
 सत्यमेव जयते	<b>RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX</b>  <b>KAR BHAWAN, AMBEDKAR CIRCLE, C-SCHEME JAIPUR - 302005 (RAJASTHAN)</b>	
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**ADVANCE RULING NO. RAJ/AAR/2018-19/34**

J.P.Meena Additional Commissioner	:	Member (Central Tax)
Hemant Jain Joint Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s Aravali Polyart Pvt. Ltd. A-251, B-1, Mewar Industrial Area, Road No. 1, Madri, Udaipur, Rajasthan 313001
GSTIN of the applicant	:	08AAECA7970L2Z5
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:	a. classification of goods and/or services or both; b. applicability of a notification issued under the provisions of the act; e. determination of the liability to pay tax on any goods or services or both;
Date of Personal Hearing	:	28.01.2019
Present for the applicant	:	Mr. Yash Dhadda, C.A. (Authorised Representative)
Date of Ruling	:	15.02.2019

**Note:** Under Section 100 of the CGST/RGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/RGST Act, 2017, within a period of 30 days from the date of service of this order.

The issue raised by M/s Aravali Polyart Pvt. Ltd., situated at A-251, B-1, Mewar Industrila Area, Road No. 1, Madri, Udaipur, Rajasthan 313001, (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2)(a),(b) and (e), given as under :

- a. classification of goods and/or services or both;
- b. applicability of a notification issued under the provisions of the act;
- e. determination of the liability to pay tax on any goods or services or both.

Further, the applicant being a registered person (GSTIN is 08AAECA7970L2Z5, as per the declaration given by him in Form ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.



#### **SUBMISSION AND INTERPRETATION OF THE APPLICANT:**

- a. The applicant is a private limited company registered under the provisions of the Central Goods and Services Tax Act 2017 read with the provisions of the Rajasthan State Goods and Services Tax Act 2017.
- b. The applicant is engaged in business of mining of soapstone and dolomite the State of Rajasthan. The said products are classifiable under Tariff Heading 2518 and are leviable to GST on their supply at the rate of 5%. For the purpose of undertaking said mining activity, the applicant entered into a transfer agreement with Shri Ramesh Chand Singhvi on 07-04-2007 in order to obtain mining lease of soapstone and dolomite in village "Piparch", Tehsil Badgon, District: Udaipur. That a document named "PurakSavinda" dated 08-06-2017 was executed by the applicant on stamp paper wherein the period of mining lease was extended up to 14-6-2028. In the said document it is specified that given mining lease is governed by The Rajasthan Minor Mineral Concession Rules, 2017. The said Rules are actually governed by Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act No. 67 of 1957).
- c. That for the purpose of collection of royalty on given minerals, the State Government has awarded Excess Royalty Collection Contracts



(hereinafter known as ERCC) wherein by virtue of Chapter VII of The Rajasthan Minor Mineral Concession Rules, 2017, ERCC contractor has been appointed for collection of Royalty from the applicant in relation to mining lease.

- d. That in this case, the royalty on behalf of the State Government is being collected by M/s Shivganga Minerals Private Limited (hereinafter known as ERCC Contractor) from the applicant and the valid royalty receipts have been issued in Form 24 prescribed under Rule 44 of the Rajasthan Minor Mineral Concession Rules, 2017.
- e. That on perusal of above classification shows that the broad heading 9973 covering "leasing or rental services with or without operator" also covers licensing services for right to use intellectual property, natural resources, minerals, etc. in its fold. For the rate of GST applicable to it, a reference to Serial no. 17 of Notification No. 11/2017 is relevant which applies to "leasing or rental services with or without operator". It's serial no. (i) and (ii) applies to IPR services only and serial no. (viii) is residual heading which applies to all services covered under the classification of leasing or rental services with or without operator except those covered under serial no. 17 (i) to (v).
- f. Since, a perusal of classification of services shows that services of right to use natural resources classify under tariff 9973 and since description of services under serial no. 17 (i) to (v) does not cover such services of right to use minerals therefore, it would fall under the residual entry at serial no. 17(viii). That on the basis of above, it is evident that service charge by way of annual dead rent or royalty paid for services of granting right to use mineral would attract GST rate as applicable on supply of mineral which is being extracted through such mining. That the minerals which are extracted from the mine are classifiable under Tariff Heading 2518 and leviable to GST @ 5%.
- g. Additional Submission:
- I. *That the entry at serial no. 17 has in notification number 11/2017-CT (Rate) has been revised with effect from 01.01.2019.*
  - II. *That now, the serial no. 17(viia) has been added and accordingly serial no. 17(viii) has been amended.*
  - III. *In light of various supreme Court finding, the minerals in question are also goods and since lease rights have been given in respect of*

given minerals only hence for the purpose of GST rate, the given service can fall under entry number 17(iii), (iv) or (viii) but not (viii).

IV. Royalty or dead rent being paid by the applicant against the mining lease is a service classifiable under HSN 997337 and rate of GST shall be same as applicable on supply of like goods i.e. Soapstone and Dolomite.



