

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. Rajiv Magoo, Additional Commissioner of Central Tax, (Member)

(2) Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)

| | |
|---|---|
| ARN No. | AD270320020213X |
| GSTIN Number, if any/ User-id | 27AACCL1616J1ZM |
| Legal Name of Applicant | M/s. Lloyds Register Consulting Energy Private Limited |
| Registered Address/Address provided while obtaining user id | 63 – 64, Kalpataru Square, 6th Floor, Kondivita Lane, Off Andheri – Kurla Road, Andheri (East), Mumbai -400059 |
| Details of application | GST-ARA, Application No. 04 Dated 31.07.2020 |
| Concerned officer | Division-VI, Commissionerate Thane |
| Nature of activity(s) (proposed/present) in respect of which advance ruling sought | |
| A | Category |
| B | Description (in brief)(As per applicant) |
| | Service Provision |
| | Applicant wishes to know whether the project management consultancy services provided by them in relation to oil and gas exploration are liable to GST at 12% from January 2018 |
| Issue/s on which advance ruling required | • Classification of any goods or services or both |
| Question/s on which advance ruling required | As reproduced in para 01 of the Proceedings below. |

NO. GST-ARA/04/2020-21/B- 37

Mumbai, dt. 31/03/2022

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. Lloyds Register Consulting Energy Private Limited**, the applicant, seeking an advance ruling in respect of the following questions.

Whether the project management consultancy services provided by the applicant to Vedanta Limited (Division: Cairn Oil & Gas) would be liable to GST at the rate of 12% from January 2018 under Sr. No. 21(ia), under Service Accounting Code (“SAC”) 9983 stating “Other professional, technical and business services”, of Notification No. 11/2017- C.T. (Rate) dated 28.06.2017, as inserted vide Notification No. 20/2019-C.T.(Rate), dated 30.09.2019 since the said amendment is clarification to the

amendment made vide Notification No. 1/2018 – C.T.(Rate) dated 25 January 2018 reducing GST rate for service of exploration, mining or drilling of petroleum crude or natural gas or both to 12%

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.

2. FACTS AND CONTENTION – AS PER THE APPLICANT:

- 2.1 Lloyds Register Consulting Energy Private Limited, the applicant, located at 63 – 64, 6th Floor, Kalpataru Square, Kondivita Lane, Off Andheri – Kurla Road, Andheri (East), Mumbai – 400059 is engaged in the business of providing Technical Consultancy Services in Marine, Nuclear and Oil & Gas sector.
- 2.2 Vedanta Limited (Division: Cairn Oil & Gas), (hereinafter referred as 'Cairn', 'Customer') was awarded exploration licenses for OLP blocks as part of the Government of India's Open Acreage Licensing Policy (OALP) in 2018. The blocks spread across India are a combination of both offshore and onshore with a combined acreage of over 50,000 sq. Kms.
- 2.3 Cairn identified partners ("**Execution Contractors**") to execute the project and the scope of execution would be across the entire spectrum including Seismic services (Acquisition, Processing & Interpretation), non-seismic services (FTG, MT etc.), well construction (drilling, completions, fracturing & testing), installation of early production facilities wherever applicable and preparation of field development plans (in fields with proven commerciality) and the broad scope of work involved in oil and gas operations by **Execution Contractor** is in three phases, i.e. **Exploration Phase, Appraisal Phase and Field Development Planning Phase.** With an objective to ensure timely Execution Contractor performance as well as assurance on technical designs of the partner, Cairn engaged the applicant, an experienced international Project Management Consultancy (PMC) company to plan, monitor & track project progress and validate Execution Contractor deliverables.
- 2.5 Accordingly, Lloyds is responsible for following two key areas:
- **Project Management** - This would entail integrated project management including onboarding of the contract partners, contract framing and management including planning, tracking & monitoring, cost validation, variance analysis, interface management, stakeholder management, governance, risk and compliance management.
 - **Technical Validation/Assurance** - Would constitute of resources from various functional areas such as drilling, petroleum engineering, HSE, Seismic QC and Surface engineering for site supervision, QA/QC management and for validating and providing technical assurance through a well-structured stage gate process on all the deliverables of the execution partners.
- 2.6 For the above, Multi-disciplinary team of Lloyds would be based both at Company's corporate office as well as the various site locations.
- 2.7 Lloyd's detailed Scope of Work:



2.7.1 The scope of work to be performed by Lloyds as per clause 4 'PMC Activities' of the contract entered with Cairn includes Project Management, Functional Assurance and Field support.

