



**RAJASTHAN AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX**

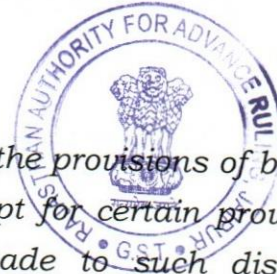
**KAR BHAWAN, AMBEDKAR CIRCLE, NEAR
RAJASTHAN HIGH COURT
JAIPUR – 302005 (RAJASTHAN)**



ADVANCE RULING NO. RAJ/AAR/2019-20/08

J.P.Meena Additional Commissioner	:	Member (Central Tax)
Hemant Jain Joint Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s Vinayak Stone Crusher, Kheda Thakur, Rudawal, Roopwas, Bharatpur, Rajasthan 321402
GSTIN of the applicant	:	08AAGFV4727M1ZM
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:	a. Classification of any goods or services or both; b. Applicability of a notification issued under the provisions of this act;
Date of Personal Hearing	:	09.05.2019
Present for the applicant	:	Shri Vishnu Garg, C.A. (Authorised Representatives)
Date of Ruling	:	17.05.2019

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



- *At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".*
- The issue raised by *M/s Vinayak Stone Crusher, Kheda Thakur, Rudawal, Roopwas, Bharatpur, Rajasthan 321402* (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (a)(b) given as under :
 - a. classification of any goods or services or both;
 - b. Applicability of a notification issued under the provisions of this act;
- Further, the applicant being a registered person (GSTIN is 08AAGFV4727M1ZM 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.

1. SUBMISSION AND INTERPRETATION OF THE APPLICANT:

- a. The applicant is a partnership firm under the provisions of the Partnership Act 1932 and is also 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. That the applicant is engaged in business of Crushing of Boulder resulting in to broken or crushed stone, Ballast in the State of Rajasthan. The said product "Boulder" is classifiable under Tariff Heading 2516 and broken or crushed stone, ballast products are

classifiable under Tariff Heading 2517 and are leviable to GST on their supply at the rate of 5%.



- c. That the applicant has been granted a mining lease for extracting "Rough Boulder of Stone from the mining " at Village- Chak Gurjar Balai, Tehsil-Roopwas District-Bharatpur (Rajasthan) by the Rajasthan State Government on various terms and conditions as per the Lease deed.
- d. That the State Mining Department of Rajasthan Government, collect the royalty at the time of dispatch of boulder from the mining place. 'However the State Mining Department of Rajasthan Government, has appointed the Contractor "M/s Kishore and Party" for collection of Royalty on behalf of Mining Department, The contractor collect the royalty on boulder from the recipient of the boulder.

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 Vinayak Stone Crusher 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 rate of GST on given services provided by State of Rajasthan to M/s Vinayak Stone Crusher for which royalty is being paid?
- c. Whether services provided by State Government of Rajasthan is governed by applicability of Notification No 13/2017-CT (Rate) dated 28.06.2017 under entry number 5 and whether M/s Vinayak Stone Crusher is taxable person in this case to discharge GST under reverse charge mechanism or whether given service is covered by exclusion



clause number (1) of entry no 5 and State Government of Rajasthan is liable to discharge GST on same?

- d. Whereas the Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the- mining lease holders. However as per the Notification No 14/2018-CT (Rate) dated 28.07.2018 the services supplied by State Government to ERCC for collection of Royalty became exempt whether M/s Vinayak Stone Crusher is taxable person in this case to discharge GST under reverse charge mechanism?

3. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 09.05.2019 at Room no. 2.29 NCRB, Statue Circle, Jaipur. Shri Vishnu Garg, C.A (Authorised Representative) of applicant appeared for PH. During the PH, he reiterated the submissions already made in the application. He further requested that the case may be decided at the earliest.

4. COMMENTS OF THE JURISDICTIONAL OFFICER

The jurisdictional officer (STO, SGST and Commercial Taxes, Ward-2, Circle-B, Bharatpur, HQ-Bayana, Bharatpur) has submitted his comments vide e-mail dated 16.04.2019 which can be summarized as under:

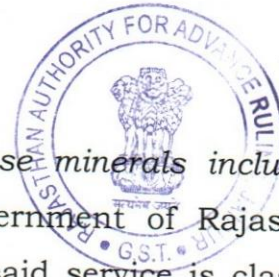
- a. The service provided by the State of Rajasthan to the applicant for which royalty is being paid is classifiable under 997337.
- b. The rate of GST on service provided by the State of Rajasthan to the applicant for which royalty is being paid is 18% (SGST9% +CGST9%).



