



BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax

D.No.12-468-4, Adjacent to NH-16 Service Road, Kunchanapalli, Guntur-522501

Present

1. Sri. K.Ravi Sankar, Commissioner of State Tax (Member)
2. Sri. B. Lakshmi Narayana, IRS, Joint Commissioner of Central Tax (Member)

AAR No. 04/AP/GST/2023 dated: 30.01.2024

1	Name and address of the applicant	M/s R.V Minerals
2	GSTIN	37AAZFR4622G1ZP
3	Date of filing of Form GST ARA-01	08.08.2023
4	Personal Hearing	01.12.2023
5	Represented by	P. Ramesh, CA
6	Jurisdictional Authority - Central	Aseelmetta Range ,Visakhapatnam NorthDivision
7	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

ORDER

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

1. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and SGST Act, 2017 are in parimateria and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the APGST Act.
2. 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 CGST Act and APGST Act respectively) by M/s R.V Minerals(hereinafter referred to as applicant), registered under the AP Goods & Services Tax Act, 2017.

3. Brief Facts of the case:

- 3.1 M/s R.V Minerals (Hereinafter referred to as "applicant") is engaged in the business of manufacturing aggregates (Stone crusher unit) from the boulders purchased from the quarries having mining permit. The said products are classifiable under tariff heading 2517 and are leviable to GST on their supply at the rate of 5%. Applicant is having GST Registration number 37AAZFR4622G1ZP.
- 3.2 M/s Sudhakar Infra (a third-party agency) is the collecting agency that acquired rights from the mining department for the collection of royalty from the leaseholders of mining quarries in the districts of East Godavari and Dr. B.R Ambedkar Konaseema. M/s Sudhakar Infra has paid the consideration for the above said rights to the government of Andhra Pradesh and discharging GST liability under reverse charge vide entry No.5 of Notification No.13/2017-CGST (R) dated 28.06.2017 amended from time to time.
- 3.3 M/s. Sudhakar Infra is collecting royalty from the quarry lease holders i.e. M/s. Pranathi Metals & M/s. Pavithra Metals by charging GST at the rate of 18% under forward charge. M/s. Pranathi Metals and M/s. Pavithra Metals, actually perform mining operations and extract boulders. These boulders will be sold to the applicant. While issuing tax invoices for the sale of boulders, Metals and M/s. Pavithra Metals are charging GST at the rate of 18% on royalty charges under HSN 997335 and GST at the rate of 5% under HSN 251710 on boulders value. A sample invoice is attached to this application. The applicant will supply the aggregates manufactured from boulders purchased to the customers.
- 3.4 The applicant also follows the same procedure and issues tax invoices for royalty charges at the rate of 18% under HSN 997335 and for aggregate value at the rate of 5% under HSN 25 1710. A sample invoice is attached for your reference. The customers of the applicant are not willing to pay tax at the rate of 18% on royalty charges and asking us to charge 5% tax on entire consideration.

4. Questions raised before the authority:

The applicant seeks advance ruling on the following:

1. What is the classification of goods and services for the consideration charged from our customers for supplying aggregates and recovering royalty charges?
2. What is the rate of GST on the above supplies as per Notification No.01/2017-CGST(R) and Notification No. 11/2017-CGST (R) ?

On Verification of basic information of the applicant, it is observed that the applicant is under Central jurisdiction i.e, Aseelmetta Range, Visakhapatnam North Division. Accordingly, the application has been forwarded to the jurisdictional

officer and a copy marked to the State Tax authorities to offer their remarks as per Sec. 98(1) of CGST /APGST Act 2017.

5. Applicant's Interpretation of Law:

- 5.1 The applicant Levy of Royalty on minerals is a universal concept based premise that mineral resources are "wasting assets". Royalty form of tax for using minerals and ultimately burden is on the consumer. From the leaseholder of the quarry to the final consumer, the royalty is passed on to all the parties in the supply chain till the final consumer at the rates notified by the government for different minerals.
- 5.2 The tax invoice we are charging consideration for the supply of aggregates only. The consideration charged against royalty is mere reimbursement of royalty charges paid to the government since the royalty should be passed on to the final consumer. As you know there will be a track for the transportation of minerals from the leaseholder to the final consumer in the form of endorsed transit forms. A sample transit form is attached for your reference.\)
- 5.3 If we supply the aggregate without an endorsement of a transit form to any customer, the same would be illegal as the endorsed transit form is proof of payment of royalty on such mineral. Hence, we can say that endorsing transit form is a replica for passing on royalty to the persons consuming the minerals.
- 5.4 The supply of aggregate along with recovery of royalty charges cannot be treated as composite supply or mixed supply going by the definitions of the same as given in Section 2 of the CGST act. "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or supplies or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;"Mixed" supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.'
- 5.5 The underlying supply can't be treated as a mixed supply as we are not charging, a single consideration for two supplies are consideration for each supply is determined separately on reasonable basis. On the other hand, it can't be treated even as a composite since the two supplies are predominant. When two supplies are predominant, the supplies should be classified separately and taxed accordingly. The said view is pronounced by Advance Ruling Authority, Madhya Pradesh in the case of MADHYA PRADESH POWER

GENERATING COMPANY LIMITED. The order copy is attached to the application'

5.6 As per the customers' demand, if we issue tax invoices for the supply of aggregates along with recovery of royalty charges at the rate of 5 % under single HSN 2517 , we may end up receiving a demand notice in the future under the allegation of short payment of tax on royalty charges.