2.7.2 **Project Management** includes planning, Project Monitoring & Support & Cluster Management details of which are mentioned in the application. Planning function includes preparing detailed project plan, ensure that the same is implemented within agreed timelines, to undertake critical path analysis independently & recommend opportunity to crash schedules, leverage synergies & corrective actions / catch up plans, etc. Project Monitoring & Support includes monitoring & managing overall project progress i.e. applicant's team will monitor, track, report project progress and cost, ensure governance, report project exceptions, manage project risk, have periodic meeting with **Execution contractor**, etc., to assist Cairn. Cluster Management includes ensuring that the ground level activities for each cluster is executed on time as per plan and issues/risk are resolved with the key stakeholders, provide mitigation strategy & alternate plan in case of a delay, Managing the on-field team to ensure efficient resource utilization and interactions.

2.7.3 Functional Scope includes provision of personnel with necessary experience and qualifications to execute the scope of work and includes the following:-

Drilling services: which includes review and validation of the plan/programs submitted by the Execution Contractor and make recommendation to Cairn, Review and validate Basis of well design (BOWD), Re-entry and Sidetrack feasibility studies, Review Completion basis of design documents, Review and validation of individual well programs, drilling montages, directional plan, drilling fluid program, cementing program, abandonment program, well suspension program etc.

Petroleum Engineering Services: Ensure well completions suitability for Testing all the zones, Hydraulic fracturing, intervention for well testing, data acquisition and sampling, zonal isolation and well-suspension, Suggest/Review composition and characteristics of completion brine and perforation strategy to ensure connectivity with reservoir. To undertake Pre-job, during execution and post job activity for Hydraulic Fracturing. Review of methodology adopted by Execution contractor for well testing, etc. The detailed functional scope of the applicant is mentioned in the application.

2.7.4 Applicant is also required to provide Integrated Project director, Planning head, Project manager, Planner / scheduler, Deputy Project manager, Reservoir Engineer, and Cost Estimator.

B. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW

2.8 Notification No. 11/2017- CTR dated 28.06.2017 was issued for providing the applicable GST rate on supply of services. In order to provide a beneficial treatment to the oil and gas industry, a series of notifications were issued by the Government. Amongst them, vide Notification No. 20/2019 – CTR dated 30.09.2019, in entry No. 21 Clause (ia) was inserted which reads as below:

| Sr No | Chapter, Section or Heading | Description of service | Rate of tax (CGST) | Condition |
|-------|---|--|--------------------|-----------|
| (1) | (2) | (3) | (4) | (5) |
| 21 | Heading 9983 (Other professional, technical and busi | (i) | 2.5 | -- |
| | | (ia) Other professional, technical and business services relating to | 6 | -- |

| | | | | |
|--|----------------|---|---|----|
| | ness services) | exploration, mining or drilling of petroleum crude or natural gas or both | | |
| | | (ii) Other professional, technical and business services other than (i) and (ia) above and serial number 38 below | 9 | -- |

