



ODISHA AUTHORITY FOR ADVANCE RULING

GOODS AND SERVICE TAX

CENTRAL EXCISE, RAJASWAVIHAR, BHUBANESWAR-751007(ODISHA)

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING

U/S 98 OF THE GOODS AND SERVICE TAX ACT, 2017

Members present are:

1. Sri Anand Satpathy, OFS(SAG), Addl. Commissioner of CT& GST
Office of the Commissioner, CT&GST, Odisha Banijyakar Bhawan,
Old Secretariate Compound, Cuttack-753001-Odisha.
2. Sri Nilanjan Pan, IRS, Joint Commissioner (Audit), Office of the Audit Commissionerate
GST & Central Excise, Bhubaneswar.

1	Name and Address of the Applicant	M/s National Aluminium Company Ltd., Nalco Bhawan, PO. Nayapalli, Bhubaneswar- 751013
2	GSTIN or User ID	21AAACN7449M1Z9
3	Date of Filing of Form GST ARA-01	19.07.2018
4	Present for the Applicant	P.K. Sahu, Advocate, D-247 (SF), Defence Colony, New Delhi-110024
5	Date of Personal Hearing	29.08.2018 & 19.09.2018

ORDER NO.02/ODISHA-AAR/2018-19/DATED 28.09.2018

Subject: GST Act, 2017-Advance Ruling in respect of entitlement to take credit of input tax paid on various goods and services used for maintenance of applicant's township, guesthouse, hospital, horticulture in its ordinary course of business.

- 1.0 M/s National Aluminium Company Ltd., Nalco Bhawan, PO. Nayapalli, Bhubaneswar- 751013 (hereinafter referred to as 'Applicant') assigned with GSTIN number 21AAACN7449M1Z9 have filed an application on 19.07.2018 under Section 97 of CGST Act, 2017, OGST Act, 2017 read with Rule 104 of CGST Rules 2017 & OGST Rules, 2017 in Form GST ARA-01 seeking an advance ruling in respect of its entitlement to take credit of input tax paid on various goods and services used for maintenance of applicant's township, guest house, hospital, horticulture in its ordinary course of business. They enclosed copy of challan as proof of payment of Rs.10,000/- bearing CIN No. 18072100016691 dated 10.07.2018 towards the fee for Advance Ruling . After due verification of the Application and other aspect, the application is admitted.
- 2.0 The applicant, while filing the application seeking advance ruling, explained the facts, cited various judicial pronouncements and tried to justify their claim for entitlement of input tax credit of

tax paid on various supplies received for management, maintenance and repair of their various properties for their business. It was submitted that the applicant is a Government of India enterprise and engaged in manufacture of calcined alumina, in its refinery located at Damanjodi in the State of Odisha. Produced alumina is transported to aluminium smelter at Angul (Odisha) for production of aluminium cold rolled sheets and coils. As part of its business, it is having townships at Damanjodi, Angul and residential colony at Bhubaneswar. It runs hospitals at Damanjodi and Angul for its employees. It also has guest houses for touring employees and guests. The applicant is receiving various services of repair and maintenance in the townships, guest houses, hospitals and horticulture which are received as part of its business operations. The suppliers of such services are charging GST in their invoices.

- 2.1 That services of management, maintenance and repair in its townships, guest houses, hospitals and horticulture are being used in the course or furtherance of the applicant's business and, therefore, it is entitled to take credit of tax paid on such services as per the provisions of central Goods and Service Tax Act, 2017.
- 2.2 That it serves the business interest of the applicant having its employees residing in townships and colonies near its factories and offices. It operates guest houses for temporary stay of employees and guests. It runs hospitals for its employees. The management, maintenance and repair service obtained from the service providers for running of these establishments has direct benefit to the business operations of the applicant. Since the services are used in the course of and, also, in furtherance of its business, it is entitled to utilize credit of input tax paid by the service providers for paying output tax on the supplies made by the applicant in terms of section 16 of CGST Act.
- 2.3 That the supplies, on which the applicant seeks to take input tax credit, are not blocked in section 17(5) of CGST Act. It was also stated that it would be entitled to take credit of tax paid on works contract service only for activities, for which the expenditure is claimed as revenue expenditure and not capitalized. It would not claim any credit with respect to services for which the expenditure is capitalized.
- 3.0 Personal Hearing was fixed on 29.08.2018 under due intimation to the applicant, the jurisdictional officer of State GST & jurisdictional officer of Central GST (intimated through their respective Commissionerate along with a copy of application and the written submission of the applicant). The applicant appeared through its Advocate (Sri .P K Sahu) and Representative(Sri P.Suna, DGM, Nalco) and the jurisdictional officer of State GST & jurisdictional officer of Central GST appeared in person. Sri P. K. Sahu, Advocate re-iterated the submissions already furnished in the annexures to the application. During personal hearing, the applicant was asked to state a) whether the applicant is into the supply of Health Service, Dwelling/Accommodation service etc b) whether maintenance of township, Guest house , Hospital for the welfare of the employees would be a supply between related parties . Since the said issues were not clarified/explained

properly by the applicant, the case was adjourned and next date of hearing was fixed on 19.09.2018. The applicant through its Advocate and representatives were heard on the said date in the matter and the contentions advanced were also examined. Sri Sahu, Advocate submitted a fresh written submission pursuant to hearing on 29.08.2018, wherein he inter-alia explained that the applicant was not into the business of providing dwelling service, accommodation service and health service etc. The applicant is only into the business of manufacturing Aluminium ingots and other aluminium products and the residential colony, guest houses and hospitals have been created in the course of and for furtherance of the core business of Aluminium manufacturing. He contended that the goods and services used for maintenance of its townships, guest houses, hospitals and horticulture are also in the course and in furtherance of its business and, therefore, is entitled to such input credit under section 16(1) of CGST Act. Further, such input tax credit is not hit/blocked by sub-section (2) or sub-section (5) of Section 17.

