

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.	AD270720011661H
GSTIN Number, if any/ User-id	27AAKCS1815L1Z2
Legal Name of Applicant	M/s. Worley Services India Private Limited.
Registered Address/Address provided while obtaining user id	B- Wing, 5th Floor, Lodha I, Think Techno Campus, Pokharan Road No 2, Thane (West), Maharashtra, 400607
Details of application	GST-ARA, Application No. 27 Dated 11.09.2020
Concerned officer	Division-I, Range-V, Commissionerate-Bhiwandi
Nature of activity(s) (proposed/present) in respect of which advance ruling sought	
A Category	Service Provision ; Service Recipient
B Description (in brief)	The Applicant has entered into agreements dated 29.05.2018 and 10.01.2019 to provide project management consultancy services to Vedanta Limited in relation to two Projects namely, RDG GAS Development Project and All Development/Production - Debottlenecking Project, respectively. As part of such consultancy services in relation to mining operations carried out for augmentation of existing oil and gas fields, Applicant is required 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. The present application is being filed to determine the classification of the aforesaid services under the GST Rate Notification and the applicable tax rate thereupon.
Issue/s on which advance ruling required	<ul style="list-style-type: none">• Classification of any goods or services or both• Determination of the liability to pay tax on any goods or services or both
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below

NO.GST-ARA- 27/2020-21/B- 38

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. **Worley Services India Private Limited** the applicant, seeking an advance ruling in respect of the following questions:

- A. Whether the services provided by the Applicant are classified under SI No. 24(ii) of heading 9986 of the Rate Notification as ‘Support services to exploration, mining or drilling of petroleum crude or natural gas or both’ under SAC 998621 and attracts GST @ 12% in terms of SI. No. 24(ii) of Rate Notification?
- B. Alternatively, whether the services provided by the Applicant are classified under SI No. 21(ia) of heading 9983 of the Rate Notification as ‘Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both’ and attracts GST @ 12% in terms of SI. No. 21(ia) of Rate Notification?
- C. Further, if the subject services are not classifiable under the aforesaid entry, what would be the appropriate classification for the same and at what rate GST would be imposable?

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 *Worley Service India Private Limited, the Applicant registered Indian Company, is a part of Worley Parsons Limited, which is a global engineering company providing project delivery and consulting services to the resources and energy sectors and other complex process industries.*
- 2.2 *The Applicant, registered under the MGST Act, is engaged in the provision of project management consultancy (‘PMC’) services. The PMC services are provided to various natural oil and gas companies as well as oil and gas mining and exploration companies.*

RDG Gas Development Project (Project 1)

- 2.3 *Vedanta Limited (‘VL’) in the business of exploration and mining of various natural resources, is the operator of the onshore hydrocarbon block - RN-ON-90/1 located at Barmer district, Rajasthan (hereinafter, referred to as the ‘block’) for itself and its Joint Venture (‘JV’) partners, namely Cairn Energy Hydrocarbons Limited (‘CEHL’) and Oil and Natural Gas Corporation Limited (‘ONGC’).*
- 2.4 *VL had discovered various oil and gas fields at the block, and currently the block has two processing terminals. The Mangala Processing Terminal (‘MPT’) is located in northern part of block and primarily processes oil from three of the northerly oil fields at Mangala, Bhagyam and Aishwariya. The Raageshwari Gas Terminal (‘RGT’) is located in southern part of block and currently processes gas from the Raageshwari deep gas field.*
- 2.5 *The gas produced from RGT has been used for meeting energy requirements at the MPT, etc and VL intends to develop new Raageshwari deep gas (‘RDG’) facilities under the RDG Gas Development Project and therefore, has executed a single contract on Engineering, procurement and construction (‘EPC’) with the EPC contractor who is responsible for all the engineering, procurement, and construction activities to complete Project. Applicant has been appointed as a*

Project Management Consultant to manage the Project right from the detail design to commissioning and is inter alia required to review, monitor, manage and control all aspects of the execution of the Project.

All Development/Production – Debottlenecking Project (Project 2)

- 2.6 This Project involves Field Development Plan ('FDP') preparation and execution, well facilities, development of surface facilities and well development and covers end to end integrated gas well construction which includes well pad facilities, intra-field pipeline networks, facilities at central gathering pad and trunk line to the VL's processing facility. The Development Project covers various fields and project coverage includes Intrafield pipeline augmentation, Development for production ramp up of Development wells & surface facilities, etc.

The Applicant has been appointed as a Project Management Consultant to manage the Project right from the detail design to commissioning and is inter alia required to review, monitor, manage and control all aspects of the execution of the Project.

