

**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 06th day of January, 2020

Ruling No: 08/2019-20

अग्रिम विनिर्णय संख्या.

In

Application No: 08/2019--20

1	Applicant आवेदक	Shri Ajay Kumar Dabral , Village-Rampur, Selaqui, Dehradun-Uttarakhand
2	Jurisdictional Officer अधिकारिता अधिकारी	AC-II, Vikas Nagar-Dehradun
3	Present for the Applicant आवेदक की ओर से उपस्थित	Shri Himanshu Sharma (CA) Shri Amrit Ashwal (CA)
4	Present for the Jurisdictional Officer अधिकारिता अधिकारी की ओर से उपस्थित	None कोई नहीं
5	Concerned Officer	Shri Manish Mishrra, Deputy Commissioner, SGST-Dehradun
6	Date of receipt of application आवेदन प्राप्ति की तिथि	05.12.2019
7	Date of Personal Hearing सुनवाई की तिथि	19.12.2019

**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।

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**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 Shri Ajay Kumar Dabral, Village-Rampur, Selaqui, Dehradun-Uttarakhand seeking an advance ruling on following issue:
  - (a) Classification of service provided by Garhwal Mandal Vikas Nigam (herein after referred to as GMVN) to Shri Ajay Kumar Dabral in terms of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017;
  - (b) Whether the said service classified under Service Code (Tariff) 9973 , specifically under 997337 as licensing services for the right to use minerals including its exploration and evaluation or as any other service under the said chapter;
  - (c) Rate of GST for the period 01.07.2017 to 31.12.2018 on services provided by M/s Garhwal Vikas Nigam to Shri Ajay Kumar Dabral for which royalty is being paid.
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 CGST/SGST Act, 2017 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. In the present case applicant has sought advance ruling on applicability of GST rate on supply of services & its classification. Therefore, in terms of said Section 97(2)(a) & (e) of CGST/SGST Act, 2017, the present application is hereby admitted.
5. Accordingly opportunity of personal hearing was granted to the applicant on 19.12.2019. Shri Himanshu Sharma (CA) and Amrit Ashwal (CA), on behalf of the applicant appeared for personal hearing on the said date and submitted that the written submissions to be taken on record. Shri Manish Mishra, Deputy Commissioner, SGST-Dehradun, concerned officer appointed by the State Authority, also present during the hearing proceedings.
6. From the record submitted by the applicant we find that applicant is registered in Uttarakhand with GSTIN bearing no. 05AINPD6537A1ZM. Before proceeding in the present case, we would first go through the submissions filed by the applicant and the same is summarized as under:
- (i) the services rendered by M/s GMVN to the applicant is classified under service code (Tariff) 997337 as "right to use minerals including its exploration and evaluation" and the said services rendered by M/s GMVN to the applicant attract GST @ 5% during the period 01.07.2017 to 31.12.2018 in as much as the minerals extracted by the applicant attract GST @ 5%.
- (ii) the applicant prefers an advance ruling regarding classification and rate of GST applicable on the said service for the period from 01.07.2017 to 31.12.2018.
7. Before deciding the issues in hand, we first go through the agreements/contracts submitted by the applicant in this regard. On perusal of MOUs dated 06.11.2017 & 15.11.2017, the relevant portions are summarized as under:
- (a) Both MOUs were signed between GMVN & the applicant;
- (b) The applicant had been permitted to extract accessory minerals

- (sand, gravel , boulder) from the Khasra nos specified therein;
- (c) Extraction of accessory minerals will be done manually only;
  - (d) Monthly installment shall be paid by the applicant by 5<sup>th</sup> of said month;
  - (e) The royalty shall be paid to Mineral Department from the monthly installments received from the applicant
  - (f) The vehicles registered with Mineral Department shall only be allowed to transport accessory minerals (sand, gravel , boulder)
  - (g) GST, Income Tax TCS and other fees shall be paid by the applicant
  - (h) Validity of both the agreements/contracts is upto 30.06.2018.

8. In the present case we are not deciding any wider question but restricting our conclusion to the facts and circumstances which were filed for our consideration in the application. Now we proceed by taking the issue one by one:

**(A)** Classification of service provided by GMVN to Shri Ajay Kumar Dabral in terms of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017.