- 3.1** In the course of hearing, Sri. Sahu, relying upon some judicial pronouncements also explained that establishing residential colony and guest houses and maintaining them was very much necessary and has direct nexus with the core business of aluminium manufacturing. On the other hand, the applicant cannot be held as the supplier of dwelling service or health service to its employees through the residential colonies, guest houses and hospitals since the facilities so provided are without any consideration receivable from the employees (beneficiaries). The facilities so provided are rather part of the CTC (Cost to the Company). It was also averred that the hospital infrastructure has been created in lieu of EIC contribution. It is thus a statutory obligation under the EIC Act discharged by establishing the hospital and maintaining the same. Thus, the services provided through establishment and maintenance of the residential colony, guest house and hospitals are not supply taxable under GST in terms of section 7 of the OGST/CGST Act.
- 4.0** We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by the representatives during personal hearings. We also considered the questions and issues on which advance ruling is sought for by the applicant, relevant facts having bearing on the question/issue raised, the applicant's understanding/interpretations of law in respect of the issue. The jurisdictional officer of State GST and jurisdictional officer of Central GST filed written counter countering the averments of the applicant which was also considered and a copy thereof was supplied to the applicant for reference and counter, if any.
- 4.1** The Applicant has sought advance ruling and filed form GST-ARA-01 before the Odisha Authority for Advance Ruling on 19.07.2018. The only question asked in the said application is "Whether the applicant is entitled to take input credit of tax paid on various goods and services

used for maintenance of applicant's townships, guest houses, hospitals and horticulture for paying output tax".

4.2 The moot issue before us is to decide and to give a ruling on whether the applicant is entitled to take input credit of tax paid on various goods and services procured for use in maintenance of the townships, guest houses, hospitals and horticulture established by the applicant. In fact, ruling on entitlement of input tax credit should be transaction specific and it should not be generalized. Of course, the applicant has submitted a list of contracts (56 in number as listed in Annexure-A) entered into with different suppliers of goods and services for supply in relation to maintenance of the townships, guest houses, hospitals including horticultural maintenance. At the time of hearing, it was given to understand by the applicant that the list is merely illustrative and not exhaustive meaning thereby the applicant might be entering into similar contracts with other suppliers for similar other supplies. The present ruling is, however, awarded on the supplies as listed in Annexure-A and shall not cover other similar supplies not included in the list.

4.3 Supplies availed by the applicant as per the list in Annexure-A are classified as follows.

i) Support Services- These services are in the nature of taking "meter reading at residential quarters at Nalco Township, Damanjodi", "maintenance and care taking of Transit House-I at Nalco Township Damanjodi", "maintenance and care taking of Hostel and up keeping of equipments and appliances in Shaila Niwas", "Mass Plantation programme for the year 2015-17 at Nalco, Damanjodi", "Bush Cutting & Uprooting of Parthenium in all sectors of Nalco Township, Development of new areas in Nalco township, Alumina refinery at Nalco Damanjodi, Horticulture development and maintenance works in townships, development of park at community centre of Ambednagar, Nalco Damanjodi, Mass plantation for the 2017-19 at M&R Complex, Nalco Damanjodi and raising of seedlings for the 2015-17 at Nalco. The services listed at SI No.01,02,40,47,48,49,50 and 51 are services availed or to be availed exclusively for the residential colony. Service listed at SI No.41 and 42 i.e. maintenance and up keeping of GET hostel and maintenance of the equipments in "Shaila Niwas" is used partly for residential accommodation for trainee engineers and partly for the general guest house. Services listed at SI No.52, 53, 56,43,44,45, and 46 are clear non-business activities. In fact the aforesaid services relate to plantation in different areas outside the business area of the applicant. This includes urban plantation in Koraput and other similar plantation activities in other areas. These are certainly not in the course of nor in furtherance of the core business of the applicant i.e. mining of bauxite, refining or manufacturing aluminum ingot. Some of the activities seem to be in the course of discharging corporate social responsibilities (CSR), but certainly not in the course of business or furtherance of business. The services listed at Sr No. 54 and 55 i.e. mass plantation at M&R Complex, Nalco, Damanjodi can be held as in the course of business since the applicant is receiving forestry service for plantation within the refinery complex.

