THE MAHARASHTRA APPELLATE AUTHORITY FOR ADVANCE RULING  
—=receegogeT OV OS RS ENE YY FOR ADVANCE RULING  
FOR GOODS AND SERVICES TAX  
  
(Constituted under Section 99 of the Maharashtra Goods and Services Tax Act, 2017)  
  
ORDER NO. MAH/AAAR/DS-RM/14/2022-23  
  
BEFORE THE BENCH OF  
  
(1) Dr. D.K. Srinivas, MEMBER (Central Tax)  
(2) Shri Rajeev Kumar Mital, MEMBER (State Tax)  
  
Date- 03.0. 2023  
  
Name and Address of the  
Appellant:  
  
M/s. Worley Services India Pvt. Ltd.,  
New Energy House, Ramkrishna Mandir Road, J B  
Nagar Kondivita, Andheri East, Mumbai - 400059  
  
GSTIN Number:  
  
27AAKCS1815L1Z2  
  
Clause(s) of Section 97, under  
  
which the question(s) raised:  
  
(a) Classification of any goods or services or both;  
  
Date of Personal Hearing:  
  
10.11.2022  
  
Present for the Appellant:  
  
(i) Rohit Jain (ii) Jignesh Ghelani (iii) Darshan Madekar. |  
  
Details of appeal:  
  
Appeal No. MAH/GST-AAAR-/06/2022-23 dated  
27.05.2022 against Advance Ruling No. GST-ARA-  
27/2020-21/B-38 dated 31.03.2022.  
  
Jurisdictional Officer:  
  
Deputy/Assistant Commissioner, Division - V, Mumbai  
  
East, CGST & C.Ex. Commissionerate.  
  
(Proceedings under Section 101 of the Central Goods and Services Tax Act, 2017 and  
the Maharashtra Goods and Services Tax Act, 2017)  
  
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 such dissimilar provisions, a reference to the CGST Act would also  
  
mean a reference to the same provisions under the MGST Act.  
  
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The present appeal has been filed under Section 100 of the Central Goods and Services Ta,  
  
i Act, 2  
Act, 2017 and the Maharashtra Goods and Services Tax Act,  
as “CGST Act” and “MGST Act”] by M/s. Worley Service  
  
Energy House, Ramkrishna Mandir Road, J B Nagar Kondivita,  
“A ppellant”) against the Advance Ruling No GST-  
  
pronounced by the Maharashtra Authority for  
%  
  
017 [hereinafter referred to  
s India Pvt. Ltd., New  
Andheri East, Mumbai -  
  
400059. (“hereinafter referred to as  
ARA-27/2020-21/B-38 dated 31.03.2022.  
Advance Ruling (hereinafter referred to as “MAAR”).  
  
BRIEF FACTS OF THE CASE  
  
The Appellant is a company registered under the Indian Companies Act, 1956. The  
  
Appellant is 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.  
  
The Appellant is inter alia engaged in the provision of project management consultancy  
(hereinafter referred as ‘PMC’) services. The Appellant is registered under the Maharashtra  
Goods and Service Tax Act, 2017 (‘MGST Act’) having registration number  
27AAKCS1815L1Z2.  
  
The Appellant is one of the world’s largest engineering, procurement and construction  
management (hereinafter referred as ‘“EPCM)”) service providers engaged in the oil and gas,  
chemicals, metals and minerals sector. The Appellant has a strength of more than 4,500  
professionally qualified people in India, who 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.  
  
Vedanta Limited (hereinafter referred to as the “VL’) is a globally diversified natural  
resources company which is engaged in the business of exploration and mining of various  
  
natural resources.  
  
VL has entered into separate agreements dated 29.05.2018 and 10.01.2019 with the  
Appellant in relation to the two projects 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 Appellant 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.  
  
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The Appellant is appointed to manage the Projects right from details to designing to  
he  
  
commissioning and close out of Projects with VL.  
  
