

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**

**GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai - 400010.**

**(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)**

**BEFORE THE BENCH OF**

**(1) Shri. D. P. Gojamgunde, Joint Commissioner of State Tax, (Member)**

**(2) Ms. Himani Dhamija, Joint Commissioner of Central Tax, (Member)**

ARN No.	AD270820004063M	
GSTIN Number, if any/ User-id	27AIJPB1427H1ZL	
Legal Name of Applicant	M/s. Ramandeep Upkarsingh Bindra (Black Rock Crusher)	
Registered Address/ Address provided while obtaining user id	HALADGAON, PANCHGAON ROAD, NAGPUR, MAHARASHTRA, 440103	
Details of application	GST-ARA, Application No. 06 Dated 19.08.2020	
Concerned officer	NAG-VAT-C-020, Nagpur Division	
<b>Nature of activity(s) (proposed/present) in respect of which advance ruling sought</b>		
A	<b>Category</b>	<b>Service Recipient</b>
B	Description (in brief) (As per applicant)	The applicant entered into lease agreement for obtaining mining lease from the State Government of exploration of minerals like Black rock, stones and other minerals against consideration in the form of royalty/ dead rent to the State Government.
Issue/s on which advance ruling required		• Classification of any goods or services or both
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below

**PROCEEDINGS**

**(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)**

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act" respectively] by M/s. Ramandeep Upkarsingh Bindra, the applicant, seeking an advance ruling in respect of the following questions.

1. Whether the services of leasing of mines of which royalty is charged by government merits classification under the heading No. 9973 specifically under sub heading no 997337 (licensing services for the right to use minerals including its exploration and evaluation)?
2. Whether the said service can be classified under SL No. 17(iii) of notification no 11/2017 central tax (rate) dated 28/06/2017 attracting rate of 5 percent (same rate of central Tax as on supply of like goods involving transfer of title goods)?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision



under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

## **1. FACTS AND CONTENTION - AS PER THE APPLICANT**

- 1.1 That the applicant- Mr. Ramandeep Upkarsingh Bindra is a registered person under the Goods and Services Tax, Act 2017 having registration number- 27AIJPB1427H1ZL and is engaged in the business activity of Mining and Quarrying.
- 1.2 That the applicant is engaged in the business of extracting minerals, crushing and then selling.
- 1.3 That the applicant entered into lease transfer agreement for obtaining mining lease from the State government for exploration of minerals like Black rock, stones and other minerals against consideration in the form of royalty/dead rent to the state government. However, the applicant has via sale deed (Reg No. UMD/1414/2015) executed on 29th April 2015 obtained title to the land under mining operation.
- 1.4 The mining lease is governed by Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013. In accordance with rule 46 of above rules for the lease rights awarded to applicant they are required to pay royalty or dead rent as specified therein. The royalty payable is Rs 100 per Metric ton as per lease order dated 02/05/2018.
- 1.5 That as per section 7 of the CGST supply includes all forms of supply of goods or services of lease or rental made or agreed to be made for a consideration by a person in the course or furtherance of business. Hence the above activity of leasing services provided by the State Government to a business entity amounts to Supply as per Sec. 7.
- 1.6 That the above supply comes under the purview of Entry No (5) of the Notification No 13/2017 - Central Tax (Rate) dated 28.06.2017 which states that the services supplied by the Central Government/ State Government to a business entity will come under the Reverse Charge Mechanism.
- 1.7 That the as per notification no. 1/2017-CT (Rate), dated 28.06.2017 under the CGST Act, 2017 and the corresponding State Tax notification under MGST Act, 2017, Schedule - the stone boulders extracted by the applicant is covered under HSN 2516 attracting 5% GST i.e. 2.5 % CGST+ 2.5% MGST (At Sr. No. 124 of the notification).



## 2. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW

2.1 That the applicant is of the view that the royalty paid to Central Government/State Government is consideration against leasing services for the right to use minerals and such leasing service calls for classification under serial number (iii) of entry no 17 of Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017. (The extract of the same is provided below):

Sr. No.	Chapter, Section or Heading	Description of Services	Rate (percent)	Condition
(1)	(2)	(3)	(4)	(5)
17	Heading 9973 (Leasing or rental services, with or without operator)	(iii) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.	Same rate of Central tax as applicable as on supply of like goods involving transfer of title in goods.	