- ii) Waste collection and Sanitation services- Door to door garbage collection & disposal at designated place, fogging operation to control mosquito and eradicate larva in plant and township, Nalco Damanjodi, operation and maintenance of solid waste treatment at plant at Nalco, cleaning of public building including toilets at Nalco Township Damanjodi, up keeping cleaning and ensuring hygienic conditions of Nalco Hospital at Damanjodi, operation and maintenance of Bio –Medical waste management equipments of Nalco, contract for cleaning of linens of Shaila Niwas and annex at Nalco, Damanjodi. The services listed at SI No.03 is being availed exclusively for residential colony. Services listed at SI No.37 and 38 are intended exclusively for the hospital and services listed at SI No.04 and 09 are partly for residential colony and partly for the plant area. Services listed at SI No.07 i.e. O&M of the "solid waste treatment plant" seems to be for treating the solid wastes of the plant and plant area. The service listed at SI No.08 i.e fogging operation seems to be for the residential colony. Thus, the services classified under this category are found to have been availed partly for residential colony maintenance, partly for hospital maintenance and partly for plant maintenance.
- iii) Sweeping and snow removal services- Road sweeping work in Nalco Township, Sector i, ii & iii and Saheed Laksman Nayak colony, sweeping work at plant administration building, surakshya vihar, Dr Ambedkar colony. The services listed at SI No.05 is clearly for sweeping work in Nalco township i.e. for maintenance of the residential colony. Conversely the service listed at SI No.06 seems to be for sweeping of the road in plant administrative building.
- iv) Security Services/Guard Services- Security Services at Nalco Township, M&R Complex, Damanjodi. The service listed at SI No.10 of Annexure-A is found to be for security of the residential colony in Damanjodi.
- v) Services involving repair, alterations, additions, replacements and renovation- Repair Maintenance And other allied Civil Works in Residential & Public Buildings , Nalco Township, Repair Maintenance of tar felting, roof treatment and allied works in quarters and public buildings, alumina plant, desilting of drains & berks dressing inside Nalco AR and CISF establishment. at NALCO, Damanjodi, Desilting, Repair and Maintenance of Drains in township and colonies, provision of drinking water supply at picnic spot, post constructional anti termite treatment of residential and public buildings at township, lighting maintenance of alumina plant and township at Nalco, Damanjodi, lightning maintenance of alumina plant and township at Nalco, Damanjodi, maintenance of 132 kv switchyard, grid transformer and power distribution system of at Nalco, Damanjodi. The services listed at SI No.11, 12, and 13 are in relation to the residential quarters. Service at SI No.14, 15 and 16 is in relation to Alumina Plant. The services listed at SI No.17, 18, 19, 21 and 22 are in relation to the Nalco township and residential colony. The service listed at SI No.20 is in relation to the Alumina Plant. The service listed at SI No.23 i.e. provision of drinking water at picnic spot is not at all in the course of or for the furtherance of business. The service listed at SI No.29 is in relation to the residential colony whereas the service listed at SI No.30 i.e. lighting maintenance of Alumina

Plant township at Damrajodi is partly in relation to the plant and partly in relation to the residential colony. The service listed at SI No.31 i.e AMC of "Power Fencing System" is definitely in relation to the security of the plant and hence part of business operation. The services listed at SI No.32 and 33 are in relation to the electrical maintenance of the township and the service listed at SI No. 35 is in relation to both the residential colony as well as the plant. The service listed at SI No.34 i.e. maintenances of 132KV Switch yard, greeed transformer system at Damanjodi is predominantly for the plant use.

vi) Painting Services- Periodical Painting for the building inside at NALCO, Damanjodi, Periodical Painting for residential Quarters & Public Building at Sector-I of NALCO Township & Damanjodi. The services listed at SI No.24 and 25 are for panting the building within the refinery complex which are essentially the business requirement. On the other hand the services list at SI No. 26, 27 and 28 are for panting the residential quarters and other building within the residential colony.

vii) Human health services including Homeopathy, Urani, Aurveda, Natureopathy and Acupuncture Contract for Pharmacy outlet of Nalco Hospital, Nalco Township, M&R Complex, Damanjodi. The contracted service listed at SI No.36 is for running the pharmacy outlet. As it appears the only activity under this will be to dispense health service by way of providing medicine mainly to the employees. This is a clear case of supply of medicine and other allied pharmaceutical items free of charge or, in other words, frees distribution of medicines.

viii) Maintenance and repair services of machinery and equipments-Maintenance of LPG system of Shaila Niwas, Transit House, Damanjodi. The said service is listed at SI No.39. As the heading suggests it is for use in the transit house and GET Hostel. Such establishments are essentially business establishment and not created for use only by the employees.

4.4. The contention of the applicant is that they are having township at Angul, Damanjodi and Bhubaneswar. They run hospitals for their employees. They have also guest houses for accommodating touring employees and guests. They maintain parks and green area in the factories and townships. These infrastructures are necessary for the applicant to run its large-scale business of manufacturing where thousands of employees are working. They are receiving services of management, maintenance and repair of these facilities. Such services are used in the course or furtherance of business and therefore they are entitled to take credit of tax paid on the said supplies of services as per the provision of Central Goods and Service Tax (CGST) Act, 2017. Further, they stated that the supplies on which they seek to take credit are not blocked under section 17(5) of the CGST Act, 2017.