2.9 Notification No. 11/2017 provides for a table which lists down the essential details based on which the classification of a particular service has to be made. Column 2 provides a four digit heading along with the broad coverage in brackets; column 3 provides for the description of the exact service which needs to be classified; column 4 for the rate at which CGST is payable and column 5 provides the conditions subject to which the given rate of CGST in column 4 is applicable. In order to classify a particular service, the first thing which has to be determined is the 4-digits heading as provided in column 2. Once the said service falls in the 4-digits heading then, the corresponding description provided in column 3 has to be looked at. If the description matches with the service being provided, then the service gets classified under that particular entry, attracting the corresponding rate mentioned in column 4 as per the conditions as prescribed in column 5. Further, Code Wise List of Services annexed to Notification No. 11/2017 (supra) ("SAC List of Services") provides for 5- and 6-digits bifurcation of the heading mentioned in column 2 of the table provided in Notification No. 11/2017 (supra), which are covered by the said heading. All other guidance in the nature of Explanatory Notes to The scheme of classification of services, Circular No. 114/33/2019- GST dated 11.10.2019, etc. is only for the purpose of assistance to classify the services which would be covered by the given entries. In no way the Explanatory Notes or any circular issued by the Department can limit the scope and ambit of the entries provided in Notification No. 11/2017 (supra). Therefore, if a particular service is classifiable under a given entry / serial number in the table provided in Notification No. 11/2017 (supra) read with the annexure providing SAC List of Services, then either the Explanatory Notes or any Circular cannot get such services excluded from the said entry. This is further on account of the reason that the Notification No. 11/2017 (supra) along with the annexure (SAC List of Services) forms part of the statute i.e. CGST Act, while others namely the Explanatory Notes and the Circular as correctly stated in paragraph 3 of the preface to the Explanatory Notes is only to be used by the assessee and the tax administration as a guiding tool for classification of services, and hence cannot curtail the scope and ambit of the statute.

2.10 Relevant entries from SAC—List of Services pertaining to heading 9983 is extracted below:-

| Sl. No. | Chapter, Section, Heading or Group | Service Code (Tariff) | Service description |
|---------|------------------------------------|-----------------------|--|
| (1) | (2) | (3) | (4) |
| 297 | Group 99831 | | Management consulting and management services; information technology services |
| 298 | | 998311 | Management consulting & management services including financial, strategic, human resources, marketing, operations & supply chain management |

| | | | |
|-----|--|--------|---|
| 299 | | 998312 | Business consulting services including public relations services |
| 300 | | 998313 | Information technology consulting and support services |
| 301 | | 998314 | Information technology design and development services |
| 302 | | 998315 | Hosting and information technology infrastructure provisioning services |
| 303 | | 998316 | Information technology infrastructure and network management services |
| 304 | | 998319 | Other information technology services nowhere else classified |

B. Applicant's interpretation of Project Management Consultancy Services in relation to oil and natural gas exploration to Cairn:

2.12 In GST, oil & gas sector is outside the ambit. Thus, no credit is available of GST paid on inputs availed by such companies. With an intent to reduce the impact the GST on their procurements, Government has provided/ continued certain benefits even in GST regime. For example, on import, BCD exemption continues and concessional rate of Integrated Goods and Services Tax (IGST) at 5% is applicable on import of goods for oil and gas exploration operations.

2.13 Notification No. 03/2017 – CTR dated 28.06.2017, provides for concessional rate of GST at 5% (effective rate) for intra state **supply of goods** to projects relating to exploration of oil and natural gas. Notification No. 03/2017 – ITR dt 28.06.2017 provided the said concessional rate for inter-state supplies. Vide Notification No. 31/2017 – CTR dated 13.10.2017, effective rate of GST was reduced to 12% for composite supply of works contract and associated services in respect of offshore works contract relating to oil and gas exploration and production in the offshore area beyond 12 nautical miles from the nearest point of the appropriate base line. Further, with the same intention to reduce the cascading of taxes arising on account of non-inclusion of petroleum products in GST and to incentivise investments in the exploration and production, vide Notification No. 01/2018 – CTR & Notification No. 01/2018 – ITR dated 25.01.2018, effective rate of GST on supply of service of exploration, **mining or drilling of petroleum crude or natural gas or both** was reduced to 12%. Subsequently, the above entry was amended vide Notification No. 20/2019 -CTR, dt 30.09.2019 to read as **“Support service to exploration, mining or drilling of petroleum crude or natural gas or both”, however the effective rate of tax remained at 12%.**

2.14 Further, entry 21 (ia) (under SAC 9983) was introduced by the above Notification No. 20/2019 – CTR attracting 12% GST & the said entry reads as: “Other professional, technical and business services **relating to** exploration, mining or drilling of petroleum crude or natural gas or both”. It is under the aforesaid entry 21(ia) that the applicant seeks to classify its services being supplied to Cairn under the appended contract. on account of the reasons as detailed below.