PMC services

- 2.7 VL has entered into separate agreements dated 29.05.2018 and 10.01.2019 with the Applicant in relation to Project 1 and Project 2, hereinafter also referred to as 'Projects' respectively, for supply of PMC services. The PMC services are customized and tailor made to suit the requirements of VL and further require extensive technical and sound expertise. As per the agreements, the Applicant is required to continuously review, monitor, manage and control all aspects of the execution of the Projects on behalf of VL to complete it with quality, on time and within the approved cost. The Applicant is appointed to manage the Projects right from details to designing to commissioning and close out of Projects with VL. The Applicant has established offices at the site of the Projects and at VL's office. Agreements lists down the description of the PMC services in relation to the Projects. The scope of work of the Applicant, as per the agreements, includes, Project Governance, Schedule Management, Project documentation review and engineering management, Performance Management, Cost Reporting Control, Risk, Issue and Scope Management, Procurement Management, Quality Management, Health, Safety and Environment Management, Material and Construction Management, Contract Management, Communication Management, EPC Contractor/Sub-Vendor/Sub-Contractor Management, Commissioning and Completion Management and Integrated Project Management Office ('PMO'). Applicant acts as a single point of contact and also has to consolidate works of all Project Contractors and sub-contractors of various modules of the Projects in close coordination with the Project Team/Business Planning Team/Technical Services and Project Delivery Support Team. Applicant's activities include Project Planning, Scheduling and Review, Risk Management and Stakeholder Management.

- 2.8 The Applicant raises invoices on VL, and classifies the aforesaid services under Service Accounting Code ('SAC') 998339 as 'Project management services for construction projects' and pays Goods and Services Tax ('GST') @ 18% as per the residuary entry under SI No. 21 of Notification No. 8/2017-Integrated Tax (Rate) dated 28.6.2017, hereinafter, referred to as 'Rate Notification'.

- 2.9 With issuance of Notification No. 19/2019 - Integrated Tax (Rate) dated September 30, 2019, and effective October 1, 2019, Applicant is of the belief that, the subject services are classifiable under SI No. 24(ii) of heading 9986 of the Rate Notification - 'Support services to exploration, mining or



drilling of petroleum crude or natural gas or both' under SAC 998621, attracting GST @ 12% for the supply of the said services and has therefore filed the present application.

B. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS

SUPPLY OF SERVICES BY THE APPLICANT SHOULD BE CLASSIFIED AS 'SUPPORT SERVICES TO EXPLORATION, MINING OR DRILLING OF PETROLEUM CRUDE OR NATURAL GAS OR BOTH UNDER SI No. 24(ii) OF HEADING 9986 OF THE RATE NOTIFICATION UNDER SAC 998621

2.10 In the present case, the Applicant provides customized and tailor made PMC services to suit the specific requirements of VL. On account of the unique nature and complexity of the services, the Applicant has the work force of professionally trained engineers who possess the qualification, technical expertise and skill sets required for executing the Projects and achieving the desired objective. Such services are in the nature of operational or administrative assistance in any manner to VL, and merits classification as 'support services to exploration, mining or drilling of petroleum crude or natural gas, or both under SI No. 24(ii) of heading 9986 of the Rate Notification under SAC 998621'.

2.11 While determining the classification of the subject services under the Rate Notification, reference must be made to the Scheme of Classification of Services ('Scheme of Classification') which forms part of such Notification. The heading 9986 of SAC relates to 'Support services to agriculture, hunting, forestry, fishing, mining and utilities'. Heading 9986 of the SAC relates to support services and inter alia covers mining. The term 'support services' has not been defined under the CGST Act. However, the said principle has been recognized and used by Courts in order to determine the true nature of the term or phrase, in State of Madras v. Ganon Dunkerley & Co. (Madras) Ltd., AIR 1958 SC 650 and Association of Leasing and Financial Service Companies v. Union of India ('UOI'), 2010 (20) S.T.R. 417 (SC).

2.12 Under the erstwhile Finance Act, 1994, the term 'support services' was defined as follows:

'support services' means infrastructural, operational, administrative, logistic, marketing or any other support of any kind comprising functions that entities carry out in ordinary course of operations themselves but may obtain as services by outsourcing from others for any reason whatsoever and shall include advertisement and promotion, construction or works contract, renting of immovable property, security, testing and analysis;'

2.13 Further, meanings from few legal dictionaries are set out below for ready reference:

Dictionary	Meaning
Black's Law Dictionary, Fourth Edition	'Furnishing funds or means for maintenance; to maintain; to provide for; to enable to continue; to carry on.' 'That which furnishes a livelihood; a source or means of living; subsistence, sustenance, or living' 'In a broad sense the term includes all such means of living as would enable one to live in the degree of comfort suitable and becoming to his station of life'
The Lexicon Law of British India –	'Not only does the word 'support' includes bearing weight, it is also used by the student and understood in common phraseology as covering "to keep from falling" and other kindred expressions.'