4.5 In this regard, the State Jurisdictional officer & Central jurisdictional officer are of the opinion that the applicant is not entitled to the benefit of input tax credit of tax paid on various inputs or input

services received for maintenance & repair work of the townships, guest houses, hospitals etc for the following reasons:

- a) The input and /or input services received by the applicant for the activities such as maintenance and repair of the townships, guest houses, hospitals and horticulture have no nexus to the manufacturing activity undertaken by the applicant. The said activities are neither relating to business nor relating to manufacture of final product and its supply. The said activities may be welfare activities undertaken while carrying on the business but to qualify as input service; the activity must have nexus with the business of the applicant. The expression "in course or furtherance of business" appearing in Section 16(1) of the GST Act refers to activities which are integrally related to the business activity and not welfare activities.
- b) The activity of maintenance and repair of applicant's residential township / colony, guest house, hospitals including the horticultural activity are broadly used by the employees. The services, availed by the applicant are awarded on contractual basis which are in the nature of repairs and maintenance of its assets, contained in such township, guest house or hospitals. The residential township or colonies are located outside any factory: The services for maintenance and repairs of these assets includes various activities such as "white-washing and painting of building, applying insecticide, roof toping, covering and water proofing of building, maintaining temporary civil structures, garages and parking places, plumbing, sanitary works, grass cutting, gardening tree trimming, and other horticultural activities, mosquito and snake protection activity, removing garbage pots, cleaning, sewage treatment, sweeping, electrification and light fitting, water supplying through pipelines, paving walking bay, laying paving block and brick and so on. All these activities primarily cover contractual jobs awarded on periodic contract under Civil, Electrical, Instrumentation, and Mechanical Engineering activities, under works contract basis. Taken together, these are activities of repair and maintenance of immovable property like land, building and any other civil structures. Similarly, the assets contained in any guest house cover building, furniture, electrical appliances like TV, refrigerator, air conditioning machines, electrical cooking appliances, electrical fittings and lawns and gardens. The prime purpose of maintenance of guest house for touring employees is welfare. The services for repair and maintenance of building and land of any guest house are primarily done by service providers to whom jobs are awarded under works contract terms. The assets contained in any hospital or dispensary generally covers building, lawns, gardens, parking place, medical instruments, hospital beds and fittings, vehicle and ambulance, furniture, electrical appliances like refrigerator, air conditioning machines, electrical fittings etc. The hospital or dispensary generally renders welfare in the form of health care services of employees in particular and the surrounding society at large. The services for repairs and maintenance of building and land and other assets are primarily done by service providers, to whom jobs are awarded under works contract terms. With reference to the above discussion having great respect to the principles of law laid down in the case laws cited by the applicant, it is

stated that the facts of the instant case, the type and nature of services referred by the applicant should be viewed with reference to the provisions contained in section 17 and the definition contained in section 2(119) of the OGST Act / the CGST Act. Sub-section (5) of Section 17 of the Central Goods and service Tax Act, prescribes clauses (a) to (i) covering inputs or input services, the tax paid on which is not available as credit even though they have been used in the course or furtherance of business. As per clause (c) and (d), and the Explanation thereto under sub-section (5) of section 17, the tax credit on "*works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service*" is not allowed or blocked. Further, the tax credit on "*goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business*" is blocked. From a plain reading of the provisions of the above referred sub-clauses along with the Explanations, it reveals that the tax credit on input and /or input services received by the applicant for the referred activities are in the form of works contract service, for repairs and maintenance of various immovable property and assets, the input tax credit of which are directly restricted or blocked under specific provision under section 17 of the OGST / CGST Act.

c) The hospital / dispensary maintained by the applicant for its employees and society come within the definition of "*Clinical establishments*" whose supply is tax exempted under serial 74, heading 9993 of the notification No. 12/2017- Central Tax (Rate) dt. 28th June, 2017. The services rendered by the guest house maintained by the applicant, for the residential or lodging purpose, is also exempted under serial 14, heading 9963 of the notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017. Consequently, the input tax credit on such exempt supply is also restricted under sub section (2) of section 17 of the OGST / CGST Act. In view of the above, the embargo provided in clause (c) and (d) including the Explanations appended to sub-section (5) and (6) of Section 17 of the OGST/CGST Act and the notification No. 12/2017- Central Tax (Rate) dt. 28th June, 2017, applies in full force in this case and the applicant is not entitled to the benefit of the credit of the tax paid on the input and/or input services received for the referred purposes as per its application.

5.0 On scrutiny of the services listed by the applicant against which the present ruling has been sought, we find that the listed services are being availed for different purposes as observed in para-4.3 above. As per our findings, some of the services are exclusively in relation to the residential colony, some are in relation to the plant, some are in relation to the guest house and transit house, some are for use in residential colony as well as in the plant while some of the services like urban plantation, provision of drinking water at picnic spot, raising of seedling, and general plantation are neither for the plant nor for the residential colony. The applicant might be doing those activities