A. The phrase ‘**relating to**’ used in the entry broadens the ambit and scope of the entry. Thus, entry no. 21(ia) needs to be harmoniously interpreted and any professional, technical and business service in relation to oil and gas exploration would get covered in the said entry. In



this regard, reference is placed on the decision of Hon'ble Supreme Court in the case of **Doypack Systems Pvt. Ltd. vs. UOI [1988 (036) ELT 0201 (SC)]**.

B. Further, the impugned services being undertaken by Lloyds should fall under Entry 21(ia) of the Notification No. 11/2017 (supra), because this Entry is a specific entry in comparison with the respective headings of such services (as referred to in para 4.2 of Circular No. 114 mentioned above). It is relevant to note that 'specific over general' is a well-known legal principle. Reliance is placed on the decision of the Hon'ble Supreme Court in the case of **Moorco (India) Ltd. v. Collector of Customs, Madras, 1994 (74) E.L.T. 5 (S.C.)**.

2.15 In the present case, the services provided by the Applicant to Cairn are being rendered in relation to mining, exploration or drilling activity, hence must be classified in reference to the entries inserted vis-à-vis exploration, drilling and mining. Further in line with the aforesaid judgment, services being rendered by Applicant to Cairn should be covered under Entry 21(ia) of Notification No.11/2017 (supra) which is a more specific entry more when the activities being rendered by the Applicant gets clearly covered under the explanatory notes provided for various sub-headings under SAC 9983.

2.16 The below table captures relevant excerpts from the explanatory notes in one column along with the corresponding scope of work from the contract which gets covered by such explanatory notes.

| Relevant portion of the Explanatory Notes | Relevant portion of the contract |
|--|--|
| <p>998311 Management consulting and management services including financial, strategic, human resources, marketing, operations and supply chain management</p> <p>This service code also includes providing advice, guidance and operational assistance concerning business policy and strategy and the overall planning, structuring and control of an organization. More specifically, general management consulting assignments may deal with one or a combination of the following:</p> <p>i. policy formulation;</p> <p>ii. Determination of the organizational structure (decision making system) that will most effectively meet the objectives of the organization;</p> <p>iii. Legal organization;</p> <p>iv. Strategic business plans;</p> <p>v. corporate development and restructuring consulting services, such as on mergers, acquisitions, joint ventures, strategic alliances, diversification, privatization;</p> <p>vi. Defining a management information system;</p> <p>vii. Development of management reports and controls; business turnaround plans;</p> <p>viii. Management audits; development of</p> | <p>4.1 .1 Planning</p> <p>Planning function shall be responsible for overall project planning at central and Cluster level. The project management team ("the team") will work closely with the EXECUTION CONTRACTOR and the COMPANY in preparing the detailed project plan and ensure that the same is implemented within the agreed timelines. In case of any delays, the team shall update and realign the project plan with the EXECUTION CONTRACTOR and the COMPANY. PMC's scope of work for planning includes but not limited to.</p> <p>4.1.3 Cluster Management</p> <p>Cluster management team, as a part of PMC, shall be responsible for ensuring that the ground level activities for each cluster is executed on time as per plan and issues/risk are resolved with the key stakeholders. Cluster management team shall provide mitigation strategy and alternate plan in case of a delay. Follow-up with the EXECUTION CONTRACTOR's team working on ground to ensure alignment of execution plan with the COMPANY. Managing the on-field team to ensure efficient resource utilization and interactions. Follow - ups with functional team to get responses on action items within agreed TAT to make sure that the cluster level activities are not delayed. Scope of work for cluster management includes but not limited to:</p> |

profit improvement programmes; other matters that are of particular interest to the higher management of an organization

This service code also includes

- i. providing advice, guidance and operational assistance concerning improvements to systems and procedures;
- ii. Improvements to office and service operations, such as office layout, workflow planning, work standards;
- iii. Office automation, such as the selection and installation of automated systems;
- iv. Product development, quality assurance and quality management; plant safety, security and protection; v. services provided by agronomists and agricultural economists

4.2.1 Drilling Services

The Drilling engineers as part of PMC shall be responsible for collaboration with Integrated Services Execution Contractors to deliver the wells and overall drilling campaigns with zero or minimum environmental impact, and in compliance with all the Statutory, Regulatory, COMPANY standards, policies & guidelines and relevant API guidelines and industry best practices.

