Shri Ajay Kumar Dabral, Village-Rampur, Selaqui, Dehradun-Uttarakhand

Authority for Advance Ruling — Uttarakhand

Ruling No. 08/2019-20, dated 06th January 2020 (printed as 'The 06th da… Dated **06.01.2020**

Q Questions Before the Authority

- What is the classification of the service provided by Garhwal Mandal Vikas Nigam (GMVN) to Shri Ajay Kumar Dabral under Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017?
- Whether the said service falls under Service Code (Tariff) 9973, specifically 997337 as licensing services for the right to use minerals including its exploration and evaluation, or under any other service within that chapter?
- What is the rate of GST for the period 01.07.2017 to 31.12.2018 on services provided by GMVN to Shri Ajay Kumar Dabral for which royalty is being paid?

F Facts

GMVN holds allotted areas in revenue rivers of the Garhwal region under the Uttarakhand Chugan Niti, 2016, to extract accessory minerals (sand, gravel, boulders) and pays prescribed royalty to the State. GMVN then allotted the extraction work in specified areas to the applicant under two MOUs dated 06.11.2017 and 15.11.2017, which permit manual extraction and transport by registered vehicles, with monthly instalments payable by the applicant and validity up to 30.06.2018. The applicant pays GMVN a consideration, and GMVN passes the royalty to the Mineral Department from those instalments.

H Ruling

Classification of GMVN's service to the applicant under Notification 11/2017-CT(Rate)	**Covered under serial no. 257 of the Annexure: licensing services for the right to use minerals including its exploration and evaluation**	The order's paragraph C.3 places the service in residual entry (viii) of serial 17 of the rate notification. The order does not reconcile this with serial 257 of the Annexure.
Service code under which the service falls (9973 / 997337 or other)	**Service code 997337**	Chapter heading 9973 is the broader heading; the specific code is 997337.
GST rate for 01.07.2017 to 31.12.2018 on GMVN's services for which royalty is paid	**5%, the same rate as central tax on supply of like goods involving transfer of title in goods**	Applies to the period 01.07.2017 to 31.12.2018 only. Entry 17(viii) was amended by Notification 27/2018-CT(Rate) with effect from 01.01.2019, and the order records the rate for later supplies as 18%.

The authority held that GMVN's service is covered by serial no. 257 of the Annexure to Notification 11/2017-CT(Rate), as licensing services for the right to use minerals including its exploration and evaluation, classified under **service code 997337** . For 01.07.2017 to 31.12.2018 the service attracts GST at the same rate

as central tax on like goods involving transfer of title, which is **5%** , because the sand, gravel and boulders involved attract 5%.

R Reasoning

The authority read the MOUs and the Uttarakhand Chugan Niti, 2016 to find that the State allotted the areas to GMVN, that GMVN paid royalty to the State, and that GMVN then charged the applicant for the work. It matched that service to serial 257 of the Annexure to Notification 11/2017-CT(Rate), which carries service code 997337. Because the service did not fall within serial 17(i) to (vii), the authority treated it as residual entry 17(viii), which applied the rate of like goods involving transfer of title. The goods (sand under Chapter 2505, gravel under 2517 and stone boulder under 25169020) attract 5%, so the service attracted 5% for the period.

P Provisions Relied On

- Section 97(1) and 97(2)(a) and (e), CGST/SGST Act, 2017 (admissibility and scope of advance ruling)
- Section 100(1), CGST/SGST Act, 2017 (appeal within 30 days before the Appellate Authority for Advance Ruling)
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, serial 17 (heading 9973) and serial 17(viii) (residual entry), an…
- Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018, amending serial 17 with effect from 01.01.2019
- Sections 9(1), 11(1), 15(5) and 16(1), CGST Act, 2017 (enabling powers cited in the notification)
- Uttarakhand Chugan Niti, 2016 (allotment of mineral areas and royalty payment), as referred to in the order
- Tariff headings 2505, 2517 and 25169020 (sand, gravel, stone boulder), used to fix the 5% rate

! For the Practitioner

A practitioner dealing with sand, gravel or boulder extraction arrangements with a State body that pays royalty may rely on this ruling for the classification of the sub-licensing service as 997337 and for the 5% rate for supplies from 01.07.2017 to 31.12.2018. It does not bind other taxpayers and does not decide the rate for supplies from 01.01.2019, which the order records as 18%. Read the full order before relying on the rate, because paragraph C.3 (residual entry 17(viii)) and paragraph 8(A) (serial 257) describe the classification in different ways.

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 -> uk_aar_08_2019-20_06.01.2020.pdf

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