

# Goods and Services Tax



**AAR-Uttarakhand- State forest development corporation allowing Reta, Bajri, Boulders extraction from river beds in forest area liable to pay 5 per cent GST during period 1-7-2017 to 31-12-2018 while 18 per cent from 1-1-2019 onward.**

## Facts

- 1.) The applicant (M/s. Uttarkhand Forest Development Corporation) is a Government body constituted under Act of State Assembly of Uttarakhand state.
- 2.) The applicant is sole Agency for removal and sale of forest produce from the entire forest area in Uttarakhand.
- 3.) The applicant has various forest related activities; one of the activity is allow to extract minor minerals (Reta, Bazri, Boulders) from river bed in the forest area of Uttarkhand and makes sale of it to the buyer in the open market.
- 4.) The applicant pays royalty for extraction of minor minerals on the rates fixed by Government of Uttarkahand to state Government of Uttarakhand.
- 5.) The applicant is depositing GST under RCM on royalty by 18% and collecting 5% on sale price from buyers.

## Issue before the AAR

- 1.) What will be applicable rate for GST on royalty payable to Government of Uttarakhand under RCM in respect of Reta, Bazri & Boulders extracted as per the permission of Government authorities.

## Discussion and Findings of the AAR

- 1.) In the **notification no. 11/2017-Central Tax (Rate) 28th June, 2017**, The Central Government hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (2) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (1), shall be levied at the rate as specified in the corresponding entry in column (3), subject to the conditions as specified in the corresponding entry in column (4) of the said Table:-

Chapter, Section or Heading	Description of Service	Rates (percentage)	Condition
(1)	(2)	(3)	(4)
Heading 9973 (Leasing or rental services, with or without operator)	(I) Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of goods other than Information Technology software.	6	-
-	(ii) Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of Information Technology software. [Please refer to Explanation no. (v)]	9	-
-	(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 on supply of like goods involving transfer of title in goods	-
-	(iv) Any transfer of right in goods or of undivided share in goods without the transfer of title thereof.	Same rate of central tax as on supply of like goods involving transfer of title in goods	-
-	(v) Leasing of aircrafts by an operator for operating scheduled air transport service or scheduled air cargo service by way of transaction covered by clause (f) paragraph 5 of Schedule II of the Central Goods and Services Act, 2017. Explanation.-	2.5	Provided that credit of input tax charged on goods used in supplying the service has not been taken [Please refer to Explanation no. (iv)]

Chapter, Section or Heading	Description of Service	Rates (percentage)	Condition
(1)	(2)	(3)	(4)
	<p>(a) "operator" means a person, organisation 2.5 Provided that credit of input tax charged on goods used in supplying the service has not been taken [Please refer to Explanation no. 9 or enterprise engaged in or offering to engage in aircraft operations;</p> <p>(b) "scheduled air transport service" means an air transport service undertaken between the same two or more places operated according to a published time table or with flights so regular or frequent that they constitute a recognisable systematic series, each flight being open to use by members of the public;</p> <p>© "scheduled air cargo service" means air transportation of cargo or mail on a scheduled basis according to a published time table or with flights so regular or frequent that they constitute a recognisably systematic series, not open to use by passengers.</p>		
-	vi) Leasing of motor vehicles purchased and leased prior to 1st July, 2017.	65 per cent of the rate of central tax as applicable on supply of like goods involving transfer of title in goods. Note:- Nothing contained in this entry shall apply on or after 1st July, 2020.	-

Chapter, Section or Heading	Description of Service	Rates (percentage)	Condition
(1)	(2)	(3)	(4)
	(vii) Time charter of vessels for transport of goods	2.5	Provided that credit of input tax charged on goods (other than on ships, vessels including bulk carriers and tankers) has not taken.
-	(viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv) and (v) above.	Same rate of central tax as applicable on supply of like goods involving transfer of title in goods	-

2.) The serial no. 17 of the said notification was amended vide Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018 (applicable w.e.f 01.01.2019) by introducing following entries:

Chapter, Section or Heading	Description of Service	Rates (percentage)	Condition
(1)	(2)	(3)	(4)
Heading 9973 (Leasing or rental services, with or without operator)	(viii) Leasing or renting of goods	Same rate of central tax as applicable on supply of like goods involving transfer of title in goods	-
-	viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) above.	9	-

1.) In the instant case goods involved are sand, gravel & boulders and thus their classifications and applicable rate of GST are given below:

S.No.	Description of goods	Chapter Tariff Act	Rate of GST
1.	Sand	2505	5%
2.	Gravel	2517	5%
3.	Stone Boulder	25169020	5%

Since the transfer of title in goods attract GST @5%, therefore the supply of services in question also attract GST @5% during the period 01.07.2017 to 31.12.2018 and w.e.f 01.01.2019 the said service attract GST @ 18%.

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