That the applicant's interpretation is based upon following:

2.2 Leasing of a mine is a service of transfer of right to use any goods for any purpose for cash, deferred payment or other valuable consideration.

2.2.1 Owing to the need of regulation and development of rich mineral resource of the country, leasing services in relation to mines is provided only by central or state government of India. According to MMDR act 1957, mining lease is granted for the purpose of undertaking mining operations to win any mineral. And according to sub section (o) section 2 of Maharashtra minor mineral extraction (development and regulation) Rules 2013 (o) "Royalty" means the charge payable to the Government in respect of the ore or mineral excavated, removed or utilised from any land. Hence in case of leasing of mines the nature of service is 1) transfer of right to conduct mining operations as well as 2) transfer of right to use the won mineral. Both the rights are transferred for a single consideration linked with the quantity of mineral so extracted termed as royalty.

2.2.2 Under the Schedule II point 5(f) of CGST Act, 2017 transfer of right to use goods is a supply of service. As per Section 13 subsection (3) the time of supply of services for which tax is to be paid by the service recipient is earlier of the following:

*"(a) The date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or*



(b) *The date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:*

(c) *the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient."*

**Provided** that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply:

**Provided** further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

Hence the time of supply for the leasing services in applicant's case is the date of payment of royalty as entered in books of accounts as there is absence of any invoice.

2.2.3 To constitute a transaction for the transfer of right to use the goods, Supreme Court of India in judgment of BSNL vs Union of India (2006) 145 STC 91 (SC) have stated following attributes a) There must be goods available for delivery; b) There must be consensus ad idem as to the identity of goods; c) The transferee should have a legal right to use the goods-consequently all legal consequences of such use including any permission or licenses required therefor should be available to the transferee; d) For the period during which the transferee has such legal right, it has to be for the exclusion to the transferor this is the necessary concomitant of the plain language of the statute - viz. a "transfer of the right to use" and not merely a licence to use the goods; e) Having transferred the right to use goods during the period for which it is to be transferred, the owner cannot again transfer the same rights to others. Applying similar principles to the applicant's case, here the applicant has a) goods/mineral obtained by mining operations. At the time of supply of service to applicant the goods are available for delivery to the applicant b) There exists consensus by virtue of the lease agreement entered between the lessor/state and the lessee/applicant. c) As per clause (1) part (2) of the applicants Lease Agreement, the lessee (i.e. applicant) has right to enter and explore mine, to extract the minerals and make any use including transfer. d) The State/transferor has exclusively transferred all rights that vests with it to the applicant/transferee, e) No person other than the lease holder in



accordance with the Maharashtra Minerals rules has right to enter the land and obtain minerals.

2.2.4 Hence it is amply clear that description of service in column (3) of serial no 17 (iii) transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration is the most appropriate head for classifying leasing service of mines provided by state government in our applicant's case.

2.3 Royalty being variable return and varies with the quantity of minerals so extracted hence the rate specified in column 4 of classification is Same rate of central tax as applicable as on supply of like goods involving transfer of title in goods. The statute has categorically taken care of mentioning same rate as on supply of like goods and have purposefully not mentioned any other rate because that would have been added to the cost structure in case of leasing of mine.

2.3.1 Rule (2) of Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013, defined 'royalty' as the charge payable to the Government in respect of the ore or mineral excavated, removed or utilised from any land. Royalty is a consideration charged against such transfer of right to enjoy/use goods underlying in such property.

2.3.2 In another, case of the India Cement Ltd., etc. v. State of Tamil Nadu, etc. AIR 1990 SC 85, the Hon'ble Supreme Court has held that Royalty is payable on a proportion of the minerals extracted and it has relationship to mining as also to the mineral won from the mine under a contract by which Royalty is payable on the quantity of the mineral extracted. In case of, Hingir Rampur Coal Co. Ltd. v. State of Orissa (1961 (2) SCR 537), Justice Wanchoo stated that right to receive royalty is a mineral right.