A.1 On perusal of "Uttarakhand Chugan Niti", 2016, we find that GMVN has been allotted mineral areas in revenue rivers of Garhwal region to extract accessory minerals (sand, gravel , boulders) after payment of application fees and fulfillment of administrative/ legal formalities. After allotment of said area, GMVN issue tender for extraction of accessory minerals (sand; gravel , boulders) from specified areas. In case of unsuccessful bid for first and second press release, GMVN shall extract accessory minerals from such specified areas. On the clearances of accessory minerals, GMVN or a personal allottee, shall pay same fees pertaining to royalty , stamp fee, development fee etc.

A.2 From above we find that the Government of Uttarakhand had allotted specified areas to GMVN to extract accessory minerals (sand, gravel , boulders) from the same and are required to pay prescribed fees to the Government of Uttarakhand for the said allotted work. GMVN further allotted the said work in particular specified area to the applicant and for that GMVN charging & collecting consideration in the form of money from the applicant and GMVN is paying prescribed fees as royalty to the Uttarakhand Government from the said consideration.

A.3 In this context relevant legal provisions are extracted below:

Annexure appended to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017

S.No	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description
1	2	3	4
232	Heading 9973		Leasing or rental services with or without operator
233	Group 99731		Leasing or rental services concerning machinery and equipment with or without operator
241	Group 99732		Leasing or rental services concerning other goods
250	Group 99733		Licensing services for the right to use intellectual property and similar products
257		997337	Licensing services for the right to use minerals including its exploration and evaluation
462	Group 99862		Support services to mining
463		998621	Support services to oil and gas extraction
464		998622	Support services to other mining nowhere else classified

A.3 On perusal of aforesaid table, we find that the services rendered by GMVN is covered under serial no. 257 of Annexure appended to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 as "Licensing services for the right to use minerals including its exploration and evaluation" having service code (tariff) 997337.

(B) Whether the said service classified under Service Code (Tariff) 9973 , specifically under 997337 as licensing services for the right to use minerals including its exploration and evaluation or as any other service under the said chapter

B.1 Discussed in para (A) supra.

(C ) Rate of GST for the period 01.07.2017 to 31.12.2018 on services provided by M/s Garhwal Vikas Nigam to Shri Ajay Kumar Dabral for which royalty is being paid.

C.1 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 rental services, with or without operator)	(i) Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of goods other than Information Technology software.	6	
		(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	2.5	Provided that credit of input tax charged on goods used in supplying the service has not been taken

		<p>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 recognisable systematic series, each flight being open to use by members of the public;</p> <p>(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 recognisable systematic series, not open to use by passengers</p>		
		"(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	

C.2 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 (viii) above	9	-

C.3 On perusal of aforesaid tables, we find that description of service i.e. "Licensing services for the right to use minerals including its exploration and evaluation", undertaken by the GMVN does not cover under serial no. 17 (i) to 17 (viii) of the said notification, therefore the service in question falls at residual entry (viii) of serial no. 17 of said Notification.

C.4 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%.

C.5 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:

(i) The services rendered by GMVN is covered under serial no. 257 of Annexure appended to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 ( amended from time to time) as "Licensing services for the right to use minerals including its exploration and evaluation".

(ii) The service namely "Licensing services for the right to use minerals including its exploration and evaluation" is classified under Service Code (Tariff) 997337.



(iii) The services rendered by M/s GMVN to 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%.

  
VIPIN CHANDRA (MEMBER)

  
AMIT GUPTA (MEMBER)

To

Shri Ajay Kumar Dabral,  
Village -Rampur, Selaqui,  
Dehradun-Uttarakhand

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

F.NO. : 08 / State Tax - UKD / GST / Sec-97 / 2019-20 / DDH / 6690  
Date: 06/01/2020-

Copy to :

1. The Chief Commissioner, CGST, Meerut Zone, Meerut
2. The Commissioner, CGST, Commissionerate Dehradun
3. The Commissioner, SGST, Commissionerate Uttarakhand
4. Assistant Commissioner, CGST, Division Dehradun
5. Joint Commissioner, SGST, Dehradun
6. Sh Manish Mishra, (Concerned Officer), Deputy Commissioner, SGST, Dehradun
7. Registrar, AAAR, Uttarakhand.

o/c