M/s Sainik Mining and Allied Services Ltd., Village Pichopa Kalan, Pichopa Kalan, Bhiwani

Authority for Advance Ruling — Haryana

ADVANCE RULING NO. HAR/HAAR/R/2018-19/42, dated 01.03.2019 (In A… Dated **01.03.2019**

Q Questions Before the Authority

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

F Facts

The applicant holds a mining lease from the Haryana Government to extract stone and associated minor minerals (boulders) at Pichopa Kalan, Bhiwani. Under the lease it pays an annual dead rent (the bid amount of Rs. 26 crore, as escalated) or royalty, whichever is higher, plus a 10% rural development fund contribution. The applicant argued that the boulders fall under tariff heading 2517 at 5%, and that the royalty or dead rent is a payment for the right to use minerals, which should attract the same 5% rate as the goods.

H Ruling

Classification of the State's licence or lease service for which royalty or dead rent is paid	**Licensing services for the right to use minerals (Sr. No. 257, group 99733), under heading 9973. Royalty or dead rent is consideration for transfer of the right to use minerals.**	The order does not treat the service as leasing or renting of goods under Sr. No. 17(viia). The question was answered by reference to the Sr. No. 257 annexure entry.
Rate of GST on the services provided by the State of Haryana for which royalty is paid	**18% (9% CGST + 9% SGST)**	Rate applies under the residual entry Sr. No. 17(viii) as amended by Notification 27/2018-CT (Rate) dated 31.12.2018, effective 01.01.2019. The order does not expressly address the position before 01.01.2019.

The authority held that the licensing services for the right to use minerals, listed at Sr. No. 257 of the annexure to Notification 11/2017-CT (Rate), fall under heading 9973 (group 99733). It further held that the royalty or dead rent is consideration for the transfer of the right to use minerals, and that the service is covered by the residual entry at Sr. No. 17(viii), not Sr. No. 17(viia). The applicable GST rate, as amended by Notification 27/2018-CT (Rate) from 01.01.2019, is **18% (9% CGST + 9% SGST)** .

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

R Reasoning

The authority read Section 9(1) of the CGST Act, which charges tax on intra-State supplies of goods or services, together with the definition of services in Section 2(102). It relied on Sr. No. 257 of the annexure to Notification 11/2017-CT (Rate), which places licensing services for the right to use minerals under 997337 within group 99733. It found that the description at Sr. No. 17(i) to (vii) does not cover such a right to use minerals, and that the newly inserted Sr. No. 17(viia) covers leasing or renting of goods, not licensing of mineral rights. The service therefore falls to the residual entry at Sr. No. 17(viii), and the applicant's argument for the 5% goods rate was not accepted.

P Provisions Relied On

- Section 9(1) of the CGST Act 2017
- Section 2(102) of the CGST Act 2017 (definition of services)
- Section 98 of the CGST/HGST Act 2017 (advance ruling)
- Notification No. 11/2017-CT (Rate) dated 28.06.2017, including its annexure at Sr. No. 257 (997337) and Sr. No. 17 entries (ii…
- Notification No. 27/2018-CT (Rate) dated 31.12.2018 (insertion of Sr. No. 17(viia) and amendment of Sr. No. 17(viii), effective…

! For the Practitioner

This ruling is useful for mining lessees in Haryana who pay royalty or dead rent to the State, as it settles that such payments are a **licensing service for the right to use minerals** under 997337, taxed at **18% (9% CGST + 9% SGST)** from 01.01.2019. It rejects the argument that the 5% goods rate applies to the lease payment. It does not decide the rate for periods before 01.01.2019, and it is specific to this applicant's lease and facts. Practitioners should check the order's reasoning on the lease terms before relying on it for other mineral leases.

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_42_2018-19_01.03.2019_smasl.pdf

Prepared 30-10-2026.

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