2.3.3 Following concept of Royalty has been explained by the Indian Bureau of Mines, Nagpur:

A lessee is a person who is granted mineral concessions. The lessee is required to pay a certain amount in respect of the mineral extracted in proportion to the quantity extracted. Such payment is called royalty. Royalty is calculated on the quantity of minerals extracted or removed. The owner of the land is called lessor. The lessor has a right to receive a royalty based on the production of minerals. The lessor i.e. State Governments are collecting royalty irrespective of whether mineral is marketed or not marketed. When a mineral has been mined



it acquires a definite market value depending on grade, market conditions and so on.

2.3.4 The Royalty which is being paid by the applicant to the state government is in respect of minerals extracted for consumption or for outward supply. Thus, it is specifically linked with the right to use of goods being provided to the appellant by the state government.

2.3.5 On the basis of the aforesaid definition of royalty it is evident royalty is being paid on the basis of use of minerals made by the lessee of mine. Hence same is nothing else but consideration for right to use minerals and also right to exploit them. Hence the rate of indirect tax must also be same as with the rate of tax as on supply of like goods involving transfer of title thereof.

2.4 Intention behind amendment of rate of residual entry does not have nexus with the leasing service of mines or mining operations as minerals are underlying goods in such leasing services. Under the GST Act, minerals are classified as goods. As per subsection (52) of section (2), "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply. Minerals being movable property are classified as goods. Thus, the applicant's services are in relation to the use of goods being minerals.

2.5 Interpretation as to why the leasing service of mines cannot be classified in entry no 17(viii) that is residual entry.

2.5.1 Serial no 17 for item (viii) in column no (3) reads as leasing or rental services without operator other than (i)(ii)(iii)(iv) (v) (vii)(viii) and the tax rate in column no (4) mentioned is 9%. In Agenda 3 of the 37th GST Council Meeting, Sr No. 20 of Table Recommendations made by the Fitment Committee for making changes in GST rates or for issuance of clarification in relations to services- it is mentioned that the classification in GST is based on similar lines of the United Nation Central Product Classification (UNCPC) which contains product classification of goods and services both. This classification is promulgated by the United Nations Statistical Commission.

2.5.2 It is customary here to mention that the mining laws in India significantly differ from the mining laws in other United Nations. In Canadian Law who is among the 23 members of United Nations Statistical Commission the consideration payable for acquisition of mineral rights is termed as Mineral Tax. Whereas in India, propositions



regarding the character and legal nature of royalty stands referred to larger bench of supreme court of India by an order of reference dated 30th march 2011 of a three-bench judge in Mineral Area development authority and ors v/s Steel authority of India and Ors (2011)4 SCC 450. Hence the residual entry in such cannot be directly called for classification for leasing services of mines owing to the fact that leasing services of mines in India and consideration in the form of royalty so charged is itself a classified form of leasing service.

2.5.3 The general rules for interpretation used in Customs Tariff Act, 1975, the Section Notes, Chapter Notes and the General Explanatory Notes are mutatis mutandis applicable to classification under the GST law (for identifying applicable rate under the Rate Notification) and as per the said General Rules for interpretation, "when an article is by all standards classifiable item in the tariff schedule it would be against the very principle of classification to deny it the percentage and assign it as a residuary item".