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- c. The service provided by the State of Rajasthan to the applicant for which royalty is being paid is governed by applicability of Notification No 13/2017-CT (Rate) dated 28.06.2017. The applicant is taxable person in this case to discharge GST under reverse charge mechanism.
- d. The services supplied by State Government of Rajasthan to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government is exempted by way of Notification No 14/2018-CT (Rate) dated 28.07.2018. The mining holders are not exempted from the above said Notification. The applicant is taxable person in this case to discharge GST under reverse charge mechanism.

5. FINDINGS, ANALYSIS & CONCLUSION:

- a. We observe that, the applicant is engaged in business of crushing of Boulder resulting in to Broken or crushed Stone, Ballast in the State of Rajasthan. The said product "Boulder" is classifiable under Tariff Heading 2516 and broken or crushed stone, ballast products are classifiable under Tariff Heading 2517 and are leviable to GST on their supply at the rate of 5%.
- b. We observe that 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 for Notification No. 11/2017-CT (Rate) dated 28.06.2017.

d. The relevant extract of the Annexure of the Notification No. 11/2017-CT (Rate) dated 28.06.2017 is reproduced below:-

S.No.	Chapter, Section, Heading or Group	Service Code (tariff)	Service Description
250	Group 99733		Licensing services for the right to use intellectual property and similar products
251		997331	Licensing services for the right to use computer software and databases
252		997332	Licensing services for the right to broadcast and show original films, sound recordings, radio and television programme and the like
253		997333	Licensing services for the right to reproduce original art works
254		997334	Licensing services for the right to reprint and copy manuscripts, books, journals and periodicals
255		997335	Licensing services for the right to use research and development products
256		997336	Licensing services for the right to use trademarks and franchises
257		997337	Licensing services for the right to use minerals including its exploration and evaluation
258		997338	Licensing services for right to use other natural resources including telecommunication spectrum
259		997339	Licensing services for the right to use other intellectual property products and other resources nowhere else classified



- e. The service undertaken by the applicant falls at item (viii) at serial no. 17 of Notification No. 11/2017 CT (Rate), dated 28.06.2017 (as amended from time to time) which attracts 18% GST (9% CGST+ 9% SGST).

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 below:

- (e) against serial number 17, for item (viii) in column (3) and the entries relating thereto in columns (3), (4) and (5), the following shall be substituted, namely: -

Description of Service	Rate (per cent.)	Condition
(3)	(4)	(5)
(viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) above	9	”;

- f. We further 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 of the CGST Act, 2017. The relevant portion of the applicable provisions are as follows:-

Sl. No	Category of Supply of Services	Supplier of Service	Recipient of Service
5	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, - (1) <i>renting of immovable property, and</i> (2) services specified below- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.

The leasing or licensing services provided by State Government of Rajasthan to the applicant is covered by the entry no 5 of Notification No. 13/2017- Central Tax (Rate) dated 28.06.2017 and is not covered by exclusion clause number (1) of entry No.5 of the said Notification. The applicant is liable to pay GST on reverse charge basis as he is recipient of the services provided by the Govt.

We further observe that service provided by the State of Rajasthan to ERCC has been exempted with certain restrictions from GST vide Notification No.14/2018-CT (Rate) date 26.7.2018 of the CGST Act 2017 but the applicant is liable to pay GST on the reverse charge basis.


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


RULING

- a. The service provided by the State of Rajasthan to the applicant for which royalty is being paid is classifiable under 997337.
- b. The rate of GST on service provided by the State of Rajasthan to the applicant for which royalty is being paid is 18% (SGST9% +CGST9%).
- c. As the applicant is recipient of the services provided by the State of Rajasthan he is liable to pay GST on reverse charge basis under entry number 5 of the Notification No 13/2017-CT (Rate) dated 28.06.2017 and is not covered by exclusion clause number (1) of entry No.5 of the said Notification.
- d. The services supplied by State Government of Rajasthan to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government is exempted with certain restrictions by way of Notification No.12/2017-Central

Tax (Rate) dated 28-6-2017 as amended by Notification No. 14/2018-CT (Rate) dated 26.07.2018, However, the applicant is liable to discharge GST on reverse charge basis.




J.P. MEENA
Member
(Central Tax)


HEMANT JAIN
Member
(State Tax)

SPEED POST

M/s Vinayak Stone Crusher,
Kheda Thakur, Rudawal,
Roopwas, Bharatpur, Rajasthan 321402

F.No. AAR/Vinayak-Stone/2018-19/40-43

Date: 20.05.2019

O/C

Copy to:-

1. Commissioner, SGST & Commercial Taxes, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
2. Commissioner, CGST and Central Excise Alwar Commissionerate, Block-A, Surya Nagar, Alwar, Rajasthan 301001.
3. STO, SGST and Commercial Taxes, Ward-2, Circle-B, Bharatpur, HQ-Bayana, Meerana Road, Near Subhash Chowk, Bayana, District-Bharatpur, Rajasthan, 321401.