P. Ramanatha Aiyar	<i>"Support" generally means articles for ordinary sustenance as food etc., and doesn't include medicines, unless the context shows such intention.'</i>
Merriam Websters Dictionary	<i>To assist, help; to provide a basis for the existence or subsistence of; to keep (something) going</i>

2.14 A reading of above definitions reveal that the term 'support' signifies anything which helps in sustenance, keeps something going, enables something to exist or continue. Further, as per erstwhile Finance Act, 'support services' would include all operational, administrative, consulting and management services, or any other such support services, which the entities or recipients would carry out themselves, but have outsourced the same to the supplier of such services.

2.15 In the present case, VL has contracted with an EPC contractor for the purpose of development of Raageshwari well pads, pipelines, etc. as well as for execution of development wells and surface facilities to increase prospect of mining and pursuant sale of gas, procured from the fields therefrom.

2.16 VL was required to review, monitor and manage the activities of such EPC contractor for the development Project but has outsourced the same to the Applicant vide separate agreements covering the scope of PMC services. In light of the said scope of work, Applicant has been outsourced the activity of administration and management of the entire Projects, on behalf of VL. The Applicant supports VL to efficiently complete the Projects so as to assist in increasing the mining activity and sales of gas from the respective fields of the Projects. In view of this, it is submitted that the said activity carried out by the Applicant squarely falls within the ambit of support services.

2.17 Further, the service description provided under Heading 9986 of SAC includes all kinds of support services which are co-related to the activity of mining or exploration and envisages a wide spectrum of activities within its ambit. This can be gathered from the amendment made vide Notification No. 19/2019-Integrated Tax (Rate) dated September 20, 2019, wherein 'support service of exploration, mining or drilling of petroleum crude or natural gas or both', was substituted to read as 'support services to exploration, mining or drilling of petroleum crude or natural gas or both.' The amendment had widened the scope of services, in as much as, such services would cover all ancillary or incidental activities to the main activity of mining or exploration of natural gases, and not only those support services which directly involves mining or exploration of gas. The term 'to' indicates contact or proximity to the subject or, more specifically, means 'towards'. Applying this to the present case, the Applicant submits that the 'support services to exploration, mining....' would essentially mean support services which are 'towards' or are most closely related to or in close proximity with the activities of exploration and mining. The PMC services provided by the Applicant are evidently related to the activity of mining and hence would find place under the said entry.

2.18 The services provided by the Applicant are in the nature of support services and are required to be provided inter alia in support to mining. The term 'mining' is not defined under the CGST Act and the Rate Notification. Hence, in order to the understand the scope and ambit of the said term, the following definitions of mining/mining operations/mines have been extracted for ease of reference:

Source	Meaning
The Law Lexicon Dictionary, 3rd Edition	Mining: the process or business of making or working of mines; the process of extracting from the Earth the rough ore, would seem to be the first step in the process; milling or reducing, the second step, to wit, the further separation of the materials found together, the one from other, and extracting from the mass the particular natural product desired.
Mines & Minerals (Development and Regulation) Act, 1957	(d) 'mining operations' means any operations undertaken for the purpose of winning any mineral
The Oilfields (Development and Regulation) Act, 1948	(b) 'mines' means any excavation for the purpose of searching for or obtaining mineral oils and includes an oil well

2.19 From the above, it is submitted that mining is the process of extracting of minerals/petroleum/natural gas, as the case maybe and also includes within its ambit, the ancillary and incidental activities such as extraction, purification, development of existing mining facilities, all of which is in relation to the activity of mining of minerals/petroleum/natural gas from the Earth. Thus, activity of extraction would qualify as mining, but also, it would include development of existing mining facilities, in order to bolster the quantum of mined goods, etc. It is pertinent to note that the activity of mining pertaining to extraction of oil and gas is carried out by VL in relation to Project 1 and Project 2.

2.20 The PMC services provided by the Applicant in relation to the Projects would be of no significance/relevance if there is per se, no activity of mining operations. Moreover, the PMC services would be insignificant when performed in isolation without mining operations being undertaken. Until and unless the PMC services provided by the Applicant are integrally connected with that of mining operations undertaken by the EPC Contractor on behalf of VL, the objective of achieving the desired augmentation/development of the oil and gas facilities would not be fulfilled.

2.21 Detailed list of activities carried out by Applicant during various stages of the Projects are as below:

Sr.No.	Stages of Project	List of Activities
1	Design and engineering stage services	<ul style="list-style-type: none"> - Supervise/manage the engineering progress. - Technical reviews and approvals of documents/drawings including engineering interface. - Review and approval of critical engineering drawings and documents prepared by EPC Contractor. - Participate in pre-inspection meeting through VC/Telecon etc.