while discharging some obligation but such activities are not for or in relation to the core business. Some other activities like contract for running a pharmacy outlet is simply for dispensing medicine and other allied product free of charge. This is a clear case of supply without consideration mainly to the employees of the applicant. Still some other services like maintaining the power grid is predominantly for use in the plant and maintaining the solid waste treatment plant seems to be for treating the solid waste of the plant. To sum up the services are varied in nature and intended for partly business use (to the extent intended for the plant, plant area or plant building) and partly non business use (to the extent intended for use outside the applicant area). Some of the services are for use in the residential colony while some other are for use in the hospital and guest houses. Undeniably the applicant is providing services to its employees by way of residential accommodation in the colony, temporary accommodation in the guest houses and is dispensing health services to its employees and others. In a press release issued on 10th of July, 2017 by the CBIC, it was clarified that perquisites provided to employees in terms of employment contract are not chargeable to GST. In the said press release it was also clarified that gifts of value exceeding Rs. 50,000/- by the employer to an employee will constitute a supply chargeable to GST. Conversely, in Para 1 of Schedule III of the Act, it has been made clear that service by an employee to the employer in the course of or in relation to his employment is neither a supply of goods nor a supply of service. There is no converse provision i.e. services provided by an employer to the employees in Schedule III implying thereby services provided by an employer to its employees are supply of services. Possibly, for this confusion, the clarification dated 10th July, 2017 was warranted to clarify that perquisite provided by an employer to an employee in terms of the employment contracts are not chargeable to GST. On the other hand, as per the provisions in Schedule I Para 2 read with the Explanation to Section 15 of the CGST/OGST Act supply of services by an employer to the employees is a supply between related persons. On the other hand, service by way of residential accommodation in the colonies or otherwise is a perquisite which has been clarified as not chargeable to GST implying thereby any perquisite including residential accommodation is an exempt supply. In the result, the inward supplies received by way of management, repair, renovation, alteration or maintenance service or goods received for furnishing the residential colony shall not qualify for input tax credit in terms of Section 17 (2) of the OGST/CGST Act. The services which are being availed clearly in relation to the residential colony shall not qualify for input tax credit. On the other hand services received partly in relation to the residential colony and partly in relation to the plant, proportionate ITC to the extent relatable to the plant are available whereas services availed in relation to the residential colony shall not qualify for input tax credit in terms of Sub-section 2 of Section 17. Detailed observation in respect of each work order issued by the applicant for availing different services has been made in para-4.3.

- 5.1** Establishment of hospitals and maintenance thereof may be for discharging the statutory obligation under the ESI Act by the employer, but dispensing medical service to the employees and others is a supply of service by the employer (the applicant in this case). Such service being nil rated will fall under exempt supplies. Consequently, the inputs and input services received by the applicant for dispensing the exempt service will not qualify for input tax credit in terms of Section 17 (2) of the OGST/CGST Act. It is made clear that the ruling to be issued is based on the current provisions of law. For the sake of further clarification we consider it appropriate to discuss the amendment of Section 17 (5) as brought in the CGST (Amendment) Act, 2018(yet to be made effective) wherein clause (a) and (b) of sub-section (5) of Section 17 have been substituted with a Proviso in the substituted clause (b) providing for input tax credit in respect of such goods or services or both, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force. In the provisions of law, as its stand today, there is no such provision providing for input tax credit in respect of goods and/or services procured by an employer for supply to the employees for discharging any statutory obligation. In the absence of such provisions, input tax credit shall not be available to the applicant in respect of the services and goods procured for maintenance of hospital and pharmacy outlet as per the current provisions in the OGST/CGST Act. Detailed observation on the services availed by the applicant in relation to the hospitals and pharmacy outlets have been made para 4.3.
- 5.2** Establishing, maintaining and furnishing guest houses including landscaping by way of gardening or otherwise is neither a perquisite nor a statutory obligation. It is purely for providing accommodation service to guests including employees on tour. This is in fact a business requirement to maintain such facilities and accordingly the applicant is entitled to input tax credit of the tax paid on inward supply of input and input services for maintenance of the guest house, transit house, and training hostels, but excluding the food and beverages provided in such establishments. Credit of such input services are as such blocked in clause b of Sub section 5 of section 17 of the OGST and CGST Act. In the case of the applicant, the listed services do not contain any catering service, but the application seeks for a ruling even on such service. It is further clarified that, the applicant might not be charging anything from the guest or the trainees for providing food and beverages in the guest houses and training hostels and in such case the inputs used for preparing the food and beverages or input catering services shall not qualify for input tax credit.
- 5.3** On scrutiny of the services listed in Annexure-A against which the current ruling is being issued, it was found that the applicant is availing services for plantation both inside the plant area as well as outside the plant area. Some of the contracts are for urban plantation in Koraput and annual plantation in unspecified area. Such services are definitely not in the course of or for furtherance of business. It may be obligatory for the applicant to undertake such plantation, but certainly not a

business requirement. Hence, plantation and maintenance of such plantation outside the plant area being for non business use will not qualify for input tax credit in terms section 17(1) of CGST and OGST Act. Similarly, services for maintenance of plant and gardens within the residential colony and other public utility created by the applicant will form part of the residential colony and in turn part of the perquisite provided to the employees. Services availed in relation to the plants and garden in the residential colony will not qualify for input tax credit for the reasons discussed in para 5.0. It was also found that the plantation and maintenance of gardens are undertaken within plant area and other business establishments like administrative building and guest houses. Services availed in relation to plantation and gardening within the plant area including mining area and the premises of other business establishment as mentioned above will qualify for input service credit. Observations on specific contracts as listed in Annexure-A have been made in Para 4.3.


5.4 *We have gone through the various judicial pronouncements cited by the applicant in support of his claim. With great respect to the principles of law laid down in those decisions rendered in peculiar facts and circumstances of each case, we have no hesitation to say that the facts of the instant case are different and distinguishable. Some of these decisions are rendered under the Income Tax Act and cannot be inferred in the context of the provisions of the OGST Act / CGST Act. Accordingly, the present ruling is issued by examining the nature and purpose of each of the services listed in Annexure-A with reference to the relevant provisions in the OGST/CGST Act. The applicant may claim input tax credit in respect of the input services to the extent allowed above.*

Ruling

In view of the foregoing discussions, the application for advance ruling is disposed accordingly.