2.5.4 Rule 3 of General Rules of Interpretation of Custom Tariff stipulates that the Heading that provides the more specific description shall be preferred over an entry with generic description. In case of Jyoti Industries v. CCE (2000) 115 ELT 559 (CEGAT), it was held that Kitchen sink is more appropriately covered under "sanitaryware" (i.e. CTH 7324 [Sanitary ware and parts thereof]) which is a specific description than "household articles of iron and steel" (i.e. CTH 7323 [Household articles of iron and steel]) which is a general description. Reliance for which is also placed to the judgment of Bharat Forge & Press Industries (P) Ltd. v. CCE (1990) 45 E.L.T. 525 (S.C.) where it was held that - it must be proved by the Department that the goods cannot be brought under a specific tariff item by any conceivable process of reasoning, and only then resort can be had to classifying the goods under a residuary entry. Also, in the case of Dunlop India Ltd v VOI (1983) 13 ELT 1566 (SC), it was held that Vinyl Pyridine latex is classifiable as 'raw rubber' under Item 39 of the Indian Tariff Act, 1934 and not under Item No. 87 as residuary Item or under Item 82(3) as artificial or synthetic resins. In Dr. Lal Path Lab Pvt Ltd v CCE, Ludhiana (2006) 4 STR 527 CESTAT, New Delhi it was held that item covered by specific entry in tax code cannot be taken out and taxed under other entry. Further In Shree Baidyanath Ayurved Bhavan Ltd. (supra) the Hon'ble Supreme Court while interpreting the Rule 3 (a) of the aforesaid Rules held as under: 56. There is no doubt that a specific entry must prevail over a general



entry. This is reflected from Rule 3(a) of the general Rules of interpretation that states that heading which provides the most specific description shall be preferred to headings providing a more general description. Reliance on the judgment given by the Hon'ble Supreme Court of India in the case of "Commissioner of Central Excise, Delhi-IV v. SandanVikas (1) Ltd.", where the Hon'ble Apex Court held that specific entry will prevail over the general entry is also placed.

2.5.5 Hence such classification in residual head when there prevails a specific head of classification will not be appropriate & legal.

### **3. CONTENTION - AS PER THE JURISDICTIONAL OFFICER**

3.1 That as per submission of the applicant the royalty paid to Central Government/State Government is consideration against leasing services for the right to use minerals and such leasing service calls for classification under serial number (iii) of entry no 17 of Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017. Jurisdiction authority does hereby submit that it is not the time to give the emphasis on the notification dated 28.6.2017 where there is the fresh notification underlined in the Circular No. 164 /20 /2021-GST dated 16<sup>th</sup> October 2021 issued by Government of India Ministry of Finance Department of Revenue (Tax Research Unit) Said circular is self-explanatory and exhaustive and highlighting on all aspects of Mining Industry and relevant royalties.

3.2 In the captioned circular the issue of mining and exploration is mentioned at Serial no. 7.

The issue on royalty on mineral exploration incorporated in the said circular which speaks as under: -

*"Representations have been received requesting for clarification as to the rate of GST applicable on supply of services by way of granting mineral exploration and mining rights during the period from 1.07.2017 to 31.12.2018. With effect from 1.1.2019, the rate schedule has been specifically amended and it is undisputed since then that such service attracts GST at the rate of 18%".*

3.3 For the disputed period [ 1.7.2017 to 31.12.2018], divergent rulings have been issued by Authorities for Advance Ruling (AAR) and Appellate Authorities for Advance Ruling (AAAR) of various States on the GST rate applicable on the same. AAR, Haryana in case of M/s Pioneer Partners and AAR, Chhattisgarh in case of M/s NMDC have ruled that the service of grant of mining leases is classifiable under Service Code 997337 (*licensing services for the right to use minerals including its exploration and evaluation*) and attracted, prior to 01.01.2019, the same rate of GST as applicable to minerals, that is,



5% as prescribed against Sl. No. 17, item (viii) of Notification No. 11/2017-Central Tax (Rate). The rate prescribed against this entry prior to 01.01.2019 was "the same rate as applicable on supply of like goods involving transfer of title in goods". In certain other advance rulings, a view has been taken that grant of rights for mineral exploration and mining would be covered under heading 9991 and would attract GST at the rate of 18%.

3.4 AAAR, Odisha, on the other hand has ruled vide Order dated 5.11.2019 in the case of M/s Penguin Trading and Agencies Limited that grant of mining lease was taxable @ 18% prior to 01.01.2019. The Appellate Authority in this case observed that GST rate applicable against Sl. No. 17 item (viii) of Notification No. 11/2017-Central Tax (Rate) prior to 01.01.2019 was not implementable. Unlike leasing or renting of goods, there are no underlying goods in case of leasing of mining area. The rate prescribed for goods cannot be made applicable to leasing of mining area, which confers the right to extract and appropriate minerals. The mining lease by Government, not being a lease of any goods, cannot attract the rate applicable to sale of like goods. Appellate Authority for Advance Ruling, Odisha has further held that the amendment carried out vide Notification No. 27/2018-Central Tax (Rate), dated 31.12.2018, which restricted the "same rate as applicable to supply of goods involving transfer of title in goods" only to leasing or renting of goods was to clarify the legislative intent as well as to resolve the unintended interpretation. It is a settled law that interpretation which defeats the intention of legislature cannot be adopted. It accordingly upheld that "licensing services for the right to use minerals including its exploration and evaluation" falling under service code 997337 were taxable @ 18% during 01.07.2017 to 31.12.2018.