6. Personal Hearing:

The proceedings of Personal Hearing were conducted on 01.12.2023, for which the authorized representative, P. Ramesh, CA, attended and reiterated the submissions already made.

7. Discussion and Findings:

We have examined the issues raised in the application in light of the facts and arguments submitted by the applicant. We have considered the submissions made by the applicant in their application for Advance Ruling. We have considered the issues involved from which advance ruling is sought by the applicant and the relevant facts along with arguments made by the applicant and also their submissions made during the time of the personal hearing.

The applicant submitted that they are engaged in the business of manufacturing aggregates (Stone crusher unit) from the boulders purchased from the quarries having mining permit. The said products are classifiable under tariff heading 2517 and are leviable to GST on their supply at the rate of 5%. Further stated that issues tax invoices for royalty charges at the rate of 18% under HSN 997335 and for aggregate value at the rate of 5% under HSN 25 1710.

The issue at hand is to determine the classification of goods and services for the consideration charged from their customers for supplying aggregates and recovering royalty charges and the rate of GST on the above supplies as per Notification No.01/2017-CGST(R) and Notification No. 11/2017-CGST (R).

On careful examination of the submissions made by the applicant ,it is observed that the applicant is collecting tax on the royalty charges collected and the goods supplied separately in the tax invoices. The submissions of the applicant is considered that the supply of the aggregate and recovery of royalty charges do not fall under the purview of mixed supply or composite supply but are two different and separate.

Further the applicant is invited to the Circular No. 164 /20 /2021-GST, dated 06.10.2021 ; In the above circular it was clarified in the para 9. Issued by CBIC:

Services by way of grant of mineral exploration and mining rights

9.2.2 It may be noted that the expression "same rate of tax as applicable on supply of like goods involving transfer of title in goods" applies in case of leasing or renting of

goods. In case of grant of mining rights, there is no leasing or renting of goods. Hence, the said entry does not extend to grant of mining rights which is an entirely different activity.

9.3.1 As regards classification of service, it was recommended by the Council that service by way of grant of mineral exploration and mining rights most appropriately fall under service code 997337, i.e. "licensing services for the right to use minerals including its exploration and evaluation" and were taxable @ 9% CGST and 9% SGST.

Therefore it is concluded that the royalty charges collected by the applicant would fall under SAC 997337 and would attract 9% CGST and 9% SGST. The supply of aggregates manufactured from the boulders would fall under HSN code 251710 and attract CGST @2.5% and SGST @2.5%.

RULING

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

1. Question: What is the classification of goods and services for the consideration charged from our customers for supplying aggregates and recovering royalty charges?

Answer : The royalty charges collected by the applicant would fall under SAC 997337. The supply of aggregates manufactured from the boulders would fall under HSN code 251710

2. Question: What is the rate of GST on the above supplies as per Notification No.01/2017-CGST(R) and Notification No. 11/2017-CGST (R) ?

Answer : The royalty charges collected by the applicant would fall under SAC 997337 and would attract 9% CGST and 9% SGST. The supply of aggregates manufactured from the boulders would fall under HSN code 251710 and attract CGST @2.5% and SGST @2.5% as per the notification 11/2017 and notification 1/2017, dated 28.06.2017 respectively.

Sd/-K.Ravi Sankar
Member

Sd/- B. Lakshmi Narayana
Member

//t.c.f.b.o//


Deputy Commissioner (ST)
Registrar
Authority for Advance Ruling
O/o. Chief Commissioner (State Tax)
Andhra Pradesh, Vijayawada.

To M/s R.V Minerals, D.No 10-1-21 A, F-2 4th floor, Vinayagar Krishna, Opposite GVMC Asilmetta, Visakhapatnam, Andhra Pradesh- 530003 **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Siripuram Circle, Visakhapatnam-f Division **(By Registered Post)**
2. The Superintendent, Central Tax, Aseelmetta Range, Visakhapatnam North Division. **(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Kunchanapalli, Guntur District, (A.P)
2. The Principal Chief Commissioner (Central Tax), O/o Principal Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. A.P. **(By Registered Post)**

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.