## **2. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT**

- a. What is the classification of service provided in accordance with Notification No. 11/2017-CT (Rate) dated 28.06.2017 read with annexure attached to it, by the State of Rajasthan to M/s Aravali Polyart Private Limited for which royalty is being paid? Whether said service can be classified under 9973 specifically under 997337 as Licensing services for the right to use minerals including its exploration and evaluation or as any other service?
- b. What is the GST rate applicable on given services provided by State of Rajasthan to M/s Aravali Polyart Private Limited for which royalty is being paid?

## **3. PERSONAL HEARING**

In the matter personal hearing was granted to the applicant on 28.01.2019 at Room no. 2.29 NCRB, Statue Circle, Jaipur. Mr. Yash Dhadda, C.A. (Authorised Representative) of applicant appeared for PH. During the PH, he reiterated the submissions made in the application and also submitted additional submission. He further requested that the case may be decided at the earliest.


## **4. COMMENTS OF THE JURISDICTIONAL OFFICER**

The jurisdiction officer (Assistant Commissioner, CGST Division-B, 142-B, Sector-11, Hiran Magri, Udaipur 313002) has submitted his comments vide letter dated 16.01.2019 which can be summarized as, the



activity undertaken by the applicant is covered under Serial Number 258 of chapter head 997338 i.e. "Licensing services for right to use other natural resources including telecommunication spectrum" which is broadly covered in 9973 i.e. licensing or rental services with or without operator. As per the Notification No.11/2017 dated 28-06-2017 further amended vide Notification No. 27/2018 dated 31/12/2018 the applicable GST rate on the activity undertaken by the applicant is 18% (SGST 9% + CGST 9%).

#### **5. FINDINGS, ANALYSIS & CONCLUSION:**

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- a. We observe that, the applicant entered in to a lease transfer agreement dated 07.04.2007 for obtaining mining lease and engaged in the business of mining of Soapstone and Dolomite. The said minerals (goods) are classifiable under tariff heading 2518 and are leviable to GST on their supply at the rate of 5%.
- b. The Government provides license to various companies including Public Sector Undertakings for exploration of natural resources like oil, hydrocarbons, iron ore, manganese etc. For having assigned the rights to use the natural resources, the licensee companies are required to pay consideration in the form of annual license fee, lease charges, royalty, etc to the Government. The activity of assignment of rights to use natural resources is treated as supply of services and the licensee is required to pay tax on the amount of consideration paid in the form of royalty or any other form under reverse charge mechanism.
- c. The mining lease is governed by the Rajasthan Minor Minerals Concession Rules, 2017(RMMCR). As per provisions of RMMCR, the applicant is required to pay dead rent or royalty (whichever is higher but not both). This activity of payment of dead rent or royalty is a supply of service (*Licensing services for the right to use minerals including its exploration and evaluation*) wherein the government of Rajasthan is supplier and the applicant is recipient. The said service is classifiable under "*Licensing services for the right to use minerals including its exploration and evaluation*" at Serial No. 257, Heading 9973, Group

99733, sub heading 997337 of annexure "Scheme of classification of Services to Notification No. 11/2017-CT (Rate) dated 28.06.2017.

- d. The relevant portion of the serial no. 17 for item (viii) of Notification No. 11/2017-CT (Rate), dated 28.06.2017(as amended from time to time) is reproduced as below:

Sl. No.	Chapter ,Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
		(viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viia) above	9	-



As the service undertaken by the applicant falls at item (viii) of serial no. 17 of notification no. 11/2017 (as amended from time to time) which attracts 18% GST (9% CGST+ 9% SGST).

- e. Further, we observe that, the applicant is receiving leasing / licensing services from the government of Rajasthan hence, provisions of reverse charge mechanism are applicable under the Notification No. 13/2017-CT (Rate), dated 28.06.2017 (as amended from time to time) of the CGST Act, 2017.

6. In view of the foregoing, we rule as follows:-


#### **RULING**

- A. The activity undertaken by the applicant is classifiable under Heading 9973 (Leasing or rental services, with or without operator), as mentioned in the annexure at Serial No. 257(*Licensing services for the right to use minerals including its exploration and evaluation*) sub heading 997337 of




notification number 11/2017-CT (Rate) dated 28.06.2017. The applicant is liable to discharge tax liability under reverse charge mechanism vide Notification No 13/2017-CT (Rate), dated 28.06.2017 (as amended from time to time) of the CGST Act, 2017.

B. The activity undertaken by the applicant attracts 18% GST (9% CGST+ 9% SGST).

  
J.P.MEENA 15/12/19  
Member  
(Central Tax)



  
HEMANT JAIN 15/12/19  
Member  
(State Tax)

SPEED POST

M/s Aravali Polyart Pvt. Ltd.  
A-251, B-1, Mewar Industrila Area,  
Road No. 1, Madri,  
Udaipur, Rajasthan 313001

F.No. AAR/12/Aravali/2018-19/

Dated:

Copy to:-

1. Commissioner, SGST & Commercial Taxes, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
2. Commissioner, CGST and Central Excise Udaipur Commissionerate, 142-B, Sector-11, Hiran Magri, Udaipur 313002.
3. Deputy/Assistant Commissioner, CGST Division-B,142-B, Sector-11,Hiran Magri, Udaipur 313002.

Superintendent

