M/s P.K. Mahapatra, Assistant General Manager (Finance), NMDC Limited, ADMN Building, Hilltop Road, Near CSD, 1st Floor, Bacheli Complex, Dantewada (South Bastar), Chhattisgarh (GSTIN 22AAACN7325A1Z5). Appellant before the Appellate Authority.

Appellate Authority for Advance Ruling — Chhattisgarh

No.STC/AAAR/01/2019, Raipur, dated 04/06/2019 (Proceedings of the Ap… Dated **04.06.2019**

Q Questions Before the Authority

- What is the Appellant's liability to pay tax on contributions made to District Mineral Foundation (DMF) and National Mineral Exploration Trust (NMET) as per the Mines and Minerals (Development and Regulation) Act, 1957?

F Facts

NMDC Limited, a central public sector iron ore producer, operates the Bailadila Iron Ore Mine (Bacheli Complex) in Chhattisgarh. Under Sections 9, 9B and 9C of the MMDR Act, 1957 it pays royalty at 15 per cent and must contribute 30 per cent of that royalty to the DMF and 2 per cent to the NMET. The first AAR ruling, on classifying mining royalty under heading 9973, was not appealed. The appeal concerns only the second question, on GST liability on the DMF and NMET contributions, which the AAR held was payable under reverse charge.

H Ruling

Liability to pay GST on contributions to DMF and NMET under MMDR Act, 1957	**Appeal dismissed; AAR ruling upheld: contributions are liable to GST under reverse charge**	The order states no rate or HSN. The conclusion rests on the trusts being local authorities, so reverse charge applies under Notification 13/2017-Central Tax (Rate), Sl. No. 5.

The Appellate Authority found no merit in the appeal and upheld the AAR ruling. The AAR had held that **the contributions made to the DMF and NMET are liable to GST under the reverse charge mechanism** . The order treats the contributions as a taxable supply made in the course of business for a consideration, and finds that the trusts are local authorities.

R Reasoning

The Authority held that the mandatory contributions are made in the course of business, since mining is an activity for a pecuniary benefit and is undertaken to further NMDC's trade. It treated the contributions as a supply under Section 7(1)(a) read with Schedule II, paragraph 5(e), which covers agreeing to refrain from an act or tolerate a situation, and as consideration in the form of the monetary value of forbearance under Section 2(31)(b). It then

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found that the DMF and NMET are 'other authorities' under Section 2(69)(c), since they are statutory bodies under government control and administer a local fund. Services supplied by a local authority to a business entity fall under reverse charge, so the recipient pays the tax.

P Provisions Relied On

- Chhattisgarh GST Act, 2017 (CGST/CGGST Act), Section 100(1) (appeal) and Section 101 (order of the Appellate Authority)
- Section 7(1)(a) and 7(1A), CGST Act, 2017
- Schedule II, paragraph 5(e), CGST Act, 2017
- Section 2(17) (business), Section 2(31) (consideration), Section 2(69)(c) (local authority), Section 2(98) (reverse charge), Sec…
- Section 2(16), Explanation, IGST Act (governmental authority), as cited by the appellant
- Notification No. 13/2017-Central Tax (Rate), dated 28.06.2017, Sl. No. 5
- Mines and Minerals (Development and Regulation) Act, 1957, Sections 9, 9B, 9C, 13 and 15
- Chhattisgarh District Mineral Foundation Trust Rules, 2015, including Rules 2, 3, 6, 19 and 22
- National Mineral Exploration Trust Rules, 2015, including Rules 3 and 6
- Madhya Pradesh Treasury Code Vol. I, Subsidiary Rule 600 (local fund definition), as applied by the Authority
- Rajasthan State Electricity Board v. Mohan Lal (1967 AIR 1857) (other authorities)
- Cricket Club of India v. Commissioner of Service Tax (2015) 40 STR 973 (CESTAT Mumbai) and Marmgao Port Trust v. Com…

! For the Practitioner

Mining lessees and PSUs that pay mandatory DMF and NMET contributions in Chhattisgarh now have an appellate-level ruling that these payments attract reverse charge GST. The reasoning turns on the trusts being local authorities under Section 2(69)(c) and on the forbearance theory. The order does not decide the taxable value, the rate, or whether the trusts or other states' funds are treated the same way. Advance rulings bind only the applicant, so other taxpayers should check the full order and any later challenge before relying on it.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> cg_aaar_01_2019-20_04.06.2019_nmdc.pdf

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