2	Services during procurement	<ul style="list-style-type: none"> - Review and approval of data sheets. - Supervise/manage the procurement progress. - Review/approval of Vendor list. - Resolution of Technical Deviations. - Review/approval of TBE/ROA/ITPs supervise expediting services. - Review of MDB and As-Built, integration with Company's systems - Highlight issues/concerns on expediting activities by EPC Contractor which are creating delays to Project.
3	Contract management	<ul style="list-style-type: none"> - Supervise and manage contract - Review/approval of all EPC deliverables with the agreed review cycle with the EPC Contractor
4	Services during construction	<ul style="list-style-type: none"> - Construction, supervision and construction management. - Technical reviews. - Quality assurance and control. - Monitoring the progress of the work and ensure regular updation of master construction schedule by EPC Contractor. - Prior flagging of anticipated bottlenecks and analysis of reasons.
5	Material management	Supervise and manage implementation of material Management
6	Commissioning and close out services	<ul style="list-style-type: none"> - Review, approval of engineering drawings, Project Schedules, contractual agreements ensuring the deviations that have taken place during the construction have been incorporated. - Certificate of performance of works of EPC Contractor - Review/approve close-outs reports prepared by EPC Contractor.
7	Performance guarantee test runs	<ul style="list-style-type: none"> - Monitor and review PGTRs of the materials and Machinery supplied by the EPC Contractor and provide a detailed report. - In case of any deviations from the performance Guarantee parameters, to analyse the issue and provide solutions to resolve the issue in collaboration with EPC Contractor/OEM.
8	Hand over services	<ul style="list-style-type: none"> - Compilation and handover of all Project related documents/data in Native files to VL. This includes the following activities but is not limited to - All material test certificates and inspection reports - Data sheets - Models/software files - List & drawings of spare parts - Performance test reports - Vendor warranty documents
9	Schedule management services	<ul style="list-style-type: none"> - Review and approve EPC Contractor baseline schedule, PMS and Progress Reporting formats - Review Progress and schedule management - Critical Path Analysis - Expedite activities on critical path
10	Project risk	<ul style="list-style-type: none"> - Review Project risk register and advice on additional



	management services	<p>risks/mitigation plans</p> <ul style="list-style-type: none"> - Assist in implementing mitigation plans identified - Communication of risk and mitigation to the concerned stakeholders on a timely basis. - Prepare a detailed report on the Risk Management and handover to VL at the end of Project. - Management of stakeholder, statutory/legislation in the event of hazard.
11	HSEQ management	<ul style="list-style-type: none"> - Participate in HSE studies, safety review process, PHSER process, accident investigation and review closeout. - Ensure statutory compliance (including EPC Contractor) during all phases of Project. - Ensure necessary interfaces are established between VL and EPC Contractor's HSE Management System. - Review/comment and approve health, safety and environment related documents for the Project.
12	Information management services	<ul style="list-style-type: none"> - Assist VL and EPC Contractor to maintain appropriate management information systems that provide real time and appropriate quality information to all stakeholders meeting VL corporate requirements with respect to internal reporting. - Responsible for implementing document issue, numbering and distribution throughout the life cycle of the Project as per the established procedures of VL. - Review engineering documentation from EPC Contractor and Vendors, ensuring engineering integrity, validate engineering data/details, accord approval for manufacturing of equipment/systems.
13	Monitoring of project performance	<ul style="list-style-type: none"> - Define key performance indicators for every EPC Contractor based on the EPC Contractor's scope of work - Assist in quality control and assurance of the Project. Conduct periodical reviews to monitor the quality of execution of the Project and the quality of services of the Contract.
14	Contract Boundary Interface Control	<ul style="list-style-type: none"> - Manage all interfaces to ensure work progress as per schedule in the defined cost. - Interface agreements will need to be completed amongst all parties to assure complete coverage of the total project scope.
15	Change control	<ul style="list-style-type: none"> - To ensure that EPC Contractor is implementing a robust change control mechanism/protocol for managing, communicating and controlling design changes. - Responsible for maintaining records of Design Change Notification, Non-Conformities, Scope Revisions, Schedule and Cost Revisions. - identify and maintain records of significant factors impacting project execution/performance.
16	Cost management	<ul style="list-style-type: none"> - To ensure robust cost management on the Project. - Certification of EPC Contractor's invoice/milestone payment. - Resolution of change notifications, change proposals, as applicable.



		- Monitoring of cost trend register and reporting deviations as applicable.
17	Integrated Project Management Office	<ul style="list-style-type: none"> - Acting as single point of contact to consolidate the Work of EPC Contractors and sub-contractors of various modules of the Project in close coordination with the Project Team. - Identify potential problems/setbacks which have impact on cost, quality and schedules of overall project and suggest remedial actions. - Establish Project review and monitoring processes. - Periodically generate business report for engagement and discussion with management.

