

**BEFORE THE AUTHORITY FOR ADVANCE
RULINGS FOR THE STATE OF UTTARAKHAND
(Goods and Services Tax)**

समक्ष अग्रिम विनिर्णय प्राधिकारी उत्तराखण्ड (माल और सेवा कर)

Present:

Shri Vipin Chandra (Member)

श्री विपिन चन्द्र (सदस्य)

Shri Amit Gupta (Member)

श्री अमित गुप्ता (सदस्य)

The 29th day of May, 2020

Ruling No: 01/2020-21

अग्रिम विनिर्णय संख्या.

In

Application No: 10/2019-20

आवेदन संख्या. 10/2019-20

1	Applicant आवेदक	M/s. Uttarakhand Forest Development Corporation, 73-Nehru Road, Dehradun Uttarakhand
2	Jurisdictional Officer अधिकारिता अधिकारी	Sector- 3, Dehradun
3	Present for the Applicant आवेदक की ओर से उपस्थित	Mr. Anand Singh Rawat, CA
4	Present for the Jurisdictional Officer अधिकारिता अधिकारी की ओर से उपस्थित	None
5	Concerned Officer	Mr. Maxish Mishra, DC (SGST)
6	Date of receipt of application आवेदन प्राप्ति की तिथि	17.12.2019
7	Date of Personal Hearing सुनवाई की तिथि	21.01.2020

Note : Under Section. 100(1) of the Uttarakhand Goods and Services Tax Act, 2017, an appeal against this ruling lies before the appellate authority for advance ruling constituted under section- 99 of the Uttarakhand Goods and Services Tax Act, 2017, within a period of 30 days from the date of service of this order.

नोट : इस अग्रिम विनिर्णय की प्राप्ति के 30 दिन के अन्दर उत्तराखण्ड माल और सेवा कर अधिनियम 2017 की धारा- 99 के अन्तर्गत गठित अग्रिम विनिर्णय अपील प्राधिकारी के समक्ष धारा- 100(1) के अन्तर्गत अपील दायर की जा सकती है।

**AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX
UTTARAKHAND**

RULING

1. This is an application under Sub-Section (1) of Section 97 of the CGST/SGST Act, 2017 (herein after referred to as Act) and the rules made thereunder filed by M/s. Uttarakhand Forest Development Corporation, 73-Nehru Road, Dehradun, Uttarakhand (here in after referred to as '**the applicant**') is registered with the GSTN having Registration No. 05AAALU0009MOZG and seeking advance ruling on the following question:
 - a. What will be applicable rate for GST on royalty payable to Govt of Uttarakhand under RCM in respect of Reta, Bazri & Boulders extracted as per the permission of Govt authorities.
2. Advance Ruling under GST means a decision provided by the authority or the appellate authority to an applicant on matters or on questions specified in sub section (2) of section 97 or sub section (1) of section 100 in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.
3. As per the said subsection (2) of Section 97 of the Act advance ruling can be sought by an applicant in respect of :
 - (a) Classification of any goods or services or both
 - (b) Applicability of a notification issued under the provisions of this Act,
 - (c) Determination of time and value of supply of goods or services or both,
 - (d) Admissibility of input tax credit of tax paid or deemed to have been paid
 - (e) Determination of the liability to pay tax on any goods or services or both
 - (f) Whether the applicant is required to be registered
 - (g) 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
4. Since applicant has sought advance ruling on determination of tax liability, therefore, in terms of said Section 97(2)(e) of the Act, the application filed by the applicant was admitted. Accordingly hearing

was fixed on 21.01.2020 which was attended by the Shri Anand Singh Rawat, Chartered Accountant on behalf of the applicant. During the course of hearing Shri Manish Mishra (DC), concerned officer of SGST-Uttarakhand was also present.

5. On perusal of record, we find that the applicant is a Govt. body constituted under Act of State Assembly of Uttarakhand State. The applicant is sole agency for removal and sale of forest produce from the entire forest area in Uttarakhand. The applicant has various forest related activities, one of the activity is allow to extract minor minerals (Reta, Bazri, Boulders) from river bed in the forest area of Uttarakhand and makes sale of it to the buyers in open market. The applicant pays royalty for extraction of minor minerals on the rates fixed by Govt. of Uttarakhand to State Govt. of Uttarakhand. The applicant is depositing GST under RCM on royalty by 18% and collecting 5% on sale price from buyers.
6. In the present case we are not deciding any wider question but restricting our conclusion to the facts and circumstances which was filed for our consideration in the application. In this context Notification 11/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time) is reproduced below:

Notification No. 11/2017-Central Tax (Rate) 28th June, 2017

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 9, subsection (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table:-

S.No	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
1	2	3	4	5
17	Heading 9973 (Leasing or	(i) Temporary or permanent transfer or permitting the use or enjoyment of Intellectual	6	

	rental services, with or without operator)	Property (IP) right in respect of goods other than Information Technology software.		
		(ii) Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of Information Technology software.	9	
		(iii) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.	Same rate of central tax as on supply of like goods involving transfer of title in goods	
		(iv) Any transfer of right in goods or of undivided share in goods without the transfer of title thereof.	Same rate of central tax as on supply of like goods involving transfer of title in goods	
		(v) Leasing of aircrafts by an operator for operating scheduled air transport service or scheduled air cargo service by way of transaction covered by clause (f) paragraph 5 of Schedule II of the Central Goods and Services Act, 2017. Explanation.- (a) "operator" means a person, organization or enterprise engaged in or offering to engage in aircraft operations; (b) "scheduled air transport service" means an air transport service undertaken between the same two or more places operated according to a published time table or with flights so regular or frequent that they constitute a	2.5	Provided that credit of input tax charged on goods used in supplying the service has not been taken

		recognisable systematic series, each flight being open to use by members of the public; (c) "scheduled air cargo service" means air transportation of cargo or mail on a scheduled basis according to a published time table or with flights so regular or frequent that they constitute a recognisably systematic series, not open to use by passengers		
		"(vi) Leasing of motor vehicles purchased and leased prior to 1st July 2017	65 per cent. of the rate of central tax as applicable on supply of like goods involving transfer of title in goods. Note:- Nothing contained in this entry shall apply on or after 1st July, 2020	
		(vii) Time charter of vessels for transport of goods	2.5	Provided that credit of input tax charged on goods (other than on ships, vessels including bulk carriers and tankers) has not been taken
		(viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi) and (vii) above	Same rate of central tax as on supply of like goods involving transfer of title in goods	-

The serial no. 17 of the said notification was amended vide Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018 (applicable w.e.f 01.01.2019) by introducing following entries:

S.No	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
1	2	3	4	5
		(viiia) Leasing or renting of goods	Same rate of central tax as applicable on supply of like goods involving transfer of title in goods	
		(viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viiia) above	9	-

7. The issue in hand has already been decided by us vide ruling 04/2019-20 dated 12.07.2019 wherein it was held that service in question falls in residual entry 17(viii) of Heading 9973 of said Notification and on perusal of aforesaid tables, we find that the said entry was amended vide Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018 (applicable w.e.f 01.01.2019) which implies that the service in question provided during the period 01.07.2017 to 31.12.2018 attract GST at the same rate of central tax as on supply of like goods involving transfer of title in goods and w.e.f 01.01.2019 the said service attract GST @ 18%.

8. In the instant case goods involved are sand, gravel & boulders and thus their classification and applicable rate of GST are given below:

S.No.	Description of goods	Chapter of Tariff Act	Rate of GST
1	Sand	2505	5%
2	Gravel	2517	5%
3	Stone Boulder	25169020	5%

Since the transfer of title in goods attract GST @ 5%, therefore the supply of service in question also attract GST @ 5% during the period 01.07.2017 to 31.12.2018.

ORDER

In view of the above discussion & findings we hold as under:

The services rendered by the applicant during the period 01.07.2017 to 31.12.2018 attract GST at the same rate of central tax as on supply of like goods involving transfer of title in goods i.e 5% and w.e.f 01.01.2019 the said service attract GST @ 18%.


VIPIN CHANDRA (MEMBER)


AMIT GUPTA (MEMBER)

To,

M/s. Uttarakhand Forest Development Corporation,
73-Nehru Road,
Dehradun, Uttarakhand

**AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX: UTTARAKHAND
OFFICE OF THE COMMISSIONER, SGST, UTTARAKHAND
LADPUR RING ROAD, UPPER NATHANWALA, DEHRADUN**

F. No. : 289 /State Tax-UKD/GST/Sec-97/DDN/2020-21 Dated: 29/05/2020

Copy to :

1. The Chief Commissioner, CGST, Meerut Zone, Meerut for review.
2. The Commissioner, CGST, Commissionerate, Dehradun for review.
3. The Commissioner, SGST, Commissionerate, Uttarakhand for review.
4. The Assistant Commissioner, CGST Division, Dehradun for review.
5. The Deputy Commissioner, SGST, Dehradun for review.
6. The Concerned officer, CGST, Dehradun.
7. The Concerned officer, SGST, Dehradun
8. Registrar AAAR Uttarakhand.
9. Guard File.