



**AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax**

D. No. 5-56, Block-B, R.K. Spring Valley Apartments,
Edupugallu, Vijayawada-521151

Present:

Sri.D. Ramesh, Additional Commissioner...Member (State Tax)
Sri.S.Narasimha Reddy, Additional Commissioner ...Member (Central tax)

AAR No. 25/AP/GST/2019 dated:11.07.2019

1	Name and address of the applicant	M/s. Robo Silicon Pvt Ltd , D.No. 278, Paritala Gramapanchayati, Kanchecherla Mandal, Paritala, Krishna, Andhra Pradesh - 521180 .
2	GSTIN	37AABCR6567R2ZF
3	Date of filing of Form GST ARA-01	19.11.2018
4	Date of Personal Hearing	Not attended on 01.02.2019
5	Represented by	M/s. Lakshmikumaran & Sridharan Advocates.
6	Jurisdictional Authority - State	The Assistant Commissioner Ibrahimpattanam Circle, No.1 Division, Vijayawada.
7	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 this Act.



ORDER

(Under sub-section (4) of section 98 of Central Goods and Service Tax Act, 2017 and under sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to as CGST Act and APGST Act respectively) by M/s Robo Silicon Pvt Ltd, (hereinafter referred to as applicant), registered under the Goods & Services Tax
2. The provisions of the CGST Act and APGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the APGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or AP GST Act would be mentioned as being under the GST Act.

1. Brief Facts of the case:

M/s Robo Silicon Pvt Ltd, is a registered firm with GSTIN 37AABCR6567R2ZF and located at D.No.278, Paritala Gramapanchayati, Kanchekarcherla Mandal, Paritala, Krishna, Andhra Pradesh – 521180, engaged in manufacturing and supply of sand and construction materials. The applicant has obtained mining rights from the Government of Andhra Pradesh for quarrying minerals from the mines within the state of Andhra Pradesh. The applicant extracts the boulders from the mines and converts those boulders into plastering sand, Robo sand and 20mm/12mm/10mm metal by crushing the boulders. The plastering sand and Robo sand is classifiable under Sl. No. 113, whereas the 20mm/12.5mm/10mm metals are classifiable under Sl.No. 126 of schedule 1 under the headings 2505 and 2517 respectively under Notification No.01/2017- Central Tax (Rate) dated 28.06.2017 and the applicable rate of CGST is @2.5%. Presently, the applicant is paying dead rent/seignorage fee ("Royalty") to the Government of Andhra Pradesh and discharging GST @18% on Royalty amount under reverse charge.



On Verification of basic information of the applicant, it is observed that the applicant falls under State jurisdiction, Assistant Commissioner, Ibrahimpatnam Circle O/o. the No.1 Division, Vijayawada. Accordingly, the application has been forwarded to the State jurisdictional officer, Assistant Commissioner, Ibrahimpatnam Circle, No.1 Division, Vijayawada and a copy marked to the Central Tax authorities to offer their remarks as per the Section 98(1) of CGST /APGST Act 2017. In response the jurisdictional officer concerned stated that there are no pending proceedings relating to the applicant and no proceedings were passed on the issue, for which the advance ruling sought by the applicant.

2. Questions Raised Before the Authority:

- a) What is the classification for the services received by M/s Robo Silicon Private Limited from the state of Andhra Pradesh for which Royalty is being paid by Robo Silicon Private Limited? Whether the said service can be classified under the heading 9973 specifically under 997337 as Licensing services for the right to use minerals including its exploration and evaluation or any other service under Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017?
- b) What is the applicable rate of GST on the services received by M/s Robo Silicon Private Limited?

3. Applicant's Interpretation of Law and Facts:

The applicant had taken the following stance while interpreting the legal provisions and relevant tariff notifications for all the three contracts as under

The Applicant believes that the said services shall be classifiable under the Service Accounting Code (SAC) 9973 and shall be liable to GST (CGST and SGST) at the rate of 5% as it is covered under entry no. (viii) of serial number 17 of the Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017.



Notification No. 11/2017-Central (Rate) dated 28.06.2017

Notification No. 11/2017 - Central Tax (Rate) (as amended from time to time) specifies the applicable rate of tax that shall be levied on intra-State supply of services. Similar notification is issued under the Andhra Pradesh State GST Act vide G.O. Ms No. 259 -Rev(CT-II) Dept. dated 29.06.2017.

The relevant entry under the above referred Notification

Sl.No	Chapter, Section or Heading	Description of Goods	CGST Rate (%)
(1)	(2)	(3)	(4)
17	Heading 9973 (Leasing or rental services, with or without operator)	(vii) Leasing or rental services, with or without operator, other than (i),(ii),(iii),(v),(vi) and (vii) above.	Same rate of central tax as applicable on supply of like goods involving transfer of title in goods.

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

Group 99733 under the Annexure to Notification No.11/2017-Central Tax (Rate) deals with the classification of Licensing services for the right to use intellectual property and similar products. The relevant extract from group 99733 is as follows.