3.5 It may be noted that the expression "same rate of tax as applicable on supply of like goods involving transfer of title in goods" applies in case of leasing or renting of goods. In case of grant of mining rights, there is no leasing or renting of goods. Hence, the said entry does not extend to grant of mining rights which is an entirely different activity.

3.6 The issue was placed before the GST Council in its 45<sup>th</sup> meeting held on 17.9.2021. As regards classification of service, it was recommended by the Council that service by way of grant of mineral exploration and mining rights most appropriately fall under service code 997337, i.e. "licensing services for the right to use minerals including its exploration and evaluation".

3.7 As regards the applicable rate for the period from 1.7.2017 to 31.12.2018, the council took note of the following facts, namely, -

- (i) GST Council in its 4<sup>th</sup> meeting held on 3<sup>rd</sup> & 4<sup>th</sup> November 2016 had decided that supply of services shall be generally taxed at the rate of 18%.



- (ii) More importantly, the GST Council in its 14th meeting held on 18<sup>th</sup> & 19<sup>th</sup> May 2019, while recommending the rate schedules of services (5%, 12%, 18% and 28%), specifically recommended that all the residuary services would attract GST at the rate of 18%.
- (iii) The rate applicable on the service of grant of mineral exploration license and mining lease under Service Tax was also the standard rate of 15.5%. Services under this category have been standard rated in GST at 18% **Circular No. 164/20/2021-GST** Therefore, the intention has always been to tax this activity / supply at standard rate of 18%.

3.8 Accordingly, as recommended by the Council, it is clarified that even if the rate schedule did not specifically mention the service by way of grant of mining rights, during the period 1.7.2017 to 31.12.2018, it was taxable at 18% in view of principle laid down in the 14<sup>th</sup> meeting of the Council for residuary GST rate. Post, 1st January 2019 no dispute remains as stated above.

Since all aspects of mining activities and corresponding GST liability is elaborately clarified in the above para of the circular there is NO need of unnecessary stretching of mind.

3.9 Answering authority implementing and executing GST laws further submits that there were litigations pending before High Court regarding tax element on mining and exploring activities and the corresponding royalties. Hon'ble High Court in the case of M/S MATRI STONE CRUSHER & ORS. VERSUS UNION OF INDIA & ORS. - 2024 (11) TMI 375 - HIMACHAL PRADESH HIGH COURT AND INDIA CEMENT LIMITED VERSUS STATE OF TAMIL NADU - 1989 (10) TMI 53 - SUPREME COURT earlier decision though hold that the ROYALTY is itself the Tax and hence there shall be no repetition of another Tax element. However, the said scenario is now changed as there is specific judgment of Hon'ble Apex Court *in MINERAL AREA DEVELOPMENT AUTHORITY & ANR. VERSUS M/S STEEL AUTHORITY OF INDIA & ANR ETC.* - 2024 (7) TMI 1390 - SUPREME COURT (LB), wherein it has been held that royalty is not a tax. Therefore, the respondents are well within their rights to levy GST on the royalty paid by the mineral concession holder for any mining concession granted by the State.

3.10 From a legal perspective, the High Court's reliance on the Supreme Court's recent ruling marks a crucial shift in the judicial interpretation of royalty payments. The previous India Cement judgment had granted royalty an exemption from GST, arguing that it was a tax. However, with the Supreme Court's ruling in Mineral Area Development Authority mentioned above this



position has been overturned, categorizing royalty as a consideration for the grant of mining rights rather than a tax.

