedings in the assessment circle against M/s United Planters Association of Southern India.

6.1 We have carefully considered the submissions made by the applicant in the advance ruling application, the additional submissions made during the personal hearings and the comments furnished by the Central and State Tax Authorities. The applicant filed advance ruling application for ruling in respect of applicability of notification issued under the provisions of GST Act and whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term as per Section 97(2)(b) and 97(2)(g) respectively of GST Act 2017. The applicant has raised five questions as reproduced in para 1.1 supra. Question numbers 1 and 5 are covered by Section 97(2)(b) and 97(2)(g) respectively of GST Act 2017. However, question numbers 2, 3 and 4 seeks interpretation of GST law with respect to doctrine of mutuality and relationship of applicant association with its members. The said interpretation of law is not mandated to Advance Ruling Authority for ruling under Section 97(2). Therefore, we refrain from interpretation of law sought in questions 2, 3 and 4 and hence no ruling on the same.

6.2 The question which needs to be answered is whether the applicant is eligible to avail the benefit of Notification No.14/2018 CT dated 26.07.2018 as a registered non-profit association engaged for the welfare of farmers under Serial number 77A and whether there is a transaction between the applicant association and its members which is covered under Section 7(1) (a), (c) or (d) of the GST Act, 2017.

7.1 It is seen from the submissions enumerated in para 3.2.1 supra that the applicant is an apex body of planters of tea, coffee, rubber, pepper and cardamom in the Southern States of India viz. Tamil Nadu, Kerala, and Karnataka in existence since 1893. There are 3 State Planters' Associations and 13 District Planters' Associations affiliated to UPASI. It is the premier representative body of buyers,

sellers, processors, exporters, co-operatives, and all other market intermediaries of tea, coffee, rubber, and spices. It is an association of members rendering different activities in or in relation to tea, coffee, rubber, pepper and cardamom. Agriculturists or farmers merely engaged in farming are one among them. There is permutation and combination of different activities along with farming by the member of the association. A member engaged only in farming cannot be equated with a member engaged in more than one activity including farming. Further, farming can be done by an individual, partnership firm, company or any other form of organization recognized by law, but qualify as a farmer. For instance, a company registered under Companies Act, 2013 can grow, harvest, process and sell tea to consumers, wherein tea farming is one of the activity in its tea business, but cannot qualify as a mere farmer.

7.2 It is also seen from the submissions enumerated in para 3.2.1 and 3.2.2 that the Association's operations cover economic research, market intelligence, industrial relations, liaison, public relations, scientific research, and publication. The applicant is also engaged in; Preparing action plans for the development of the plantation industry; Involving in international negotiations relating to plantation commodities; Interacting with Commodity Boards to orient decisions/action of the Boards to be conducive to the growth of the planting industry; Analyzing international trends in the plantation commodities covered by UPASI and suggesting appropriate approach change to the planters. All the said activities of the applicant are to fulfill the requirements of its members who are buyers, sellers, processors, exporters, co-operatives, and all other market intermediaries of tea, coffee, rubber, and spices.

7.3 It is the contention of the applicant that

- UPASI is an association registered under the Tamil Nadu Societies Registration Act, 1975 established for the welfare of planters of Southern India. Its members comprise from small growers of tea, coffee, rubber, cardamom to large estates. All of them comes under the category of farmers.
- The term "farmer" and "agricultural produce" have been defined under Section 2(l) and 2(d) respectively, in Tamil Nadu Agricultural Produce and Livestock Contract Farming and Services (Promotion and Facilitation) Act, 2019 as "farmer" means a person, who is engaged in production of agricultural produce or rearing of livestock by himself or by hired labour or otherwise, including lessee, tenant and sharecropper"; "agricultural produce"

includes all produce, whether minimally processed or not, of agriculture, horticulture, apiculture, sericulture, or forest / or any other such activity as specified in the Schedule to this Act”.

- UPASI is a welfare association of planters and all the members are growers and planters engaged in the production of agricultural produce such as Tea, Coffee, Rubber, Pepper, Cardamom etc., and all the members are coming under the category of formers and therefore it is well eligible to avail the benefit of Notification No. 14 / 2018 - Central Tax (Rate) dated 26th July, 2018.
- An incorporated members' association such as the applicant-association is neither a person distinct from the member nor a related person. Consequently, the issue of consideration does not arise as an amount received from oneself cannot be treated as consideration.
- In order to levy GST on the subscription, the same has to fall within the criteria of an activity made without a consideration specified in Schedule I of the Central Goods and Services Tax Act, 2017 as only Section 7(1)(c) of the Central Goods and Services Tax Act, 2017 provides for the levy of GST on activities made or agreed to be made without a consideration.
- The applicant-association is neither a related person nor a distinct person from its members, thus, GST cannot be levied under Section 9 of the Central Goods and Services Tax Act, 2017 as there is no 'supply' as defined under Section 7(1)(a), (c), or (d) of the Central Goods and Services Tax Act, 2017.