2.22 Since the Projects are essentially for development/augmentation of existing oil and gas fields, services provided by the Applicant are integrally connected with the mining operations. Hence, the supply of services provided by the Applicant is squarely covered within the ambit of SI No. 24(ii) of heading 9986 of the Rate Notification under SAC 998621 and would attract GST @ 12% in light of the Rate Notification mentioned above.

2.23 Further, Circular No. 114/33/2019-GST dated October 11, 2019 has provided clarification on the scope of support services to exploration, mining or drilling of petroleum crude or natural gas or both. While defining the girth of the aforesaid entry, it makes reference to the Explanatory Notes to the Scheme of Classification of Services which is based on the United Nations Central Product Classification and provides that the scope of aforesaid entry shall be, inter alia, governed by the Explanatory Note to service codes 998621 and 998622 (Support services to other mining n.e.c).

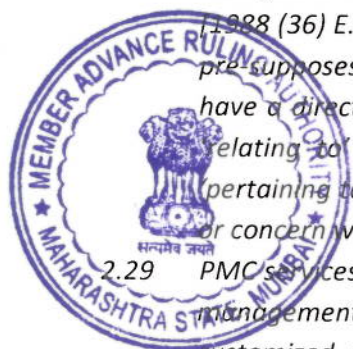
2.24 On a plain reading of the relevant extract in the Explanatory Notes to the scheme of classification of services under SAC 998621, it is seen that, the concerned Explanatory Note for 998621 uses the phrase 'includes' and thus has a very wide connotation, thereby giving the Chapter Heading an extensive scope. The said phrase used in the Explanatory Note clearly shows that the Chapter Heading is to be construed in the exhaustive sense and not per se in a restrictive sense. Reference in this regard is made to Tetragon Chemie Private Limited and Ors Vs CCE and Ors [2001 (138) ELT 0414 Tri-LB], wherein in the context of interpretation of an inclusive Chapter Note, the Delhi Tribunal inter alia held that the Chapter Heading is to be given a wide connotation and is not to be restricted to the illustrations provided in the Chapter Note. In this connection reference is also made to the decision of the Karnataka High Court in the case of StoveKraft Pvt. Ltd. Vs State of Karnataka [2006(2)TMI 603] on the aspect of classification of goods. Further reliance is placed in the decision of the Apex Court in the case of Bharat Coop. Bank (Mumbai) Ltd Vs Coop Bank Employees Union [2007(4) SCC 685].

2.25 In view of the inclusive nature of the phrase 'includes' used in the Explanatory Note to 998621 as well as in light of the judicial precedents, it is humbly submitted that in the present case, the services provided by the Applicant to VL will be classified under 'support services to exploration, mining or drilling of petroleum crude or natural gas, or both' under SI No. 24(ii) of heading 9986 of the Rate Notification under SAC 998621.

ALTERNATIVELY, THE SUPPLY OF SERVICES BY THE APPLICANT SHOULD BE CLASSIFIED AS 'OTHER PROFESSIONAL, TECHNICAL AND BUSINESS SERVICES RELATING TO EXPLORATION,

MINING OR DRILLING OF PETROLEUM CRUDE OR NATURAL GAS OR BOTH' UNDER HEADING 9983 OF Sl No. 21(ia) OF THE RATE NOTIFICATION

- 2.26 Without prejudice to the aforesaid submissions, in the event the supply of services by the Applicant do not merit classification under Heading 9986 of the SAC, the said services would merit classification as 'Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both' under Sl No. 21(ia) of heading 9983 of the Rate Notification which provides the rate of tax leviable on the services meriting classification under the Heading 9983 of the SAC. On a bare reading, it is seen that the said entry is broad in its entirety, as it includes business services.
- 2.27 The definition of 'business' under Section 2 (17) of the CGST Act, 2017 is an inclusive definition and the word 'include' is very generally used in interpretation clauses in order to enlarge the meaning of words or phrases occurring in the body of the statute. Hence the said definition would also include operational administrative, consulting and management services.
- 2.28 Entry (ia) of Sl. No. 21 of Rate Notification was inserted vide Notification No. 19/2019 with effect from October 1, 2019 in order to classify particular services such as management and consultancy services relating inter alia mining, and which do not merit classification as support services to mining under Heading 9986 of the SAC. The said entry uses the phrase 'relating to', which signify that any professional, technical and/or business services provided relating to mining, would merit classification under the said entry. The Hon'ble Supreme Court in Doypack Systems (P) Ltd Vs. UOI, [1988 (36) E.L.T. 201 (SC)], has held that the term 'in relation to' is a very broad expression, which pre-supposes another subject matter. These are words of comprehensiveness which might both have a direct significance as well as an indirect significance depending on the context. The term 'relating to' has been held to be equivalent to or synonymous with 'concerning with' and 'pertaining to'. Therefore, entry (ia) of Sl. No. 21 includes a broad range of services which pertain or concern with the activity of mining.
- 2.29 PMC services provided by the Applicant in relation to the Projects are not in the nature of generic management services which can be provided by any service provider, as the said services are customized and tailor made to suit the requirements of the customers and further require extensive technical and sound expertise in the field of oil and gas, built over many years. Further, it is relevant to note that Entry (ia) of Sl No. 21 of Rate Notification uses the phrase 'other professional, technical and business services'. In this regard, it is submitted that the said phrase has a broad connotation to inter alia include PMC services rendered by professionals. It is submitted that PMC services supplied by the Applicant are incidental to the activity of mining and would accordingly fall under heading 9983 of the Rate Notification under 'other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both' falling under Entry (ia) of Sl No. 21 of Rate Notification. In the present case, the supply of services by the Applicant to VL in relation to the mining activities under the Projects merits classification under heading 9983 of the SAC. Accordingly, by virtue of Sl.No. 21(ia) of the Rate Notification, it is submitted that the said activity gets squarely covered within the broad ambit of 'Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both' and consequently attracts GST @12%.