3.11 Now the answering GST authority vehemently submits that the picture of taxation structure under GST regime is crystal clear and there is no need to interpret any wordings and provisions. All the tax rates are as per guideline framed by the GST council, Ministry of Finance of the Union of India with support of judgment of Hon'ble Apex Court, the Jurisdiction authority is of the opinion that there is no need to interfere or twisting the issue and no any product will come out of it and hence affirm the tax rate as scheduled in the present GST Law Structure.

#### **4. HEARING**

Preliminary e-hearing in the matter was held on 16.06.2021. The Authorized representative of the applicant, Ms. Veena Agrawal C.A., Mr. Ramandeep Bindra, Proprietor was present. The Jurisdictional officer Mr. Prashant Pojge, State Tax Officer of SGST was present. The Authorized Representatives made oral submission with respect to admission of their application.

The application was admitted and called for final hearing on 03.09.2025. Mr. Kunal Budhraja, C.A., authorized representative appeared made oral and written submissions. The Jurisdictional Officer Mr. Rajesh Sankhye, Deputy Commissioner of SGST was appeared. We heard both the sides.

#### **5. OBSERVATIONS AND FINDINGS:**

5.1 We observe that the applicant, Mr. Ramandeep Upkarsingh Bindra is a registered taxpayer under the Maharashtra Goods and Services Tax, Act 2017 having registration number-27AIJPB1427H1ZL and is engaged in the business activity of Mining and Quarrying.

5.2 The applicant has entered into lease transfer agreement for obtaining mining lease from the State government for exploration of minerals like Black rock, stones and other minerals against consideration in the form of royalty/dead rent to the state government. However, the applicant has via sale deed (Reg No. UMD/1414/2015) executed on 29th April 2015 obtained title to the land under mining operation.

5.3 The mining lease is governed by Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013. In accordance with rule 46 of above rules, for the lease rights awarded to applicant, they are required to pay royalty or dead rent as specified therein. The royalty payable is Rs 100 per Metric ton as per lease order dated 02/05/2018.



5.4 The applicant is of the view that the royalty paid to Central Government/State Government is consideration against leasing services for the right to use minerals and such leasing service calls for classification under serial number (iii) of entry no 17 of Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017. The extract of the same is as below:

Sr. No.	Chapter, Section or Heading	Description of Services	Rate (percent)	Condition
1	2	3	4	5
17	Heading 9973 (Leasing or rental services, with or without operator)	(iii) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.	Same rate of Central tax as applicable as on supply of like goods involving transfer of title in goods.	

5.5 The applicant submits that as per the notification no. 1/2017-CT (Rate), dated 28.06.2017 Schedule I - the stone boulders extracted by the applicant are covered under HSN 2516 attracting 5% GST i.e. 2.5 % CGST+ 2.5% MGST (At Sr. No. 124 of the notification). Thus, the applicant submits that the rate of tax on the royalty payments would be 5% by virtue of entry no. 17 (iii) considered with 5 % GST rate on the goods mined.



5.6 We observe that, what has been provided by the Government to the applicant is the right to excavate the minerals from the leased property. This right is different from the right to use any goods for any purpose covered under the aforesaid entry.

5.7 Regarding the nature of supply, the royalty payment is clearly towards the licensing services for exploration & excavation of natural resources. The consideration is payable in the form of royalty.

5.8 Coming to the issue as to whether the license to extract mineral ore and also the right to use such minerals extracted is a leasing or rental service, it is clear that what is supplied by the Government is the right to extract and use mineral ores and that is not covered by any specific sub-entries under the serial no. 17 of the

Notification and hence falls under the residual entry 17(viii), as the entry 17 covers services with SAC 9973.

5.9 Thus, the service of leasing of mines by the Government, where royalty is charged, cannot be classified under Sr. No. 17(iii) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 to attract same rate as on supply of like goods. This entry applies only to the transfer of the right to use tangible goods such as vehicles or machinery, where the goods are pre-existing and specific. In the case of mining leases, the service involves granting the right to explore, extract, and use minerals, which are not pre-existing goods but natural resources yet to be mined. There is no transfer of specific goods or title in goods at the time of lease. Instead, the Government grants a licensing right, which falls under SAC 997337 - "Licensing services for the right to use minerals including exploration and evaluation" - and is taxable at 18% under Reverse Charge Mechanism (RCM), as per Notification No. 13/2017-Central Tax (Rate)

5.10 Regarding the classification of service received by the applicant the following points are noted:

(a) The Annexure to **Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017**, which prescribes the Service Accounting Code for each type of services, details the following services which are relevant to the transaction of the applicant.