The applicant or the jurisdictional officer, if aggrieved by the ruling given above, may appeal to the Odisha State Appellate Authority for Advance Ruling under Section 100 of the OGST/CGST Act, 2017 within 30 days from the date of receipt of the Advance Ruling.


Nilanjan Pan
Member CGST


Anand Satpathy
Member SGST

File No. V (1) ARA/Odisha/BBSR/2018/02/ ~~10857A-59A~~ dated-28.09.2018

To

M/s. National Aluminium Company Ltd, Nalco, Bhubaneswar, Nayapalli, Odisha-751061.

Copy Forwarded to:-

1. The Commissioner, GST and Central Excise, Bhubaneswar Commissionerate, C.R.Building, Rajaswa Vihar, Bhubaneswar4, 751007(Odisha).
2. The Commissioner, GST Odisha, Banijyakar Bhawan, Old Secretariat Compound, Cuttack, Odisha, 753001.
3. Office Copy



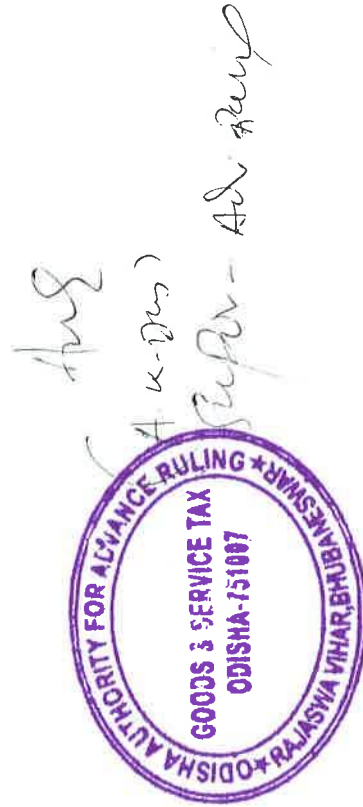
Adhir Kumar Das
(Adhir Kumar Das) 28/9/18
Superintendent (CGST),
Advance Ruling, Odisha.

Annexure-A

Sr No	NAME OF THE CONTRACT	AGENCY	WO_NO	SAC code	Description
1	ENERGY METER READING OF RESIDENTIAL QUARTERS AT NALCO TOWNSHIP, DAMANJODI	Sushanta Engineers	1552	998599	Other support services n.e.c.
2	ENERGY METER READING OF RESIDENTIAL QUARTERS AT NALCO, DAMANJODI	ENGINEERS ENTERPRISE	1140	998599	Other support services n.e.c.
3	DOOR TO DOOR GARBAGE COLLECTION & DISPOSAL AT DESIGNATED PLACE	Green Circle Environment Pvt Ltd	1500	999423	General waste collection services, residential
4	FOGGING OPN TO CONTROL MOSQUITOES AND ERADICATE LARVA IN PLANT & TOWNSHIP, NALCO, DMNJ	Pest Masters(India) Pvt.Ltd.	1225	999459	Other sanitation services n.e.c.
5	ROAD SWEEPING WORK IN NALCO TOWNSHIP, SECTOR-I, II & III, & SAHEED LAXMAN NAYAK COLONY	D.N. Patra	1494	999451	Sweeping and snow removal services
6	ROAD SWEEPING WORK IN PLANT ADMIN. BUILDING, SURAKSHYA VIHAR, DR. AMBEDKAR COLONY	Anadi Lamta	1495	999451	Sweeping and snow removal services
7	OPERATION AND MAINTENANCE OF SOLID WASTE TREATMENT PLANT AT NALCO	SATYA SAI GRAMYA SHILPA SANGHA	1493	999433	Non-hazardous waste treatment and disposal services
8	EXECUTION OF FOGGING OPERATION AND OTHER ALLIED MOSQUITO ERADICATION ACTIVITIES	R.S Maintenance Services	1520	999459	Other sanitation services n.e.c.
9	CLEANING OF PUBLIC BUILDINGS INCLUDING TOILETS AT NALCO TOWNSHIP, DAMANJODI.	Rabi Kuldip	1506	999459	Other sanitation services n.e.c.
10	SECURITY SERVICES AT NALCO TOWNSHIP, M&R COMPLEX, DAMANJODI	EXECUTIVE SECURITY SERVICE PVT. LTD	1501	998525	Guard services
11	R&M OF TARFELTING, ROOF TREATMENT AND ALLIED WORKS IN QUARTERS AND PUBLIC BUILDINGS	D.K. Jena	1346	995419	Services involving Repair, alterations, additions, replacements, renovation, maintenance or remodelling of the buildings covered above.
12	R&M OF TARFELTING, ROOF TREATMENT AND ALLIED WORKS IN QUARTERS AND PUBLIC BUILDINGS	M.H ZAMAN	1347	995419	Services involving Repair, alterations, additions, replacements, renovation, maintenance or remodelling of the buildings covered above.
13	R&M OF TARFELTING, ROOF TREATMENT AND ALLIED WORKS IN QUARTERS AND PUBLIC BUILDINGS	B.D. Nayak	1344	995419	Services involving Repair, alterations, additions, replacements, renovation, maintenance or remodelling of the buildings covered above.
14	REPAIR & MAINTENANCE OF TARFELTING, ROOF TREATMENT AND ALLIED WORKS IN ALUMINA PLANT	P.C.Sahu	1480	995419	Services involving Repair, alterations, additions, replacements, renovation, maintenance or remodelling of the buildings covered above.
15	DESILTING OF DRAINS & BERMS DRESSING INSIDE NALCO AR AND CISF ESTB. AT NALCO, DMNJ	Judhister Dalai	1312	995419	Services involving Repair, alterations, additions, replacements, renovation, maintenance or remodelling of the buildings covered above.
16	DESILTING OF DRAINS AND BERMS DRESSING INSIDE NALCO AR AND CISF ESTB. AT NALCO, DMNJ	Anadi Lamta	1313	995419	Services involving Repair, alterations, additions, replacements, renovation, maintenance or remodelling of the buildings covered above.
17	DESILTING, REPAIR AND MAINTENANCE OF DRAINS IN TOWNSHIP AND COLONIES	Trilochan Gouda	1410	995419	Services involving Repair, alterations, additions, replacements, renovation, maintenance or remodelling of the buildings covered above.
18	DESILTING, REPAIR AND MAINTENANCE OF DRAINS IN TOWNSHIP AND COLONIES	Dinabondhu Majhi	1411	995419	Services involving Repair, alterations, additions, replacements, renovation, maintenance or remodelling of the buildings covered above.
19	DESILTING, REPAIR AND MAINTENANCE OF DRAINS IN TOWNSHIP AND COLONIES	Prafulla Kumar Patnaik	1409	995419	Services involving Repair, alterations, additions, replacements, renovation, maintenance or remodelling of the buildings covered above.