In relation to the aforesaid scope of work, the Appellant raises invoices on VL for the PMC  
  
services provided. Notification No. 19/2019 - Integrated Tax (Rate) dated September 30,  
  
3019, and effective from October 01, 2019, has amended Notification No.08/2017 —  
Integrated Tax (hereinafter referred as the “Rate Notification”) to inter alia include the  
following entries: ; a  
| SI. No. : Heading | Description of Service Rate  
(per cent)  
| | | .  
21 Heading 9983 (ia) Other professional, technical and business 12  
| (Other professional, | services relating to exploration, mining or drilling  
| technical and of petroleum crude or natural gas or both  
business services)  
“24 | Heading 9986 ; (ii) Support services to exploration, mining or 12  
\(Support services drilling of petroleum crude or natural gas or both.  
ito agriculture,  
ihunting, forestry,  
fishing, | mining  
and utilities)  
  
In view of the above, the Appellant approached the MAAR seeking advance ruling on the  
following questions:  
  
(i)  
  
i)  
  
(iii)  
  
Whether the services provided by the Appellant are classified under S] 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.  
  
Alternatively, whether the services provided by the Appellant 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.  
  
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?  
  
Thereafter, the MAAR passed the order No. GST-ARA-27/2020-21/B-38 dated  
31.03.2022(‘Impugned Order’) and held that the services provided by the Appellant are  
  
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neither covered under SI. No. 24(ii) nor under SI. No. 21(ia) of Rate Notification on th.  
  
following grounds:  
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, ‘ 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. In view of this the impugned services are not covered  
under SI. No. 24(ii) of the Rate Notification  
  
\* The Explanatory 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. In view of this the impugned services  
are not covered under SI. No. 21(ia) of the Rate Notification  
  
\* The said professional, technical and business services supplied by the Appellant to  
VL are clearly covered under the residual entry No. 21(ii) of the Rate Notification,  
  
attracting tax at the rate of 18%  
  
Aggrieved by the ‘Impugned Order’ passed by the MAAR, the Appellant has filed the  
present Appeal on the following grounds, which have been urged without prejudice to one  
  
other.  
  
GROUNDS OF THE APPEAL  
  
THE IMPUGNED ORDER GROSSLY FAILED TO UNDERSTAND THE TRUE  
COMMERCIAL NATURE OF SERVICES PROVIDED BY THE APPELLANT TO  
VL  
  
At the outset the Appellant submits that it is a settled principle of law that while determining  
the taxability of a transaction, it is important to understand its true commercial nature.  
Therefore, it is prudent to understand the significance and relevance of these activities vis-a-  
  
vis the mining operations carried out by VL.  
  
In the present case, VL is the operator of the concerned oil and gas block. In order to bolster  
their mining activity at the block, VL has developed new facilities under the RDG  
Development Project as well as under the All Development/Production - Debottlenecking  
  
Project. It has contracted with an EPC contractor for the purpose of development of  
  
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Raageshwari well pads, pipelines and OHL, new RDG gas processing terminal with  
associated infrastructure and utilities, and a new 132 KV grid line as well as executed  
contracts with the EPC Contractor inter alia covering Tight Oil - ABH and Tight Gas —  
Wells for execution of development wells and surface facilities. The said new installations  
  
would increase prospect of mining and the pursuant sale of gas, procured from the fields in  
the Projects.  
  
VL was required to review, monitor and manage the activities of such EPC contractor for  
  
the development Project at RDG as well as the All Development/Production -  
  
Debottlenecking Project, however, it has outsourced the same to the Appellant vide separate  
agreements covering the scope of PMC services. As per the agreements, all such  
operational, consulting and management services, related to the Project development at  
  
RDG as well as the All Development/Production - Debottlenecking Project, are carried out  
by the Appellant.  
  
The Appellant have submitted that the pertinent Projects are essentially for  
  
development/augmentation of existing oil and gas fields. Accordingly, the services provided  
by the Appellant are integrally connected with the mining operations, such that the wholistic  
  
objective of augmentation of oil and gas facilities are fulfilled as per the prescribed  
schedules.  
  
On the basis of the above, the Appellant have argued that the MAAR has failed to  
understand the true commercial nature of services provided by the Appellant to VL and has  
  
merely passed the Impugned Order on frivolous grounds inasmuch as it has not analyzed the  
nature of activities carried out by the Appellant.  
  