7.4 Therefore, the applicant has prayed that all its members are farmers and eligible to avail exemption under Notification No.14/2018 CT dated 26.07.2018; further the transaction between applicant association and its members cannot be covered within the scope of supply and therefore are not taxable.

8.1 The statutory provisions relevant to the above contentions of the applicant are discussed as under:

Section 2(17) of the Act defines 'Business' as under (relevant portion extracted):

(17) “business” includes—

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

.....;

(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;.....

The definition is an inclusive definition and states that provision of facilities or benefits to the members of association/society by a association/society for a subscription or consideration is 'business' for the purpose of GST. As discussed in para 7.2 supra, various facilities and benefits accrue to the registered members of the applicant association and thus the applicant is covered under the definition of "business".

8.2.1 Section 2(84) of the Act defines 'Person' for the purposes of the Act as

(84) "person" includes—

(a) an individual;

(b) a Hindu Undivided Family;.....;.....;

.....

(f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;

(g) any corporation;.....;

.....

(l) society as defined under the Societies Registration Act, 1860;

(m) trust; and

(n) every artificial juridical person, not falling within any of the above;

8.2.2 As per Section 20 of the Societies Registration Act, 1860, the following societies may be registered under this Act:

Charitable societies, the military orphan funds or societies established for the promotion of science, literature, or the fine arts, for instruction, the diffusion of useful knowledge, -[the diffusion of political education], the foundation or maintenance of libraries or reading rooms for general use among the members or open to the public, or public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs.

8.2.3 The applicant has stated that they are registered under the Tamil Nadu Societies Registration Act, 1975 and submitted a copy of certificate of registration for registration under the Societies Registration Act, 1860, on 03.07.1963. From the above statutory provisions, it is evident that the applicant is a "person" and the definition of Society under 'Societies Registration Act 1860' includes societies established for the promotion of science, education, diffusion of useful knowledge,

etc. and the applicant is rightly registered, for the promotion of such activities discussed in para 7.2 supra, under the said Act.

8.3.1 As per Section 9 of the Central Goods & Services Tax Act, 2017, levy of tax is on an event called 'supply'. Section 7 of CGST Act 2017 defines the scope of Supply. The relevant extract of CGST Act 2017 is given below for ease of reference:

7. (1) For the purposes of this Act, the expression "supply" includes —

(a) 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;

[(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation.-For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;]

Section 7(1)(aa) was inserted with effect from 01st July, 2017 by Section 108 of the Finance Act, 2021 - brought into force on 01st January, 2022 vide Notification No. 39/2021-C.T dated 21st December, 2021.

8.3.2 Therefore, in order to tax, the activity must be a supply of either goods or service or both and the supply is to be made for a consideration to a person in the course of furtherance of business. i.e., there should be a supply of goods or service, recipient, supplier, consideration, in the course or for furtherance of business. In the instant case, it is evident from the submissions of the applicant that their activities are squarely covered under scope of supply and their contention that applicant association is neither a person distinct from the member nor a related person is laid to rest by retrospective amendment of Section 7 by insertion of clause (aa) to sub-section (1) and explanation with effect from 01.07.2017, which states that *the person and its members or constituents shall be deemed to be two separate*

persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another.

8.4.1 Notification No.14/2018 Central Tax (Rate) dated 26th July 2018 amended Notification No.12/2017 Central Tax (Rate) dated 28th June 2017 by inserting serial number 77A that exempted services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,-

(i) activities relating to the welfare of industrial or agricultural labour or farmers; or
(ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,

to its own members against consideration in the form of membership fee up to an amount of one thousand rupees (Rs 1000/-) per member per year.

8.4.2 The applicant contended that they are welfare association of planters and all the members are growers and planters engaged in the production of agricultural produce such as tea, coffee, rubber, pepper, cardamom, etc and coming under the category of farmers and therefore well eligible to avail the benefit of Notification No.14/2018 Central Tax (Rate) dated 26th July 2018. The contention of the applicant is not entirely acceptable for the following reasons:

- (1) As averred by the applicant, there are 3 State Planters' Associations and 13 District Planters' Associations affiliated with UPASI. It is the premier representative body of buyers, sellers, processors, exporters, co-operatives, and all other market intermediaries of tea, coffee, rubber, and spices.
- (2) As per the written submission of applicant on "Subscription", apart from Estate category, there are other categories of subscription viz, Firm member, Association member and Retired Planters member as narrated in para 3.2.2.
- (3) Even among Estate members, there are sub-classification on the basis of crop area and the amount of annual subscription also varies from Rs.1000/- to 1750/-.
- (4) Estate or small grower member owning Pepper crop within the plantation also subscribe separately for pepper membership.
- (5) The exemption provided under Notification No.12/2017 Central Tax (Rate) as amended by Notification No.14/2018 Central Tax (Rate) vide serial number 77A is in respect of consideration in the form of membership fee up to an amount of one thousand rupees (Rs 1000/-) per member per year received by

a non-profit entity registered under any law for the time being in force, engaged in activities relating to the welfare of agricultural labour or farmers.

