M/s. JSW Steel Ltd.

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 66/2019, Dated: 21st September, 2019 Dated **21.09.2019**

Q Questions Before the Authority

- Whether the Applicant is liable to discharge GST under reverse charge for the contribution made towards NMET and DMF, in light of Sl. No. 5 of Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017.

F Facts

JSW Steel Ltd, a manufacturer of iron and steel products, holds a 50-year mining lease over 33.21 hectares of Government land at Toranagallu, Ballari District, obtained through auction. Besides royalty at fifteen percent of the average selling price of iron ore, which it already pays GST on, the Applicant pays ten percent of that royalty to the District Mineral Foundation (DMF) and two percent to the National Mineral Exploration Trust (NMET) under the MMDR Act, 1957. The Applicant contended that these payments are statutory contributions for mining-affected areas and exploration, with no service received in return, and so should not attract reverse charge.

H Ruling

Whether the Applicant is liable to pay GST under reverse charge on the contributions made towards NMET and DMF, in light of Sl. No. 5 of Notification No. 13/2017-CT(Rate) dated 28.06.2017	**Yes. The Applicant is liable to pay GST under reverse charge on the payments towards NMET and DMF.**	The ruling rests on the Government being the supplier of a land lease (Schedule II, entry 2(a)), with the DMF and NMET payments included in the value of supply under s.15(2)(a). The Applicant's argument that these were non-service statutory payments with no consideration was rejected.

The Authority ruled that the Applicant is **liable to pay GST under reverse charge** on the payments made towards NMET and DMF, in light of Sl. No. 5 of Notification No. 13/2017-Central Tax (Rate). The Government is the supplier of a lease of land for mining and the Applicant is the recipient, and the DMF and NMET contributions form part of the value of that supply.

R Reasoning

The Authority treated the grant of mining rights over Government land as a supply of service, relying on s.7(1) of the CGST/KGST Act and Schedule II, entry 2(a), which covers any lease or licence to occupy land. It held that s.15(2)(a) includes in the value of supply any charges levied under any law, so the DMF and NMET payments, being mandated by ss.9B(5), 9B(6) and 9C(4) of the MMDR Act and calculated as percentages of royalty, are part of the taxable value. Because the Government supplies the service to a business entity, s.9(3) read with Sl. No. 5 of Notification 13/2017-CT(Rate) places the tax on the recipient under reverse charge. The Authority did not accept the Applicant's argument that there was no consideration or nexus under s.7, the Indian Contract Act definition, Bhayana Builders, or the Australian GSTR 2001/4, and it did not rely on the Applicant's alternative

claim under Sl. No. 6 of Notification 12/2017.

P Provisions Relied On

- CGST/KGST Act, 2017 s.2(52) (goods)
- CGST/KGST Act, 2017 s.2(98) (reverse charge)
- CGST/KGST Act, 2017 s.2(102) (services)
- CGST/KGST Act, 2017 s.7(1)(a), (b), (c) and s.7(1A) (scope of supply)
- CGST/KGST Act, 2017 Schedule II, entry 2(a) (lease, licence to occupy land is supply of service)
- CGST/KGST Act, 2017 s.9(3) (reverse charge notifications)
- CGST/KGST Act, 2017 s.15(2)(a) (value of supply includes charges levied under any law)
- Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017, Sl. No. 5
- Notification No. 12/2017-Central Tax (Rate), Sl. No. 6 (cited by Applicant, not relied on by Authority)
- Mines and Minerals (Development and Regulation) Act, 1957 s.9, s.9B(5), s.9B(6), s.9C(4)
- Indian Contract Act, 1872 s.2(d) (cited by Applicant)
- Finance Act, 1994 s.67, as applied in Bhayana Builders (P) Ltd v. CST (2018-TIOL-66-SC-CT) (cited by Applicant)
- CBIC FAQ on Governmental Services, Q.30 (cited by Applicant)

! For the Practitioner

This ruling helps practitioners in mining and other sectors where statutory contributions are levied as a percentage of royalty on Government-leased land, since it places reverse-charge liability on lessees for such payments. It settles the point at the advance-ruling level that the consideration and nexus arguments did not prevent inclusion in the value of supply. It does not decide whether the same payments would attract the Sl. No. 6 exemption under any other fact pattern, and as a ruling binding only on the Applicant it has no precedential force for other lessees.

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 -> kar_aar_66_2019_jswsl_21.09.19.pdf

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