SUPPLY OF SERVICES BY THE APPELLANT 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  
  
In order to provide the impugned services, the Appellant 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 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’.  
  
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s  
f Classification of Services (‘Scheme or 8  
ference to the Scheme 0  
The Appellant have made re  
  
Classification’) whic Tr tificatior The relevant extract o SI  
) hich forms part of the Rate No f N  
  
i ion i WS:  
24(ii) as contained in the Rate Notification is as follo  
  
— — escription of services Rate |  
" SI.No.\_ Heading \_\_\_\_ Descripti  
  
i %  
— ae Support services 12%  
4 | Heading 9986 | (ii) . a a:  
(Support services to agriculture, | toexploration, nude or satel ges |  
| | hunting, forestry, fishing, mining and | of petroleum oru  
utilities) | or both.  
  
i \_ \_  
  
es to agriculture, hunting, forestry,  
  
4.8 The heading 9986 of SAC relates to ‘Support servic  
fishing, mining and utilities,’ In this regard, the relevant portion of the SAC as contained in  
  
the Scheme of Classification is as follows:  
  
Annexure: Scheme of Classification of Services  
  
SI.No. | Chapter, Section Service Code Service Description  
| Heading, or Group (Tariff)  
qs | (2) | (3) ; (4)  
1454 Heading 9986 Support services to agriculture,  
  
hunting, forestry, fishing, mining  
| and utilities.  
  
462 | Group 99862 Support Services to Mining  
|  
  
463  
  
998621 Support services to oil and natural  
  
| gas extraction  
|  
  
998622 Support services to other mining  
nowhere else classified  
  
Term ‘support service’ has a wide meaning  
4.9 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, 2017. The Principle of  
  
nomen juris suggests that where definition of a term is not provided in a particular Act, the  
  
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4.12  
  
4.13  
  
In this regard, the term ‘support services’ had been defined under Section 65(49) under the  
erstwhile Finance Act, 1994 (inserted w.e.f. 16.2012), which is as follows:  
(49) ‘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; ’  
  
The Appellant have submitted that since they have been outsourced the activity of  
management of the entire Projects, the said activities carried out by the Appellant squarely  
  
falls within the ambit of support services.  
  
Referring to the description of the Heading 9986, the Appellant have submitted that the said  
heading includes all kinds of support services which are co-related inter alia to the activity  
of mining or exploration. The said entry envisages a wide spectrum of activities covered  
within its ambit. This can be gathered from the amendment made vide Notification No.  
19/2019-Integrated Tax (Rate) dated September 30, 2019, wherein ‘support services 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.’ In this regard, the aforesaid 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.  
  
While there is no specific definition of the term ‘to’ in the Rate Notification, however, it has  
been most acceptable position in law! that in absence of any specific legal definition. the  
  
term used in common trade parlance may be resorted to. The term ‘to’ is generally  
  
understood as below:  
  
Dictionary Meaning  
  
| Words & I think we ought to construe the word ‘to’ as meaning ‘towards’.  
Phrases | That is the sense in which the word is always used in all instruments  
  
Legally | connected with or relating to marine assurance. It has that meaning  
defined, | in a bill of lading, and I don’t know why we should adopt a different  
LexisNexis, meaning in this policy of insurance’. - College v Harty (1851) 6 Ech  
Fourth | 205 at 210, per Pollock CB  
  
| Edition |  
  
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4.15  
  
4.16  
  
4.17  
  
ee ee =  
ae or an action or e, ..  
1 Used as a function word to indicate meyemen r thing r " ronditi,  
— ' .  
Merriam | Used “ a of movement toward a place, person, 0) ig eached, Useq  
suggestive oo roximity  
Websters nea function word to indicate contact or p'  
Dictionary | ~~  
  
: imi the subj  
be seen that the term ‘to’ indicates contact or proximity to the subject  
can be se  
  
Applying this to the present case, the Appellant  
  
” would essentially mean support  
  
From the above, it  
  
or, more specifically, means ‘towards’.  
i rati ining...  
  
submits that the ‘support services to exploration, mining  
  
r in close proximity with the  
services which are ‘towards’ or are most closely related to, or in p  
  
activities of exploration and mining.  
i ivity of minin  
The PMC services provided by the Appellant are evidently related to the activity 0 g  
  
and hence would find place under the said entry.  
  