- (6) It is a settled position of law that any exemption notification should be strictly interpreted. Applicant is an association of members who are engaged in different activities in or in relation to tea, coffee, rubber, pepper and cardamom. Agriculturists or farmers merely engaged in farming are one among them. There is permutation and combination of different activities along with farming by the member of the association as discussed in para 7.1 supra. A member engaged only in farming cannot be equated with a member engaged in more than one activity including farming. Further, farming can be done by an individual, partnership firm, company or any other form of organization recognized by law, but qualify as a farmer. However, the exemption notification mandates welfare of industrial or agricultural labour or farmers. Here, welfare of labour or farmers refers to natural persons following the doctrine of *ejusdem generis*. Therefore, the exemption is applicable to natural persons who are farmers simpliciter and the annual subscription for all membership, under various nomenclature, is up to Rs.1,000/-.

8.5 Summing up, we conclude and hold that as per the provisions of GST Law, the applicant being a registered society, providing services to their members, who are distinct from the applicant and registered as member on payment of any amount towards subscription/contribution, is a supply of service and is accordingly taxable except subscription received from natural persons who are farmers simpliciter and the annual subscription for all membership is up to Rs.1000/-.

9. The applicant in their submissions has relied upon the ruling in the case of "Rotary Club of Mumbai Nariman Point" of the Maharashtra Appellate Advance Ruling Authority wherein it was held that club, as per the facts put up, does not render any "Supply" for the purposes of the GST Act and the same was decided before insertion of Section 7(1)(aa) with effect from 01st July, 2017 by Section 108 of the Finance Act, 2021. The facts of the applicant's activities are distinguished from the activities of the club. Further, as per Section 103 of the Act, the Advance Ruling applies only to the applicant who sought the ruling, the jurisdictional Authority or the Concerned Authority.

10. In view of the above, we rule as under:

RULING

1. Whether the applicant is eligible to avail the benefit of Notification No. 14/2018 - Central Tax dated 26.07.2018 as the non-profit association registered under any law engaged for the welfare of farmers vide serial No.77A, Heading 9995?

The applicant is eligible to claim exemption vide serial number 77A of Notification No.12/2017 Central Tax (Rate) as amended by Notification No.14/2017 Central Tax (Rate) in respect of subscription received from natural persons who are farmers simpliciter and the annual aggregate subscription amount for all membership, under various nomenclature, up to Rs.1000/-, as discussed in para 8.4.2 supra.

2. Whether the doctrine of mutuality as laid down by the Supreme Court in various cases is applicable in our case?

Interpretation of law is not mandated to Advance Ruling Authority under Section 97(2). Therefore, as discussed in para 6.1 supra, no ruling on the same.

3. It is clear that the Finance Act, 1994 (as amended from time to time) does not abrogate or do away with the doctrine of mutuality. The question that now need to be answered is whether the introduction of GST abrogates or does away with the doctrine of mutuality as laid down by the Supreme Court in various cases.

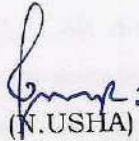
Interpretation of law is not mandated to Advance Ruling Authority under Section 97(2). Therefore, as discussed in para 6.1 supra, no ruling on the same.

4. Is the applicant-association a person distinct from the member or a related person?

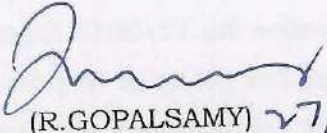
Interpretation of law is not mandated to Advance Ruling Authority under Section 97(2). Therefore, as discussed in para 6.1 supra, no ruling on the same.

5. Is there a transaction between the applicant-association and its members which are covered under Section 7(1) (a), (c) or (d) of the Central Goods and Services Tax Act, 2017?

Yes, there is transaction between the applicant-association and its members covered under Section 7(1)(a) and clarified by insertion of Section 7(1)(aa) and explanation with effect from 01st July, 2017 by Section 108 of the Finance Act, 2021 - brought into force on 01st January, 2022 vide Notification No. 39/2021-C.T dated 21st December, 2021.


(N. USHA)
Member (SGST)




(R. GOPALSAMY)
Member (CGST) 27/03/23

To

United Planters Association of Southern India
No.11, Glenview, Church Road, Coonoor,
The Nilgiris, Tamil Nadu - 643101

//By SPAD//

Copy submitted to:-

1. The Principal Chief Commissioner of CGST & Central Excise,
No. 26/1, Uthamar Mahatma Gandhi Road, Nungambakkam,
Chennai - 600 034.
2. The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

3. The Principal Commissioner of GST & C.Ex.,
Coimbatore Commissionerate.
4. The Assistant Commissioner (ST)(FAC),
Coonoor Assessment Circle.
5. Master File / spare - 1.