They are:

**Heading 9973 Leasing or rental services with or without operator**

Group 99731	Leasing or rental services concerning machinery and equipment with or without operator
Group 99732	Leasing or rental services concerning other goods
Group 99733	Licensing services for the right to use intellectual property and similar products

(b) The service received by the applicant is not covered under Group 99731 or Group 99732. We therefore look at the services covered under Group 99733 or else by any other group.

(c) The Group 99733 consists of the following Headings: -

Service (Tariff)	Code	Service Description
997331		Licensing services for the right to use computer software and databases



997332	Licensing services for the right to broadcast and show original films, sound recordings, radio and television programme and the like
997333	Licensing services for the right to reproduce original art works
997334	Licensing services for the right to reprint and copy manuscripts, books, journals and periodicals
997335	Licensing services for the right to use research and development products
997336	Licensing services for the right to use trademarks and franchises
997337	Licensing services for the right to use minerals including its exploration and evaluation
997338	Licensing services for right to use other natural resources including telecommunication spectrum
997339	Licensing services for the right to use other intellectual property products and other resources nowhere else classified

(d) On a cursory glance, it is seen the nature of service received by the applicant is covered under the Service Accounting Code 997337 -Licensing services for the right to use minerals including its exploration and evaluation. The Government has been providing the service of licensing services for the right to use minerals after its exploration and evaluation to the applicant and applicant has to pay a consideration to the Government for the same.

5.11 Therefore, the payment of royalty is for license given to extract minerals and the amount of royalty paid is based on the quantum of mineral extracted. Hence it is covered under Service Accounting Code 997337 -Licensing services for the right to use minerals including its exploration and evaluation, as it is a license to extract mineral ore and also the right to use such minerals extracted.

5.12 Services provided by the Government are covered by the Notification No. 13/2017 CT(R) which is in respect of services wherein tax is to be paid by the recipient of services. The said entry is provided as below.

Sl. No.	Category of Supply of Services	Supplier of Service	Recipient of Service
5	Services supplied by the Central Government, State Government, Union Territory or Local Authority to a business entity, excluding -  (1) renting of immovable property, and (2) services specified below -	Central Government, State Government, Union Territory or local authority	Any business entity located in the taxable territory



<p>(i) services by Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union Territory or local authority;</p> <p>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) transportation of goods or passengers</p>		
--	--	--

The transaction of leasing services with respect to excavation of minerals is between the State Government and the applicant and the services are supplied by the State government to the applicant which is a business entity. The applicant being the recipient of such service is liable to pay tax on the said supply under reverse charge mechanism as per Notification No.13/2017 - Central Tax (Rate) dated 28.06.2017.

5.13 The sectoral FAQ published by the CBEC, categorically state that Royalty payment made towards Licensing services for exploration of natural resources is treated as supply of services. The extract of the same is as under:

*"The Government provides license to various companies including Public Sector Undertakings for exploration of natural resources like oil, hydrocarbons, iron ore, manganese, etc. For having assigned the rights to use the natural resources, the licensee companies are required to pay consideration in the form of annual license fee, lease charges, royalty, etc. to the Government. The activity of assignment of rights to use natural resources is treated as supply of services and the licensee is required to pay tax on the amount of consideration paid in the form of royalty or any other form under reverse charge mechanism."*

5.14 In the case of M/s Pioneer Partners, the Uttarakhand Authority for Advance Ruling (AAR), in its order dated 06.08.2018, provided a decisive clarification on the applicability of Goods and Services Tax (GST) on royalty payments made to the Government for mining leases. The applicant had obtained a mining lease from the Government of Uttarakhand for extraction of minor minerals such as boulders and gravel and paid royalty as consideration for the right granted.