Ambit of the term ‘mining’  
  
As submitted above, it is evident that the services provided by the Appellant are in the  
nature of support services. In order to classify the said activity within the ambit of the  
heading 9986 of the SAC, it is imperative that such services are required to be provided  
inter alia in support to mining. It is pertinent to note that the term ‘mining’ has not been  
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  
  
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 writ, the further separation of  
the materials found together, the one from other, and  
extracting from the mass the particular natural product  
  
The Law Lexicon  
Dictionary, 3" Edition  
  
desired.  
Mines and Minerals |  
(Development —\_ and (d) ‘mining operations’ means any operations undertaken for |  
| Regulation) Act, 1957 the purpose of winning any mineral |  
| The Oilfields (b) ‘mines’ means any excavation for the purpose of |  
| Development and searching for or obtaining mineral oils and includes an oil ,  
\_ Regulation) Act, 1948 well  
  
On the basis of the definitions extracted above, the Appellant have submitted that mining is  
the process of extracting of minerals/petroleum/natural gas, as the case maybe. The said  
  
term also includes within its ambit, the ancillary and incidental activities such as extraction,  
  
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4.18  
  
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, it has been  
submitted that not only, the 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 or increase in sales or efficiency.  
  
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 | and Project 2 as outlined below:  
  
Project 1  
  
On a plain perusal of the agreement in relation to Project 1, it is clear that VL is the operator  
of the block, and it mines and processes gas from inter alia Raageshwari gas fields. In order  
to increase the gas sales in the concerned terminal, VL has proposed to develop new gas  
facilities by way of augmenting and increasing the present production capacity by  
  
constructing new well pads and improve pipelines. The development Project also includes  
  
upgrading the present gas facility and improving the capacity at RGT.  
  
Project 2  
  
On a plain perusal of the agreement in relation to Project 2, it is clear that surface facilities  
  
infrastructure in existing Aishwariya field shall be utilized and augmentation shall be done  
  
based on adequacy studies. The Project inter alia entails augmentation of existing intra-field  
  
gas pipeline network, increasing liquid gas handling capacity.  
  
It is submitted by the Appellant that the activity of mining includes not only the activity of  
extraction, but also development of existing mining facilities. Accordingly, it is submitted  
  
that the activities carried out by VL under both the Projects come within the ambit of the  
term ‘mining’ in light of the definitions extracted above.  
  
In light of above, the support services provided by the Appellant are integrally connected to  
the activity of mining and therefore, the supply of services provided by the Appellant is  
squarely covered within the ambit of SI. No. 24(ii) of heading 9986 of the Rate Notification  
under SAC 998621. As a result, it is submitted that the said services would attract GST @  
12% in light of SI. No. 24 (ii) of the Rate Notification as ‘support services to exploration,  
  
mining or drilling of petroleum crude or natural gas or both’,  
  
Circular clarifies scope of support services  
  
The Appellant have relied upon the Circular No. 114/33/2019-GST dated October 11, 2019  
  
(‘Circular’) wherein clarification on the scope of support services to exploration, mining or  
  
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ided. The said c;  
drilling of petroleum crude or natural gas or both have been provi ‘ Cireula,  
tilling ae \_  
  
kes reference to the Explanatory Notes to the Scheme of Classification 0 TVICES Which  
makes refere explana  
  
i 22 (Support S€rVices t  
inter alia explanations with respect to service codes 998621 and 9986 (Supp Sto  
  
other mining n.e.c).  
  
way: ; tes to the scheme  
4.22 The relevant extract of SAC 998621 as provided in the Explanatory No  
  
of classification of services is being reproduced hereinunde  
998621 Support services to oil and gas extraction  
  