2.30 Further, para 2 of the Circular specifies that most of the activities associated with exploration, mining or drilling of petroleum crude or natural gas fall under heading 9986 of the SAC. Further, it has been clarified that certain services such as technical and consulting services in relation to exploration, would merit classification under the Heading 9983 of the SAC. The said Circular clearly states that technical and consulting services relating to exploration also fall under heading 9983 and would also get classified under Sl. No. 21(ia) of Rate Notification as 'other professional, technical and business services relating to inter alia mining'. It is pertinent to note that since the wordings used under the Heading 9983 of the SAC is broad in nature, various services which are provided in relation to exploration, mining or drilling would fall within its ambit and attract GST @ 12%. The Circular thereafter clarifies that 'Geological and geophysical consulting services' and 'Mineral exploration and evaluation' which do not merit classification under Heading 9986, would also get covered under the broad heading of 9983 of the SAC, as 'Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both', and resultantly, attract GST @ 12%. The said Circular has not provided an exhaustive list of services which would merit qualification under Sl. No. 21(ia) of Rate Notification. It has merely clarified that certain technical and consulting services which are not specifically covered under the Heading 9986, would get covered within the heading of 9983 of the SAC. Entry (ia) to Sl No. 21 of Rate Notification is very wide and the Circular cannot per se restrict the scope of the Rate Notification to cover only few services.

2.31 Therefore, without prejudice to the submissions made above, it is submitted that the supply of services made by the Applicant to VL, in relation to the mining, would merit classification under Heading 9983 of the SAC and attract GST @ 12% in terms of Sl No. 21(ia) of Rate Notification."

03. CONTENTION – AS PER THE CONCERNED OFFICER:

The Jurisdictional officer remained absent in spite of service of notices. Also no written submissions have been filed.

04. HEARING

- 4.1 Preliminary e-hearing in the matter was held on 09.11.2021. Shri. Rohit Jain, Advocate, Smt. Advita Chaudhari and Smt Sarita Mardhekar, from applicant side appeared, and requested for admission of the application. The Jurisdictional Officer was absent.
- 4.2 The application was admitted and called for final e-hearing on 04.01.2022. Smt. Advita Choudhary Tax Accountant, Shri. Rohit Jain, Shri. Jignesh Ghelani and Smt. Ssanchita Rungta CA, Authorized Representatives, appeared, made oral and written submissions. Jurisdictional Officer was absent.
- 4.3 Heard the applicant.

05. OBSERVATIONS AND FINDINGS:

- 5.1 We have perused the documents on record, and have taken into consideration, both oral, and written, made by the applicant.
- 5.2 As per the submissions, we observe that, the Applicant has entered into two agreements dated 29.05.2018 and 10.01.2019 for providing the Project Management Consultancy (PMC) services to

Vedanta Limited (VL) in relation to two Projects namely, the RDG GAS Development Project and the All Development/Production-Debottlenecking Project. As 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. The present application is filed to determine the classification of the impugned services under the relevant GST Rate Notification and the applicable tax rate thereon. The Applicant stated that it is one of the world's largest engineering, procurement and construction management ('EPCM') service providers engaged in the oil and gas, chemicals, metals and minerals sector and are providing PMC services and EPCM services to local and international customers. The PMC services are provided to various natural oil and gas companies as well as oil and gas mining and exploration companies. The details of projects involved in present application are mentioned in the subject application and are therefore not reproduced for the sake of brevity.