Sr No	NAME OF THE CONTRACT	AGENCY	WO_NO	SAC code	Description
20	REPAIR & MAINTENANCE OF TARFELTING, ROOF TREATMENT AND ALLIED WORKS IN ALUMINA PLANT	Sarfej Kurnar Swain	1479	995419	Services involving Repair, alterations, additions, replacements, renovation, maintenance or remodelling of the buildings covered above.
21	R&M AND OTHER ALLIED CIVIL WORKS IN RESIDENTIAL & PUBLIC BUILDINGS NALCO TOWNSHIP	M H ZAMAN	1522	995419	Services involving Repair, alterations, additions, replacements, renovation, maintenance or remodelling of the buildings covered above.
22	R&M AND OTHER ALLIED CIVIL WORKS IN RESIDENTIAL & PUBLIC BUILDINGS NALCO TOWNSHIP	AMULYA CONSTRUCTION	1523	995419	Services involving Repair, alterations, additions, replacements, renovation, maintenance or remodelling of the buildings covered above.
23	PROVISION OF DRINKING WATER SUPPLY AT PICNIC SPOT	Sadashiv Enterprises	1550	995419	Services involving Repair, alterations, additions, replacements, renovation, maintenance or remodelling of the buildings covered above.
24	PERIODICAL PAINTING FOR THE BUILDING INSIDE AR AT NALCO, DAMANJODI	Jagannath Satpathy	1219	995473	Painting services
25	PERIODICAL PAINTING FOR THE BUILDING INSIDE AR AT NALCO, DAMANJODI	Shiva Shakti Construction	1220	995473	Painting services
26	PERIODICAL PAINTING FOR RESI. QTRS & PUBLIC BUILDING AT SEC-1 OF NALCO T/S & SV, DMNJ	M.H Zaman	1541	995473	Painting services
27	PERIODICAL PAINTING FOR RESI. QTRS & PUBLIC BUILDING AT SEC-1 OF NALCO T/S & SV, DMNJ	AMULYA CONSTRUCTION	1540	995473	Painting services
28	PERIODICAL PAINTING FOR RESI. QTRS & PUBLIC BUILDING AT SEC-1 OF NALCO T/S & SV, DMNJ	Rahul Construction	1542	995473	Painting services
29	POST CONSTRUCTIONAL ANTI TERMITE TREATMENT OF RESIDENTIAL AND PUBLIC BUILDINGS AT TOWNSHIP	RS MAINTENANCE SERVICES AND PEST CONTROL	1374	995478	Other building completion and finishing services n.e.c
30	LIGHTING MAINTENANCE OF ALUMINA PLANT AND TOWNSHIP AT NALCO, DAMANJODI	S. K. Engg Works	1227	995469	Services involving Repair, alterations, additions, replacements, maintenance of the installations covered above
31	COMPREHENSIVE AMC OF POWER FENCING SYSTEM AT CISF QUARTER GUARD OF NALCO, DMNJ	CROWN SOLAR POWER FENCING SYSTEMS	1335	995469	Services involving Repair, alterations, additions, replacements, maintenance of the installations covered above
32	MISCELLANEOUS ELECTRICAL MAINTENANCE AT NALCO TOWNSHIP FOR SECTOR-II & SURAKHYA VIHAR	RRR Perestroika	1457	995469	Services involving Repair, alterations, additions, replacements, maintenance of the installations covered above
33	MISCELLANEOUS ELECTRICAL MAINTENANCE AT NALCO TOWNSHIP FOR SECTOR-II & SURAKHYA VIHAR	Sushanta Engineers	1458	995469	Services involving Repair, alterations, additions, replacements, maintenance of the installations covered above
34	MAINT OF 132 KV SWITCHYARD, GRID TRANSFORMERS & POWER DISTRIBUTION SYS OF AR, NALCO, DMNJ	RRR Perestroika	1535	995469	Services involving Repair, alterations, additions, replacements, maintenance of the installations covered above
35	REPAIRING, REPLACEMENT, REWINDING AND OVERHAULING OF CEILING FANS OF TOWNSHIP & PLANT	SADANANDA ENTERPRISES	1394	995469	Services involving Repair, alterations, additions, replacements, maintenance of the installations covered above
36	CONTRACT FOR PHARMACY OUTLET OF NALCO HOSPITAL AT NALCO TOWNSHIP, M&R COMPLEX, DAMANJODI	APOLLO HOSPITALS ENTERPRISE LTD	1163	999315	Other human health services including homeopathy, unani, ayurveda, naturopathy, acupuncture etc
37	UP KEEPING CLEANING AND ENSURING HYGENIC CONDITION OF NALCO HOSPITAL AT DAMANJODI	RAMESH KUMAR BAGH	1378	999459	Other sanitation services n.e.c
38	OPERATION & MAINT OF BIO-MEDICAL WASTE MANAGEMENT EQUIPMENTS OF NALCO HOSPITAL, DAMANJODI	R. K. CONSTRUCTION	1469	999432	Hazardous waste treatment and disposal services
39	MAINTENANCE OF LPG SYSTEM OF SHAILA NIWAS, TRANSIT HOUSE AND GET HOSTEL OF M&R, DMNJ	Supriy Service Centre	1230	998719	Maintenance and repair services of other machinery and equipments
40	MAINTENANCE AND CARE TAKING OF TRANSIT HOUSE I AT NALCO TOWNSHIP, DAMANJODI	P. K. Caretaker	1213	998599	Other support services n.e.c
41	MAINT & CARE TAKING OF GET HOSTEL AND UPKEEPING OF EQUIP & APPLIANCES IN SHAILA NIWAS	GAME SWAR HOSPITALITY & SERVICES	1226	998599	Other support services n.e.c