4.2.2 Petroleum Engineering Services

4.2.3 Surface Engineering Services

Scope of work for surface engineering services includes but not limited to:

4.2.4 FDP

- Validation of FDP concept including various concepts/ plans for processing & evacuation, field architecture & field layouts, products evacuation methods, sequencing of development (integrated/ phases), provision of artificial lifting methods, etc.
- Validate results of FEED/Pre-FEED studies
- Review and validate all three parts of FDP document (except G&G services):
 - Part A which shall be the detailed technical assessment report ("TAR") for the commercial development of the field
 - Part B which shall provide the detailed work plan for commercial development of the field
 - Part C which will comprise of the estimated costs and budgets for the commercial production from the field ("Part C FDP") to demonstrate economic viability of the project.

4.2.5 EPF

- Validation of engineering design submitted by the Execution Contractor
- Validation of the concept for EPF
- Benchmark the cost quotations provided by the Execution Contractor and validate the vendor drawings

4.2.6 HSEQ Management

CONTRACTOR shall play very important role in H&S, Environment performance and quality ensuring statutory compliances of the PROJECT activities and upholding the COMPANY policies, standards, guidelines in HSE. This covers the following activities by CONTRACTOR but not limited to:

998319 Other information technology services n.e.c.

Clause 4.1.1



| | |
|--|---|
| <p><i>This service code includes</i></p> <p>i. coordination and supervision of resources in preparing, running and completing a project on behalf of the client;</p> <p>ii. <u>project management services</u>, which can involve budgeting, accounting and cost control, procurement, planning of time scales and other operating conditions, coordination of subcontractors' work, inspection and quality control, etc;</p> <p>iii. Project management services that include management and office management services, with or without the provision of their own staff; other information technology services n.e.c.</p> | <p>4.1.2 Project Monitoring and Support</p> <p>The team shall be responsible for monitoring and managing overall project progress. This team will monitor, track, report project progress and cost, ensure governance, report project exceptions, and manage project risk. The team will act as an enabler for the COMPANY to ensure timely project execution and provide an interface for issue resolution for EXECUTION CONTRACTOR and COMPANY. The detailed scope for the same includes but not limited to:</p> |
|--|---|

2.17 In view of the above, applicant believes that services provided by them are covered under Entry No. 21(ia) of Notification No. 11/2017 – CTR and liable to GST at an effective rate of 12%.

03. CONTENTION – AS PER THE CONCERNED OFFICER:

The jurisdictional officer has not made any submissions in the matter.

04. HEARING

4.1 Preliminary e-hearing in the matter was held on 08.06.2021. The applicant was represented by Authorized Representatives Shri. Mihir Deshmukh, Advocate, Shri. Rajendra Apte, and Shri. Kirti Oswal, Partner. Jurisdictional officer Smt. Nilima Dhamanaskar, Superintendent, Division V, Mumbai-East was also present. The Authorized Representatives made oral submissions with respect to admission of their application.

4.2 The application was admitted and called for final e-hearing on 26.11.2021. The Authorized representative of the applicant Shri. Swarup Chingale, CA, Shri. Ruturaj Chingale, CA and Shri. Sunil Bhosale, PCSCL were present. Jurisdictional officer was absent. Applicant was asked to provide details of agreement dates, work order details and dates, dates of starting of work with copies of work order and details of completion of works till today and details regarding tax treatment being adopted by applicant with copies of invoices.