5.3 In respect of the **RDG Gas Development Project (Project1)**, VL is the operator of the onshore hydrocarbon block - RN-ON-90/1 (hereinafter, referred to as the 'block') for itself and others. In order to execute the aforesaid developmental Project, VL has executed a single contract on Engineering, procurement and construction ('EPC') on the EPC contractor who is responsible for all the engineering, procurement, and construction activities to deliver the completed Project. **The Applicant has been appointed as a Project Management Consultant to manage the Project right from the detail design to commissioning and is inter alia required to review, monitor, manage and control all aspects of the execution of the Project.**

5.4 The **All Development/ Production – Debottlenecking Project (Project 2)** involves Field Development Plan ('FDP') preparation and execution, well facilities, development of surface facilities and well development, end to end integrated gas well construction, etc. Even for this project the Applicant has been appointed as a Project Management Consultant to manage the Project right from the detail design to commissioning and is inter alia required to review, monitor, manage and control all aspects of the execution of the Project.

5.5 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. The applicant has submitted that, in the case of Project 1, in view of some new gas prospects, VL, to develop new Raageshwari deep gas ('RDG') facilities under the RDG Gas Development Project, has executed a single contract on Engineering, procurement and construction ('EPC') with an EPC contractor is responsible for all the engineering, procurement, and construction activities to deliver the completed Project and Applicant has been appointed as a Project Management Consultant to manage and control all aspects of the execution of the Project. The name of such contractor has not been mentioned in the application.

5.6 In respect of Project 2 also, the Applicant has been appointed as a Project Management Consultant to manage and control all aspects of the execution of the Project. However, from the submissions made by the applicant, we observe that there is no EPC Contractor involved in Project 2. However a reading of para 9 and para 10 j of the application, reveals the presence of an EPC Contractor even in respect of Project 2.

5.7 From the submissions made by the applicant, we find that both the Projects of Vedanta Limited are pertaining to the oil and gas sector and in particular for augmentation of the oil/gas facilities and therefore it can be said that both the impugned projects are pertaining to mining of oil/gas. Further, for both the Projects, VL has appointed EPC Contractor for the engineering, procurement, and construction activities to deliver the completed Projects.

5.8 We further find that, the applicant has been contracted to supply customized and tailor made 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.

5.9 The applicant was classifying their supply under Service Accounting Code ('SAC') 998339 as 'Project management services for construction projects' and paying GST @ 18% as per residuary entry under Sr. No. 21 of Notification No. 8/2017-I.T. (Rate) dated 28.06.2017. However subsequent to issuance of Notification No. 19/2019 - Integrated Tax (Rate) dated September 30, 2019, the Applicant is of the belief and contending that the impugned services supplied by them falls under Sr No. 24(ii) of heading 9986 of the Rate Notification as 'Support services to exploration, mining or drilling of petroleum crude or natural gas or both' under SAC 998621, attracting GST @ 12% and alternatively, falls under Sr No. 21(ia) of heading 9983 of the Rate Notification as 'Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both' attracting GST @ 12%.

5.10 We find that, the work of exploration, mining or drilling of petroleum crude or natural gas or both is done by Vedanta Limited and support services in such respect are performed by the EPC Contractor, who have been contracted to and are responsible for all the engineering, procurement, and construction activities to deliver the subject Projects.

5.11.1 The Applicant has submitted that, they provide customized and tailor made PMC services to suit the specific requirements of VL, to continuously review, monitor, manage and control all aspects of the execution of the Project on behalf of VL and since such services are in the nature of operational or administrative assistance in any manner to VL, the same merits classification as 'support services to exploration, mining or drilling of petroleum crude or natural gas, or both under SI No. 24(ii) of heading 9986 of the Rate Notification under SAC 998621'.

5.11.2 Heading 9986 covers "Support services to agriculture, hunting, forestry, fishing, mining and utilities".

Heading 99862 covers "Support Services to Mining" and Headings 998621 and 998622 covers "Support services to oil and natural gas extraction" and "Support services to other mining nowhere else classified", respectively.

5.11.2 This Explanatory notes mention that service code 998621 "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 and this service code does not include: - geological, geophysical and related prospecting and consulting services, cf. 998341".

Thus, it is seen that the service code 998621 includes services provided to the oil and gas mining sector by way of actual participation in the mining activity, and in the subject case, it would

appear that it is actually the EPC contractor who is giving support services to VL by being responsible for all the engineering, procurement, and construction activities to deliver the completed Projects.

5.11.3 In view of the above mentioned in para nos 5.11.1 and 5.11.2, we find that the impugned activity is not covered under Heading 998621 and therefore the first question raised by the applicant will have to be answered in the negative. To arrive at this decision we have considered all the averments made by the applicant with respect to the term 'support services'

5.12.1 The second question raised by the applicant is "whether the services provided by the Applicant are classified under SI No. 21(ia) of heading 9983 of the Rate Notification as 'Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both' and attracts GST @ 12% in terms of SI. No. 21(ia) of Rate Notification".

