M/s Aravali Polyart Pvt. Ltd.

Authority for Advance Ruling — Rajasthan

ADVANCE RULING NO. RAJ/AAR/2018-19/34, Date of Ruling 15.02.2019 Dated **15.02.2019**

Q Questions Before the Authority

- What is the classification of the service provided by the State of Rajasthan to M/s Aravali Polyart Pvt. Ltd. for which royalty is being paid, in accordance with Notification No. 11/2017-CT (Rate) dated 28.06.2017 read with its annexure? Can it be classified under 9973, specifically 997337, as licensing services for the right to use minerals including exploration and evaluation, or as some other service?
- What is the GST rate applicable on the services provided by the State of Rajasthan to M/s Aravali Polyart Pvt. Ltd. for which royalty is being paid?

F Facts

The applicant mines soapstone and dolomite in Udaipur district, Rajasthan, under a mining lease obtained through a transfer agreement dated 07.04.2007, later extended to 14.06.2028 by a document dated 08.06.2017. Under the Rajasthan Minor Mineral Concession Rules, 2017, the applicant pays dead rent or royalty, whichever is higher, to the State. The State's Excess Royalty Collection Contractor collects this amount, and royalty receipts are issued in Form 24.

H Ruling

Classification of royalty or dead rent paid for the right to use minerals under the mining lease	**Heading 9973 (leasing or rental services, with or without operator), Serial No. 257, sub-heading 997337 (licensing services for the right to use minerals including exploration and evaluation)**	The jurisdictional officer's comments refer to Serial No. 258 under 997338 (other natural resources), while the findings adopt Serial 257 under 997337. The ruling answers in favour of 997337. Reverse charge applies under Notification 13/2017-CT (Rate) because the applicant receives the service from the State.
GST rate applicable on the royalty or dead rent service	**18% (9% CGST + 9% SGST)**	The findings place the service under item (viii) of Serial No. 17 of Notification 11/2017-CT (Rate), the residual entry for leasing or rental services, which carries 9% CGST and 9% SGST. The jurisdictional officer's comments also cite Notification 27/2018-CT (Rate) dated 31.12.2018. The applicant's argument for a 5% rate on the minerals was not accepted.

The authority held that the activity is classifiable under Heading 9973 (leasing or rental services, with or without operator), as licensing services for the right to use minerals under sub-heading 997337 of the annexure to Notification 11/2017-CT (Rate). The applicant is liable to pay GST under reverse charge under Notification

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

13/2017-CT (Rate). The activity attracts GST at **18% (9% CGST + 9% SGST)** .

R Reasoning

The authority accepted that the dead rent or royalty paid under the Rajasthan Minor Mineral Concession Rules, 2017 is consideration for a licensing service granting the right to use minerals, which falls under Heading 9973 and sub-heading 997337 of the annexure to Notification 11/2017-CT (Rate). Because this service is not covered by items (i) to (vii) of Serial No. 17, it falls under the residual item (viii), which carries 9% CGST and 9% SGST. Since the State supplies the service and the applicant is the recipient, the reverse charge under Notification 13/2017-CT (Rate) applies. The applicant's argument that the rate should follow the 5% rate for the minerals themselves under Tariff Heading 2518 was not adopted.

P Provisions Relied On

- Section 97(2)(a), (b) and (e) of the CGST/SGST Act, 2017 (scope of advance ruling)
- Section 100 of the CGST/RGST Act, 2017 (appeal to the Appellate Authority for Advance Ruling)
- Notification No. 11/2017-CT (Rate) dated 28.06.2017, Serial No. 17 items (viii) and the annexure (Serial No. 257, Heading 99…
- Notification No. 13/2017-CT (Rate) dated 28.06.2017 (reverse charge)
- Notification No. 27/2018 dated 31.12.2018 (amendment cited in the jurisdictional officer's comments)
- Rajasthan Minor Mineral Concession Rules, 2017, Chapter VII and Rule 44 (Form 24 royalty receipts)
- Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (cited by the applicant)
- Tariff Heading 2518 (soapstone and dolomite, cited by the applicant and findings for goods at 5%)

! For the Practitioner

A Rajasthan mining lessee paying dead rent or royalty to the State can rely on this ruling for the classification under 997337 and the 18% rate, with reverse charge on the payment. It settles the applicant's question only for the applicant. It does not decide whether the royalty forms part of the value of minerals supplied, and it does not address the applicant's argument on items (iii), (iv) and (viiia) of Serial No. 17, which the order does not expressly discuss. The Serial No. 257 versus 258 discrepancy in the order should be checked against the notification 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 -> raj.34.2018-19_aravali_ployart_pl.pdf

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