05. DISCUSSIONS AND FINDINGS:

- 5.1 We have perused the documents on record, and have taken into consideration, both oral and written submissions, made by the applicant. The jurisdictional officer has neither attended the final hearing nor has made any submissions till the date of passing of this order.
- 5.2 We observe that, the Oil & Gas Division of Vedanta Limited (VL), was awarded exploration licenses for onshore and off shore OLP blocks by the Government of India and to execute such project, VL identified partners (hereinafter referred to as "Execution Partners") and executed contract with them wherein the scope of execution for the Execution Partners would include all Seismic and non-seismic services, well construction, installation of early production facilities wherever applicable and preparation of field development plans.
- 5.3 As per the submissions, the scope of work of the Execution Partners include Geographical and Data Acquisition & Processing, Survey Planning and Designing Studies, Field Geological Mapping, Establishment and Execution of Exploration Program, including Operational Permissions



and Compliances, and Site Preparation/Access Road Construction for On-land, Turnkey Delivery of Exploration Well(s), Coring, Well Testing, Additional Exploration Well Drilling Program, including Contingent Wells and Subsequent exploration phase, if any, Field Development Planning and Engineering Services, Development Well Engineering and Basis of Well Designs etc.

5.4 The applicant, a Project Management Consultancy (PMC) company has been engaged by VL, by way of contract, to plan, monitor & track project progress and validate Execution Contractor deliverables. The applicant's scope of work includes: project planning by working with Execution Contractor and VL, preparing and timely implementing the project plan ; to update and realign the project plan with the Execution Contractor and VL ; to monitor and manage overall project progress, track, report project progress, exceptions and cost, manage project risk ; review planning & progress measurement with the Execution contractor and support staff, validate invoices submitted by the Execution Contractor, etc. ; supervise quality audit, certification compliance, audit report, etc. and act as an enabler for VL to ensure timely project execution ; to be responsible for ensuring that, ground level activities are executed on time as per plan and issues/risk are resolved with the key stakeholders, etc.

5.5 In its functional scope, the applicant shall provide personnel with necessary experience and qualifications to execute the scope of work and perform activities which includes : review and validation of the plan/programs submitted by Execution Contractor and make recommendation to VL on all decision points ; Review Completion basis of design documents in coordination with the Petroleum Engineers and validate individual well programs, cementing program, etc. ; Review and monitor daily drilling operations and ensure timely submission all daily deliverables. Review third party rigs/ tangibles/ vessels inspection report, endurance test report, rig equipment inspection reports, equipment testing reports, acceptance and closeout reports, other petroleum engineering services, etc. Details of the scope of work as per the contract are mentioned in the application.

We find that, as a part of such project management consultancy services, the Applicant is required to manage the Projects right from the detail design to commissioning and is also required to review, monitor, manage and control all aspects of the execution of the Projects. Applicant will perform its activity using its independent and self-sufficient team, on behalf of VL, to complete the projects with quality, on time and within the approved cost. Thus, applicant has been appointed as a Project Management Consultant to manage and control all aspects of the execution of the Project by the Execution Partners.

5.7 We, further find that, the applicant has been contracted to supply PMC services to suit the requirements of VL and from the oral and written submissions made by the applicant we find that there is no supply of goods involved in the subject case and therefore the impugned supply is a supply of services under the GST Laws.

5.8 The applicant, vide the subject application has asked whether its impugned supply is covered under Serial No. 21(ia) of Notification No. 11/2017 – CTR dated 28.06.2017 amended by Notification No. 20/2019 – CTR dated 30.09.2019 i.e. under Service Accounting Code ("SAC") 9983.

5.9 We find that, the applicant has been appointed as a Project Management Consultant to manage the Project right from the detail design to commissioning and is required to review, monitor,



manage and control all aspects of the execution of the Project. In other words, the applicant has to review, monitor, manage and control all aspects of the execution of the Project undertaken by the EPC Contractor and the impugned activities of the applicant vis a vis the scope of work as per the contract with VL, includes the activities which have already been mentioned supra.