” i ] is ing services, well  
This service code includes derrick erection, repair and dismantling  
i ” i i i wells, test drilling and  
Casing, cementing, Pumping, plugging and abandoning of ,  
i 1 i i y ction,  
exploration services in connection with petroleum and Bas extra  
inguishi i i i 1 i ee  
Specializedfire extinguishing services; operation of oil or gas extraction unit on a fe  
  
or contract basis  
  
(a) Tetragon Chemie Private Limited and Ors Vs CCE and Ors [2001 (138) ELT  
  
998621 as well as in light of the judicial precedents, the Services provided by the Appellant  
  
to VL will be Classified under ‘support services to exploration, mining or drilling of  
  
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; % ALTERNATIVELY, THI SUPPLY OF SERVICES BY THER APPELLANT  
| ; SHOULD BE CLASSIFIED AS ‘OTHER PROFESSIONAL, TECHNICAL AND  
BUSINESS SERVICES RELATING TO EXPLORATION. MINING OR DRILLING  
OF PETROLEUM CRUDE OR NATURAL GAS OR BOTE? UNDER HEADING  
  
9983 OF Sh. No. 21(ia) OF THE RATE NOTIFICATION  
5.1 Without prejudice to the aforesaid submissions, in the event the supply of services by the  
  
Appellant 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 SI. No.  
21(ia) of heading 9983 of the Rate Notification.SI. No. 21 of Rate Notification provides the  
rate of tax leviable on the services meriting classification under the Heading 9983 of the  
  
SAC. The relevant portion of the said entry is reproduced hereinbelow:  
  
| No. | Heading Description of services Rate |  
  
Heading 9983 (ia) Other professional, technical and business) 12 |  
  
| (Other professional, services relating to exploration, mining or drilling |  
technical and of petroleum crude or natural gas or both  
  
| business services)  
  
The relevant portion of Heading 9983 of SAC as prescribed under the Scheme of  
  
Classification is as follows:  
  
Annexure: Scheme of Classification of Services  
  
“SINo. | Chapter, Section Service Code ) Service Description  
| Heading, or Group | (Tariff)  
Oo Q — @) (4)  
  
| Other professional, technical and business  
| services  
|  
  
296 Heading 9983  
  
|  
|  
es  
  
5.2. Relying upon the aforesaid entries, they have submitted that on a bare reading of the  
aforesaid heading and corresponding service description, it is seen that the said entry is  
broad in its entirety, as it includes business services. They relied upon the definition of the  
term 'business' provided under Section 2(17) of the CGST Act, the relevant portion relied  
upon by the Appellant is being reproduced hereinbelow :  
  
(17) ‘business’includes—  
  
Page I1 of 23  
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rofession vocation, adventure, wager or any Othey  
fession, VoCaHOn, |  
  
erce, ture, pr  
(a) any trade, commerce, manufacture, }  
  
similar activity, whether or not itis for a pecuniary henefi  
oa is an inclusive  
  
i iti ‘business’  
It has been further submitted that the aforesaid definition of & '  
m ‘include’ is very generally used in interpretation  
  
ition; that it is settled law that the ter!  
ene, es occurring in the body of the  
  
i ras  
clauses in order to enlarge the meaning of words or ph sat  
“ erce, manufacture,  
  
statute. The said word is succeeded by the phrase ‘any trade, comm  
  
i ’ ition of the word  
PHOPESSION, v.01. .060 whether or not it is for a pecuniary benefit’. The definition  
| i i at ii ithin its ambit, a  
‘business’ under the CGST Act makes it amply evident that it covers within its a  
  
wide range of activities. The said definition would also include operational, consulting and  
  
management services.  
  
Entry (ia) of SI. No. 21 of Rate Notification was inserted vide Notification No. 19/2019 with  
effective from October 1, 2019. The aforesaid entry was introduced by the Government 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 Appellant have further emphasized that Entry (ia) of SI. No. 21 of Rate Notification  
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  
phrase ‘relating to’ or ‘in relation to’ is a very broad expression and has a wide ambit. The  
Hon’ble Supreme Court in Doypack Systems (P) Ltd Vs. UOI, [1988 (36) E.L.T. 201 (SO)/,  
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, it is submitted that entry (ia) of SI. No. 21 includes a broad range of services  
  
which pertain or concern with the activity of mining.  
  