5.12.2 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 visa vis the scope of work as per the contract with VL includes the activities as under:-

a. *To continuously review, monitor, manage and control all aspects of the execution of the project on behalf of Vedanta Limited and to manage the projects right from detail design to commissioning & project closeout and holding complete responsibility for delivery in agreed schedule, cost, and quality.*

To continuously review and report project performances at the level of detail required by Vedanta Limited and investigate performance issues and communicate early warnings in case of deviations.

c. *To review EPC Contractor's costing schedule, monitoring the project costing register and reporting deviations, if any. Applicant is also required to maintain all records of payment made to the EPC Contractor in relation to the project but will not be carrying out the day to day statutory compliances, tax deductions / withholding etc. for any of the parties.*

d. *To identify milestones of the project and to monitor the schedule variances and recommend corrective strategies to complete it on time. Further, review and approval of EPC Contractor's Project Control Procedure, Baseline Schedule, Progress Measurement System and Progress Reporting formats to ensure that the same is in line with requirements of Vedanta Limited.*

e. *To review and approve critical drawings/documents relevant for project delivery within the agreed review cycle with the EPC Contractor.*

f. *To identify and evaluate the potential effects of risks, issues and EPC Contractor's change requests to the project on continuous basis. Review and monitor the risks/issues mitigation measures so that the project is completed within cost and schedule.*

g. *To supervise, monitor, and manage the procurement progress including review/approval of sub-vendor's/sub-contractor's credentials, procurement plan/strategy, coordinating and conducting inspections at sub-vendor's/sub-contractor's location.*

h. *To provide quality expertise for managing the quality control, quality assurance, right from approving the EPC Contractor's Quality Plan and procedures, coordinating/ conducting quality*




inspections at sub-vendor's/sub-contractor's works, factories, fabrication yards and also at site including construction and commission activities.

- i. ensure that the EPC Contractor takes timely statutory, legal and environment approvals for timely completion of project.
- j. To Review and monitor material management of the EPC Contractor continuously starting from engineering till commissioning and handover of the project.

5.12.3 Heading 9983 covers *Other professional, technical and business services* (except research, development, legal and accounting services). Notification No. 11/2017-CT (Rate) dated 28.06.2017 (Rate Notification) prescribes 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) Selling of space for advertisement in print media.	5
		(ii) Other professional, technical and business services other than (i) above.	18

5.12.4 The said Sr. No. 21 of Notification No. 11/2017-CT (Rate) dated 28.06.2017 was amended vide Notification No. 20/2019 CT (Rate) dated 30.09.2019 w.e.f 1.10.2019 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) Selling of space for advertisement in print media	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

5.12.5 From the scope of work mentioned above, we find that the applicant is providing various kinds of professional and business services to VL. The applicant has made mention of Circular No. 114/33/2019-GST issued by the Government of India Ministry. We therefore reproduce the said Circular 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.

5.12.6 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 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. The relevant Explanatory Notes are already mentioned in the Circular above and are not reproduced for the sake of brevity.

5.12.7 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 Notes to service code **998341 is restricted to Geological and geophysical consulting services** and the Notes to service code **998343 is restricted to Mineral exploration and evaluation and the impugned services cannot be considered as being connected to either Geological and geophysical consulting services or Mineral exploration and evaluation services.**

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

5.13 In the subject case as discussed above, even though the impugned services consist of professional, technical and business services, the same are not covered under Sr. No. 21 (ia) (SAC 9983) and Sr. No. 24 (SAC 9986) of Notification 11/2017-CT(R) dated 28.06.2017 as amended. Therefore, the said professional, technical and business services supplied by the applicant to VL are clearly covered under the residual Entry No. 21 (ii) of Notification 11/2017 – CT(R) dated 28.06.2017 as amended, attracting tax rate of 18%.

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 1:- Whether the services provided by the Applicant are classified under Sl. No. 24(ii) of heading 9986 of the Rate Notification as 'Support services to exploration, mining or drilling of petroleum crude or natural gas or both' under SAC 998621 and attracts GST @ 12% in terms of Sl. No. 24(ii) of Rate Notification.

Answer: - Answered in the negative.

Question 2:- Alternatively, whether the services provided by the Applicant are classified under SI No. 21 (ia) of heading 9983 of the Rate Notification as 'Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both' and attracts GST @ 12% in terms of SI. No. 21(ia) of Rate Notification.

Answer: - Answered in the negative.

Question 3:- Further, if the subject services are not classifiable under the aforesaid entry, what would be the appropriate classification for the same and at what rate GST would be imposable?

Answer: - In view of the discussions made above, the subject services are covered under Sr. No. 21 (ii) of Notification 11/2017 – CTR dated 28.06.2017 as amended, attracting tax rate of 18%.




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 Pr. 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.