- 5.10 Heading 9983 covers *Other professional, technical and business services (except research, development, legal and accounting services)*. Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 (Rate Notification) prescribed the tax rate for various services. The relevant Sr. No. 21 of the said Rate Notification is reproduced as under:-

| Sr. No. | Heading | Description of Service | Rate (per cent) |
|---------|--|--|-----------------|
| 21 | Heading 9983 (Other professional, technical and business services) | (i) | 2.5 |
| | | (ii) Other professional, technical and business services other than (i) above. | 9 |

- 5.11 The said Sr. No. 21 of the Rate Notification was amended vide Notification No. 20/2019 – CTR dated 30.09.2019 and after the amendment the said Sr. No. is as under:-

| Sr. No. | Heading | Description of Service | Rate (per cent) |
|---------|--|---|-----------------|
| 21 | Heading 9983 (Other professional, technical and business services) | (i) | 2.5 |
| | | (ia) Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both. | 6 |
| | | (ii) Other professional, technical and business services other than (i) and (ia) above. | 9 |

- 5.12 From the scope of work mentioned above, we find that the applicant is providing various kinds of professional and business services to VL. The term “business” has been defined under Section 2(17) of the CGST Act, has a very wide connotation and includes:-

- Any trade, commerce, manufacture, profession, vocation, adventure, wager or any other Similar activity, whether or not it is for a pecuniary benefit;
- Any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
- Any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;

- 5.13 The definition of the word ‘business’ under the CGST Act, covers within its ambit, a wide range of activities and includes administrative, consulting and management services, etc. Entry (ia) of Sl. No. 21 of Rate Notification, inserted vide Notification No. 20/2019 – CTR dated 30.09.2019



- appears to have been introduced by the Government to classify services such as business, professional, management and consultancy services, etc. relating to mining of oil or gas or both.
- 5.14 At this stage, we would like to mention that a Circular No. 114/33/2019-GST has been issued by the Government of India, which is very relevant in the subject case. The said Circular is reproduced as under:-

Circular No. 114/33/2019-GST(F. No. 354/136/2019-TRU) dated, the 11th October 2019

Subject: Clarification on scope of support services to exploration, mining or drilling of petroleum crude or natural gas or both – reg.

Representations have been received from trade seeking clarification on the scope of the entry “services of exploration, mining or drilling of petroleum crude or natural gas or both” at Sr. No. 24 (ii) of heading 9986 in Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017.

2. The matter has been examined.

Most of the activities associated with exploration, mining or drilling of petroleum crude or natural gas fall under heading 9986. A few services particularly technical and consulting services relating to exploration also fall under heading 9983. Therefore, following entry has been inserted under heading 9983 with effect from 1 st October 2019 vide Notification No. 20/2019- Central Tax(Rate) dated 30.09.2019; -

“(ia) Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both”

3 Explanatory Notes to the Scheme of Classification of Services adopted for the purposes of GST, which is based on the United Nations Central Product Classification describe succinctly the activities associated with exploration, mining or drilling of petroleum crude or natural gas under heading 9983 and 9986.

3.1 The relevant Explanatory Notes for Heading 9983 are as follows:

998341 Geological and geophysical consulting services

This service code includes provision of advice, guidance and operational assistance concerning the location of mineral deposits, oil and gas fields and groundwater by studying the properties of the earth and rock formations and structures; provision of advice with regard to exploration and development of mineral, oil and natural gas properties, including pre-feasibility and feasibility studies; project evaluation services; evaluation of geological, geophysical and geochemical anomalies; surface geological mapping or surveying; providing information on subsurface earth formations by different methods such as seismographic, gravimetric, magnetometric methods & other subsurface surveying methods

*This service code does not include –
test drilling and boring work, cf. 995432*

998343 Mineral exploration and evaluation

This service code includes mineral exploration and evaluation information, obtained on own account basis

Note: This intellectual property product may be produced with the intent to sell or license the information to others.

3.2 The relevant Explanatory Notes for Heading 9986 are as follows:

998621 Support services to oil and gas extraction

This service code includes derrick erection, repair and dismantling services; well casing, cementing, pumping, plugging and abandoning of wells; test drilling and exploration services in connection with petroleum and gas extraction; specialized fire extinguishing services; operation of oil or gas extraction unit on a fee or contract basis

This service code does not include: -



geological, geophysical and related prospecting and consulting services, cf. 998341

998622 Support services to other mining n.e.c.

This service code includes draining and pumping of mines; overburden removal and other development and preparation services of mineral properties and sites, including tunneling, except for oil and gas extraction; test drilling services in connection with mining operations, except for oil and gas extraction; operation of other mining units on a fee or contract basis

This service code does not include: - mineral exploration and evaluation services, cf. 998343 - geophysical services, cf. 998341

4. It is hereby clarified that the scope of the entry at Sr. 24 (ii) under heading 9986 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 shall be governed by the explanatory notes to service codes 998621 and 998622 of the Scheme of Classification of Services.