It is further submitted that PMC services provided by the Appellant 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. Hence, in the present case, is submitted that the supply of  
  
services by the Appellant to VL in relation to the mining activities under the Projects, which  
  
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are technical in nature, merits classification under heading 9983 of the SAC. Accordingly,  
  
by virtue of SI. 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%.  
  
RESPONDENT’S/DEPARTMENT’S SUBMISSIONS  
  
The Jurisdictional Officer vide their letter dated 23.06.2022 have made the following  
submissions:  
  
(i) The service code 998621 “includes services provided to the oil and gas mining sector  
  
(ii)  
  
(iii)  
  
(iv)  
  
by way of actual participation in the mining activity, and in the subject case, it appears  
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.  
  
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.  
  
From 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 of services. Thus, it is observed 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).  
  
Even though the subject services consist of professional, technical and business  
services, the same are not covered under Sr.No. 21(ia)(SAC 9983) andSr.No. 24(SAC  
986) of Notification 11/2017-CT® dated 28.06.2017as amended. Therefore, the said  
professional , technical and business services supplied by the Appellant 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%.  
  
PERSONAL HEARING DT. 10.11.2022  
  
Page 13 of 23  
aaa  
  
The personal hearing in the matter was conducted on 10.1 1.2022, which was attended by  
Shri Rohit Jain, Shri. Jignesh Ghelani, and Shri Darshan Madekar on behalf of the  
Appellant, wherein they reiterated their earlier submissions made while filing the Appeal  
  
under consideration.  
  
DISCUSSIONS AND FINDINGS  
———— NNN FINDINGS  
  
We have gone through the Appeal memorandum encapsulating facts of the case and the  
grounds of appeal. We have also gone through the impugned MAAR Order bearing No.  
GST-ARA-27/2020-21/B-38 dated 31.03.2022(‘hereinafter referred to as the “Im pugned  
Order”) wherein it has been held that the services provided by the Appellant are neither  
covered under Sl. No. 24(ii) nor under SI. No. 21 (ia) of the Notification No. 11/2017-  
C.T.(Rate) dated 28.06.2017 as amended (hereinafter referred to as the “Rate  
Notification”), on the following grounds:  
  
(i) 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 is  
actually the EPC contractor who is giving support services to VL by being  
Tesponsible for all the engineering, procurement, and Construction activities to  
deliver the completed Projects, and therefore, the impugned services are not covered  
under SI. No. 24(ii) of the Rate Notification;  
  
(ii) The Explanatory Notes to Service code 99834] 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, and therefore, the impugned services  
are not covered under SI, No. 21(ia) of the Rate Notification;  
  
(iii) Further, the said professional, technical and business services supplied by the  
Appellant to VL are clearly covered under the residual entry No. 21(ii) of the Rate  
Notification, attracting tax at the rate of 18%,  
  
9. On perusal of the above records and the impugned order Passed by the MAAR, the moot  
  
issues before us are as under:  
  
(a) Whether the impugned PMC (Project Management Consultancy) services provided  
by the Appellant can be construed as “support services to exploration, mining or  
drilling of petroleum crude or natural gas or both” as enumerated under the entry at  
  
SI. No. 24(ii) of the Rate Notification attracting GST at the rate of 12%;  
  
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ROY  
  
(b) If answer to the above question is in negative, whether the impugned services  
provided by the Appellant can be construed as “Other professional, technical and  
business services relating to exploration, mining or drilling of petroleum crude or  
natural gas or both” under the entry at SI. No. 21(ia) of the Rate Notification  
attracting GST at the rate of 12%;  
  
(c) If the answer to the above question is also negative, then what will be the  
  
classification of the impugned services, and what will be the rate of tax thereon?  
  
