M/s Kayden Investments Pvt. Ltd.

Authority for Advance Ruling — Haryana

Advance Ruling No. HAR/HAAR/R/2018-19/53 (In Application No. 53/2018… Dated **23.04.2019**

Q Questions Before the Authority

- Since the applicant is liable to pay GST on mining rights (in lieu of which royalty is paid) under reverse charge, at what GST rate should it discharge that liability: 5% (the rate for extracted raw material) or 18% (residual category)?

F Facts

The applicant holds a state mining contract for minor minerals (stone and associated minerals) at Mankawas, Bhiwani, over about 20.34 hectares. It pays royalty or dead rent, whichever is higher, monthly to the Haryana Government, and treats that payment as a mining right on which it pays GST under reverse charge. It supplies the extracted raw material at 5% GST, so the input credit on the reverse-charge tax cannot be used.

H Ruling

The Authority did not decide the rate question. It rejected the application under **Section 98(2)** because the applicant did not appear for personal hearings on 12.04.2019 and 22.04.2019. It also held that, because the ruling must be pronounced within 90 days under Section 98(6), no further hearing could be granted.

R Reasoning

The Authority first noted that notices to appear were issued for 12.04.2019 and, after a fresh notice, for 22.04.2019, and that the applicant failed to attend on both dates. It then recorded that the Authority must pronounce its ruling within 90 days of receipt of the application under Section 98(6). Relying on that deadline, it held that no further opportunity of hearing could be given. The application was therefore rejected under Section 98(2) without any examination of the merits of the 5% versus 18% question.

P Provisions Relied On

Section 98(2) of the CGST/HGST Act, 2017 (rejection of application)

Section 98(6) of the CGST/HGST Act, 2017 (90-day period for pronouncing ruling)

! For the Practitioner

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

This order is useful mainly as a procedural warning: an applicant who does not attend personal hearings risks outright rejection under Section 98(2), leaving the substantive question unanswered. It does not decide whether mining rights or dead rent attract 5% or 18% GST, or whether reverse-charge liability applies to them. A practitioner seeking a ruling on that point should look for a different authority decision or a fresh application.

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 -> har_aar_53_2018-19_23.04.2019_kipl.pdf

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