4.1 It is further clarified that the scope of the entry at Sr. No. 21 (ia) under heading 9983 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 inserted with effect from 1 st October 2019 vide Notification No. 20/2019- CT(R) dated 30.09.2019 shall be governed by the explanatory notes to service codes 998341 and 998343 of the Scheme of Classification of Services.

4.2 The services which do not fall under the said entries under heading 9983 and 9986 of the said notification shall be classified in their respective headings and taxed accordingly.

5. Difficulty, if any, in implementation of this circular may be brought to the notice of the Board.

- 5.15 Para 4.1 of the above mentioned Circular states that the scope of the entry at Sr. No. 21 (ia) under heading 9983 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 inserted with effect from 1st October 2019 vide Notification No. 20/2019- CT(R) dated 30.09.2019 shall be governed by the explanatory notes to service codes 998341 and 998343 of the Scheme of Classification of Services. The relevant Explanatory Notes are already mentioned in the Circular above and are not reproduced for the sake of brevity.

5. From a reading of the Circular and the relevant Explanatory Notes to service codes 998341 and 998343 of the Scheme of Classification of Services, it is clear that the impugned services are not covered by the said Explanatory Notes since the service code **998341 is restricted to Geological and geophysical consulting Services** and the service code **998343 is restricted to Mineral exploration and evaluation Services** and the impugned services being provided by the Applicant cannot be considered as being connected to either Geological and geophysical consulting services or Mineral exploration and evaluation services.

- 5.17 In view of the above it is held that the impugned services are not covered under Sr. No. 21 (ia) of Notification 11/2017 – CTR dated 28.06.2017 as amended by Notification No. 20/2019 – CTR dated 30.09.2019 (SAC 9983).

- 5.18 In the subject case even though the impugned services consist of professional, technical and business services, the same are not covered under SAC 9983 (Sr. No. 21 (ia)), as discussed above. Therefore, the said professional, technical and business services supplied by the applicant are clearly covered under the residual Entry No. 21 (ii) of Notification 11/2017 – CTR dated 28.06.2017 as amended, attracting tax rate of 18%.

- 5.19 In view of the above discussions, we find that the impugned services supplied by the applicant to VL are covered under Sr. No 21 (ii) of Notification No. 11/2017-CT(R) dated 28.06.2017 as amended and would be liable to tax at 18% GST.



06. 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)

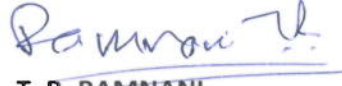
For reasons as discussed in the body of the order, the questions are answered thus –

Question: - Whether the project management consultancy services provided by the applicant to Vedanta Limited (Division: Cairn Oil & Gas) would be liable to GST at the rate of 12% from January 2018 under serial no. 21(ia) i.e. under Service Accounting Code ("SAC") 9983 stating "Other professional, technical and business services", of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017, as inserted vide Notification No. 20/2019-Central Tax (Rate), dated 30.09.2019 since the said amendment is clarification to the amendment made vide Notification No. 1/2018 – Central Tax (Rate) dated 25 January 2018 reducing GST rate for service of exploration, mining or drilling of petroleum crude or natural gas or both to 12%

Answer:- The project management consultancy services provided by the applicant to Vedanta Limited (Division: Cairn Oil & Gas) are covered under Sr. No 21 (ii) of Notification No. 11/2017-CT(R) dated 28.06.2017 as amended and would be liable to tax at 18% GST.




RAJIV MAGOO
(MEMBER)


T. R. RAMNANI
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. The 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, 15th floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on gst.gov.in for online appeal application against order passed by Advance Ruling Authority.