The key issues addressed in the ruling included:

1. Whether GST is applicable on royalty paid to the State Government;
2. Whether such tax must be paid under the **Reverse Charge Mechanism (RCM)**;
3. The correct **Service Accounting Code (SAC)** and applicable **GST rate**.

The AAR ruled that royalty paid to the Government is subject to GST, as it constitutes a consideration for a taxable supply of service under Section 7 of the CGST Act, 2017. It clarified that royalty is not a statutory tax, but rather a



contractual payment made to obtain a right to extract natural resources. Therefore, it falls within the ambit of GST as a supply of service. The AAR further held that this service is taxable under RCM, as per Entry No. 5 of Notification No. 13/2017 - Central Tax (Rate). According to this entry, when the Government provides services to a business entity by way of renting or licensing immovable property, the recipient is liable to pay tax under RCM. The mining lease granted by the Government was held to be akin to licensing of immovable property, hence taxable under RCM, with the liability falling on the recipient, i.e., M/s Pioneer Partners.

5.15 In the landmark judgment of *Mineral Area Development Authority vs. Steel Authority of India Ltd.* (2024), the Supreme Court held that royalty paid to the Government for mining rights is not a tax but a compensatory payment or consideration for parting with the right to extract minerals, governed by the Mines and Minerals (Development and Regulation) Act, 1957. This distinction is significant under the GST regime, where "supply" includes licensing and leasing services made for consideration. Accordingly, royalty paid for mining rights qualifies as consideration for a licensing service and aligns with SAC 997337 - "Licensing services for the right to use minerals including its exploration and evaluation." This classification confirms that such services constitute a taxable supply under GST and are liable to 18% GST under the **Reverse Charge Mechanism (RCM)** as per **Notification No. 13/2017-Central Tax (Rate)**, supporting the legal treatment of mining leases as services.

5.16 In view of the above discussion, it can be concluded that the leasing of mines by the Government, where royalty is charged, is treated as a supply of service under GST and is taxable at the rate of 18% under SAC 997337, which covers licensing services for the right to use minerals including exploration and evaluation. As per Notification No. 13/2017 - Central Tax (Rate), this service falls under Reverse Charge Mechanism (RCM), wherein the recipient (typically a business entity or mining company) is liable to pay the GST directly to the government instead of the supplier.

**6. In view of the extensive deliberations as held hereinabove, we pass an order as follows:**



**ORDER**

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

For reasons as discussed in the body of the order, the questions are answered thus -

NO.GST-ARA- 06/2020-21/B-626

Mumbai, dt. 28.11.2025

Q.1. Whether the services of leasing of mines of which royalty is charged by government merits classification under the heading No. 9973 specifically under sub heading no 997337 (licensing services for the right to use minerals including its exploration and evaluation)?

Ans: The royalty paid in respect of Mining Lease is a part of the consideration payable for the Licensing services for right to use minerals including exploration and evaluation falling under the Head 9973 which is taxable at 9% CGST and 9% SGST under the entry at Serial No.17(viii) of the **Notification No.11/2017- Central Tax dated 28.06.2017**. Since the supply of services by the Government to a business entity located in the taxable territory, are covered under Serial No.5 of **Notification No.13/2017- Central Tax dated 28.06.2017**, the liability to pay tax is on the recipient of such services under reverse charge mechanism as the licensing services are provided by the State Government to a business entity, i.e., the applicant.

Q.2 Whether the said service can be classified under SL No. 17(iii) of notification no 11/2017 central tax (rate) dated 28/06/2017 attracting rate of 5 percent (same rate of central Tax as on supply of like goods involving transfer of title goods)?

Ans: Answered in the negative.



  
D. P. GOJANGUNDE  
(MEMBER)

  
HIMANI DHAMIYA  
(MEMBER)

PLACE - Mumbai

Copy to: -

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr.Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint commissioner of State Tax, Mahavikas for Website.

**Note:** -An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India Building, Nariman Point, Mumbai - 400021. Online facility is available on [gst.gov.in](http://gst.gov.in) for online appeal application against order passed by Advance Ruling Authority.