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42	CONTRACT FOR CLEANING OF LINENS OF SHAILA NIWAS AND ANNEXE AT NALCO, DAMANJODI	Snowwhite Tours & Travels	1264	998533	General cleaning services
43	URBAN PLANTATION AT KORAPUT, ODISHA	Dinabondhu Majhi	1408	998614	Support services to forestry and logging
44	URBAN PLANTATION AT KORAPUT, ODISHA	Bhaya Kumar Kuldeep	1407	998614	Support services to forestry and logging
45	MASS PLANTATION PROGRAMME FOR THE YEAR 2015-17, AT NALCO, DAMANJODI	Bijaya Kumar Kuldeep	1211	998614	Support services to forestry and logging
46	MASS PLANTATION PROGRAMME FOR THE YEAR 2015-17 AT NALCO, DAMANJODI	Pratulla Kumar Patnaik	1212	998614	Support services to forestry and logging
47	BUSH CUTTING & UPROOTING OF PARTHENIUM IN ALL SECTORS OF NALCO T/S INCLUDING SV	Somnath Gouda	1247	998619	Other support services to agriculture, hunting, forestry and fishing
48	DEVELOPMENT OF NEW AREAS IN NALCO TOWNSHIP, ALUMINA REFINERY, NALCO, DAMANJODI	Surendra Hial	1443	998619	Other support services to agriculture, hunting, forestry and fishing
49	HORTICULTURE DEVELOPMENT AND MAINT WORKS IN TOWNSHIP, NALCO, DAMANJODI	P.C Sahu	1514	998619	Other support services to agriculture, hunting, forestry and fishing
50	HORTICULTURE DEVELOPMENT AND MAINTENANCE WORKS IN TOWNSHIP, NALCO, DAMANJODI	S.C. Dash	1513	998619	Other support services to agriculture, hunting, forestry and fishing
51	HORTICULTURE DEVELOPMENT AND MAINTENANCE WORKS IN TOWNSHIP, NALCO, DAMANJODI	GREEN AGRO SERVICE CENTRE	1512	998619	Other support services to agriculture, hunting, forestry and fishing
52	HORTICULTURE DEVELOPMENT & MAINTENANCE WORK AT SABARI LAKE COMPLEX	N.C. TURUK	1490	998619	Other support services to agriculture, hunting, forestry and fishing
53	DEVELOPMENT OF PARK AT COMMUNITY CENTRE OF AMBEDKAR NAGAR, NALCO, DAMANJODI	D.N. Patra	1478	998619	Other support services to agriculture, hunting, forestry and fishing
54	MASS PLANTATION FOR THE YEAR 2017-19 AT M&R COMPLEX, NALCO, DAMANJODI	B.K. Dalai	1538	998614	Support services to forestry and logging
55	MASS PLANTATION FOR THE YEAR 2017-19 AT M&R COMPLEX, NALCO, DAMANJODI	Maheswar Panigrahi	1537	998614	Support services to forestry and logging
56	RAISING OF SEEDLINGS FOR THE YEAR 2015-17 AT NALCO DAMANJODI	RANJEET CONSTRUCTION	1216	998619	Other support services to agriculture, hunting, forestry and fishing



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