

## **GST Update on applicable rate of GST on royalty paid to obtain license for mining services**

The present update seeks to discuss the findings of the Appellate Authority for Advance Ruling Rajasthan in the case of **Aravali Polyart (P) Ltd. [2019 (28) G.S.T.L. 485 (App. A.A.R.-GST)]**. The applicant is engaged in the business of mining of soapstone and dolomite on the land taken on lease for which it is required to pay royalty to the State government. AAR held that the activity undertaken is liable to taxed under RCM covered under leasing or rental services classifiable under SAC 997337, Sr. no. 17(viii) of 11/2017-CTR, @18% GST. Aggrieved by the decision of the Authority for Advance Ruling, applicant preferred appeal to AAAR.

The AAAR held that the licensing services received by the applicant from the government shall be covered under the revised entry no. 17 (viii) of the notification no. 11/2017-CTR with the service description ‘Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) ’ attracting GST @18% and has rejected the contention of the applicant for considering the said service in relation to leasing of goods falling under serial no. 17(iii), (iv), and (viii) of the notification no. 11/2017-CTR attracting GST rate of 5%. The AAAR held that recommendations of the 31<sup>st</sup> GST council meeting wherein new sub-clause (viii) was inserted did not indicate that the intention was to levy GST rate of 5% on the services received by the applicant.

Furthermore, the reliance placed by the applicant on the Ruling in case of M/s NMDC wherein it was held that the applicable rate would be 5% as applicable for the supply of goods was rejected on the grounds that the said ruling was passed without appreciating the consequences of amendments made vide Notification 27/2018 dt.31.12.2018. It was also held that the advance ruling is binding only on the applicant and the jurisdictional officer and is not to be considered as binding precedent.

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Therefore, it was held that the applicable rate of GST on the royalty paid under mining lease agreement with the government attracted GST rate of 18% under reverse charge mechanism.

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