



HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
HARYANA VANIJYA BHAWAN, PLOT NO 1-3, SECTOR 5,
PANCHKULA-134151 (HARYANA)



ADVANCE RULING NO.HAR/HAAR/R/2018-19/53
(In Application No.: 53/2018-19, dated 30.01.2019)

Name & Address of the Applicant	:	M/s Kayden Investments Pvt. Ltd., Plot No. 1, Khasra No.-176 and 177, Village Mankawas, Bhiwani, Haryana.
GSTIN of the Applicant	:	06AAFCK6917J1ZA
Date of Application	:	30.01.2019
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	:	Nil
Date of Personal Hearing	:	22.04.2019
Present for the Applicant	:	Nil

Memo No.: 1033/APR
Dated: 28/8/2020

1. Statement of relevant facts having a bearing on the question raised:

- 1.1 The applicant company M/s Kayden Investments Pvt. Ltd. is engaged in mining of mineral (Stones along with associated minor minerals). It extracts minerals as per the mining contract awarded by the State Government of Haryana.
- 1.2 The company is awarded with one mining contract from the State Government in respect of minor mineral mines of "Stone along with associated minor minerals" of "Mankawas Plot No. 1" having tentative area of 20.34 hectares in Village Mankawas, District Bhiwani falling in Khasra No. 176 and 177.
- 1.3 The company pays Royalty or Dead rent, whichever is higher, to the Government of Haryana against securing the mineral extraction rights on monthly basis.
- 1.4 Royalty is calculated based upon the quantum of aggregate stone extracted and Dead Rent is the fixed rent (based upon the area on which extraction is permitted) payable by the company irrespective of the quantum of minerals extracted.



- 1.5 The aforesaid Royalty or Dead rent paid by the company against the Mineral mining rights granted by the Haryana Government is subjected to Goods and Service Tax (GST) as per the provisions of GST.
- 1.6 However, the company being the recipient of service (applicant) is liable to pay GST on the Mineral Mining Rights awarded by the Haryana Government on Reverse Charge Mechanism (RCM) basis pursuant to Notification No. 3/2018-Cental Tax (Rate).
- 1.7 Royalty or Renting of Immovable property is subjected to GST at the rate of 18% in common circumstances as the residual category of services.
- 1.8 The company is liable to pay GST at the rate of 5% on the supply of the extracted Raw Material out of the mining activity.
- 1.9 Entire Input credit is allowed for the GST paid under RCM basis but the same could not be utilized, as the GST on supply of extracted raw materials is chargeable at the rate of 5% only.
- 1.10 The Mineral Mining rights is basically an extension of the rights for supply of extracted raw materials and is a primary input and necessity for being eligible to extract and supply the extracted raw materials.
- 1.11 The foremost primary and major input cost for the applicant is the Mineral Mining Rights in lieu of Dead Rent is paid by the applicant, which comprises 60-70% of total cost to the applicant.
- 1.12 As per the applicant the Mineral Mining Rights need to be classified under the same category as for the extracted raw material and subjected to GST at the rate of 5% only, instead of being classified under the Residual category.

2. Applicant's Question:

- 2.1 Since, the applicant is the person responsible to pay GST on the Mineral Mining Rights in lieu of which royalty is being paid, at what GST rate should it discharge its GST liability whether at the rate of 5% (Rate applicable on extracted raw material) or 18% (Residual category).



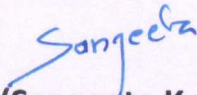
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3. **Discussion:**

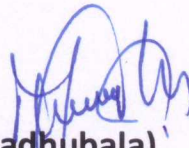
- 3.1 In order to decide the admissibility of the application, the applicant was called upon to appear before this Authority on 12.04.2019 vide memo no. 664 dated 09.04.2019, but none appeared on behalf of the applicant. Thereafter, notice of appearance was sent for 22.04.2019 vide memo no. 676 dated 16.04.2019. The applicant failed to appear on the 22.04.2019 said date also.
- 3.2 Since, the Authority for Advance Ruling is bound to pronounce ruling within 90 days of the receipt of application as per Section 98(6) of the CGST/HGST Act. The applicant cannot be granted any further opportunity of hearing. Hence, the application of Advance Ruling is rejected under Section 98(2) of the CGST/HGST Act.

Ordered accordingly.
To be communicated.

23.04.2019
Panchkula.


(Sangeeta Karmakar)
Member CGST




(Madhubala)
Member SGST

Regd. AD/Speed Post

**M/s Kayden Investments Pvt. Ltd.,
Plot No. 1, Khasra No.-176 and 177,
Village Mankawas, Bhiwani, Haryana.**

Copy to:

1. The Commissioner of Central Goods & Services Tax, 2nd Floor, Pacific City Centre, Opposite Shangrila Hotel, Near Jat Bhawan, Delhi Bypass, Rohtak, Haryana.
2. GST Division Hisar, Om Complex, 5th Floor, 5 km stone, New Model Town, Tosham Road, Hisar.
3. Deputy Excise and Taxation Commissioner (ST), Hisar.

o/c