Sl.No	Chapter, Section Heading or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
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

Notification No. 01/2017-Central (Rate) specifies the applicable rate of tax that shall be levied on intra-state supply of goods. The relevant entries of the Schedules covered there under are as follows



Schedule I-5%

Sl.No	Chapter /Heading/ Subheading/ Tariff items	Description of Goods
(1)	(2)	(3)
113	2505	Natural sands of all kinds, whether or not coloured, other than metal bearing sands of Chapter 26
126	2517	Pebbles, gravel, broken or crushed stone, of a kind commonly used for concrete aggregates, for road metalling or for railway or other ballast, shingle and flint, whether or not heat- treated; macadam of slag, dross or similar industrial waste, whether or not incorporating the materials cited in the first part of the heading; tarred macadam; granules cheeping and powder of stones heading 2515 or 2516 whether or not heat treated.

In the given case, the applicant has obtained mining rights from the Government

of Andhra Pradesh for quarrying stones and metals on payment of Royalty.. The Royalty paid to the Government of Andhra Pradesh is nothing but an amount paid for getting the right to use the minerals (stones and metals) granted to the applicant for a specified period as per the terms of the lease.

As per the Sl. No. 257 of the annexure to the Notification No. 11/2017-Central Tax (Rate), Licensing services for the right to use minerals including its exploration and evaluation shall be classifiable under SAC 9973 viz. Leasing or rental services.

Sl. No. 17(viii) of the Notification No. 11/2017-Central Tax (Rate) provides the applicable rate of CGST in respect of leasing or rental services with or without operator, other than (i), (ii), (iii), (iv), (v), (vi) and (vii). According to the said sl.no. 17(viii) the applicable rate of CGST is same rate of tax as applicable on supply of like goods involving transfer of title in goods.



The applicant submits that the minerals i.e., stones and boulders that are extracted by the applicant are classifiable under the tariff heading 2517 of Schedule 1 of Notification No. 01/2017-Central Tax (Rate) and the applicable GST is @ 5%.

Therefore, the applicant submits that the rate applicable for the services provided by the Government of Andhra Pradesh shall be the rate as applicable on supply of such minerals i.e., 5%.

At this juncture, the applicant refers the ruling given by the Hon'ble Haryana Authority for Advance Ruling in the case of *M/s. Poiner Partners (Advance Ruling No. HAR/HAAR/R/2018-19/03)*. In this Ruling, the authority has decided that services for the right to use minerals including its exploration and evaluation, shall be classified under group 99733 as per the sr. no. 257 of the annexure appended to notification no. 11/2017-Central Tax (Rate) dated 28 June 2017 and accordingly, GST shall be applicable at the rate which is equal to the applicable GST rate on supply of underlying goods which involves transfer of title to the goods.

Therefore, it was decided that the GST at the rate of 5% (2.5 % CGST+2.5 % SGST) shall be applicable under RCM.

Thus, the services received by the applicant shall be classifiable under the heading 9973(viii) read with Sl. No. 257 of the annexure to Notification No. 11/2017-Central Tax (Rate) and the applicable rate of GST is @ 5% (CGST @ 2.5% and SGST @ 2.5%).

4. Record of Personal Hearing:

The applicant filed for adjournment, when called for Personal Hearing on 01.02.2019 and thus failed to appear before this Authority on the scheduled date.



5. Discussion and Findings:

We have gone through the submissions made by the applicant regarding GST rate applicable to the referred activities. Whereas, the applicant vide their letter dated 20.03.2019 informed that they withdraw their application filed for Advance Ruling sought for; on the ground that the notification 27/2018 Central Tax (Rate) dated 31.12.2018, by amending the notification no. 11/2017 -Central Tax (Rate) dated 28.06.2017, notified CGST rate at 9% (CGST rate +SGST rate =18%) w.e.f.01.01.2019.

By considering the request made by the applicant for withdrawal of their application, with a declaration that the fee already paid shall not be claimed as refund, we pass the following order.

RULING

(Under section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

Since the applicant intended to withdraw their application, we find no reason to go into the merits of the case and accordingly the Application is disposed off.

Sd/-D.Ramesh
Member (State Tax)



Sd/-S.Narasimha Reddy
Member (Central tax)


Assistant Commissioner (ST) ..
Assistant Commissioner (State) ..
C/o. Chief Commissioner of State Tax,
Andhra Pradesh, Vijayawada.



To

1. M/s Robo Silicon Pvt Ltd ,D.No. 278, Paritala Gramapanchayati, anchekarcherla Mandal, Paritala, Krishna, Andhra Pradesh - 521180 (By Registered Post)

Copy to

1. Superintendent of Central Tax, Surya rao Pet Range, D.NO.55-17-3, C-14, III Floor, Near CGO Complex, Industrial Estate, Autonagar, VIJAYAWADA (By Registered Post)
2. The Assistant Commissioner (ST), Ibrahimpattanam Circle, Vijayawada-1 Division. (By Registered Post)

Copy Submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada
2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act 2017, with in a period of 30 days from the date of service of this order.

