

**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 ___ day of December, 2019

Ruling No. /2019-20

अग्रिम विनिर्णय संख्या.

In

Application No: _____

आवेदन संख्या. _____

1	Applicant आवेदक	Shri Kuldeep Singh Butola , 1-Miyawala, Harrawala, Dehradun-Uttarakhand
2	Jurisdictional Officer अधिकारिता अधिकारी	Shri
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 Mishra, Deputy Commissioner, SGST-Dehradun
6	Date of receipt of application □□□□ □□□□□□ □□ □□□□	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।

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 Kuldeep Singh Butola, 1-Miyawala, Harrawala, Dehradun-Uttarakhand seeking an advance ruling on following issue:
 - (a) Rate of GST for the period 01.07.2017 to 31.12.2018 on services provided by M/s Garhwal Vikas Nigam to Shri Kuldeep Singh Butola 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. Therefore, in terms of said Section 97(2)(e) of the Act, 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.

6. From the record submitted by the applicant we find that applicant is registered in Uttarakhand with GSTIN bearing no. 05AGJPS2381P1ZR. 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) As per previous advance ruling filed by the applicant, services rendered by M/s GMVN 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 @ 18% (as on date).
- (ii) the applicant prefers an advance ruling regarding rate of GST applicable on the said service for the period from 01.07.2017 to 31.12.2018.

7. We find that the issue of classification and applicable tax rate (on the date of passing the advance ruling) has already been decided by us vide ruling 04/2019-20 dated 12.07.2019 in the applicant's own case wherein it was held that *services rendered by M/s GMVN falls under residual entry 17(viii) covered under service code (Tariff) 997337 of serial no 257 of annexure appended to Notification 11/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time) as "right to use minerals including its exploration and evaluation" and the said services rendered by M/s GMVN to the applicant attract GST @ 18% (as on date)*, however the applicant has specifically sought advance ruling regarding rate of GST applicable on the said service during the period 01.07.2017 to 31.12.2018. Thus 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.

8. 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 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;	2.5	Provided that credit of input tax charged on goods used in supplying the service has not been taken

		(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	-

9. Since we have already decided vide ruling 04/2019-20 dated 12.07.2019 that the service in question falls under residual entry 17(viii) 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%.

10. Transfer of title of goods → 5%
ORDER

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

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 Kuldeep Singh Butola,
1-Miyawala, Harrawala,
Dehradun-Uttarakhand

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

F.NO. :

Date:

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. Guard File.