10. Now, we proceed to examine the first moot issue as to whether the impugned PMC (Project  
  
Management Consultancy) services provided by the Appellant can be construed as “support  
services to exploration, mining or drilling of petroleum crude or natural gas or both” as  
enumerated under the entry at SI. No. 24(ii) of the Rate Notification attracting GST at the  
rate of 12%. In this regard, the Appellant have relied upon the definition of “support  
services” as provided under section 65(49) of the erstwhile Finance Act, 1994 as the support  
services have not been defined under the CGST Act, 2017. Section 65(49) of the erstwhile  
  
Finance Act, 19947 reads as under:  
  
(49) ‘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,’  
  
Relying upon the aforesaid definition of support services, the Appellant have contended that  
since they are carrying out the functions pertaining to the management and supervision of  
the Project which should otherwise have been carried out by the Appellant’s client, Vedanta  
Limited (hereinafter referred to as “VL”), but the same have been outsourced to them in  
terms of the agreement entered between them, therefore, they are providing support services  
to their client. They further argued that since the impugned services provided by them are  
pertaining to the projects which would support in increasing the mining activities of their  
client, therefore, their services would aptly be construed as support services to exploration,  
mining or drilling of petroleum crude or natural gas or both” as enumerated under the entry  
at SI. No. 24(ii) of the Rate Notification. They have also stressed upon the amendment  
carried out in the Notification No. 8/2017-I.T. dated 28.06.2017 vide Notification No.  
19/2019 -LT. dated 30.09.2019 wherein ‘support services ‘of? exploration, mining or  
  
Page 15 of 23  
12.  
  
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.’ In  
this regard, the Appellant have contended that the aforesaid 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 petroleum crude and natural gases,  
and not only those Support services which directly involves mining or exploration of gas.  
They have also referred to the various dictionary meanings of the word ‘to’ for deriving the  
interpretation of the clause “support services to exploration, mining or drilling of petroleum  
crude or natural gas or both”, and eventually derived the meaning of word “to” used in the  
aforesaid clause to be construed as “towards” or “concerned”. Based on this, they have  
  
contended that since their Management activities related to the projects are ultimately  
  
be construed as support services to exploration, mining or drilling of petroleum crude or  
natural gas or both”, falling under entry at SI. No. 24(ii) of the Rate Notification. They have  
also made reference to the Circular No, | 14/33/2019-GST dated October | 1, 2019  
(‘Circular’) wherein clarification on the Scope of “support services to exploration, mining or  
drilling of petroleum crude or natural gas or both” has been Provided. The said Circular has  
made reference to the Explanatory Notes to the Scheme of Classification of Services which  
  
inter alia includes the explanation of the SAC 998621, which has been extracted as under:  
‘998621 Support services 10 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 &as extraction; specialized  
fire extinguishing Services, operation of oil or &as extraction unit on a fee or  
  
contract basis  
  
Based on the aforementioned Provision of the Circular, the Appellant have argued that the  
concerned Explanatory Note for 998621 uses the phrase ‘includes’, which has got a very  
  
wide connotation, thereby giving the Chapter Heading an extensive scope, which would  
  
code, i.e., 998621. In order to strengthen their contention, they have relied upon various  
  
court rulings wherein the Scope and interpretation of the word “include” has been derived by  
  
Page 16 of 23  
the court in the extensive sense and not in restrictive sense, and thereby, assigning a very  
connotation to the word “include”.  
  
We have carefully considered the above contentions put forth by the Appellant. In this  
regard, first we would like to examine the relevant entry, i.c., entry at SI. No. 24(ii) of the  
  
Rate Notification, which is being reproduced herein under:  
  
Sl. No. Heading Description of Service Rate  
(per cent)  
24 Heading 9986 | (ii) Support services to exploration, 12  
(Support services mining or drilling of petroleum crude or  
to agriculture, natural gas or both.  
  
hunting, forestry,  
fishing, mining |  
and utilities) |  
  
On perusal of the aforesaid entry, it is seen that the aforesaid entry inter alia contains the  
phrase “support services”. In this regard, we are inclined to agree with the interpretation  
drawn by the Appellant wherein they have relied upon the definition of the support services  
as provided under the Finance Act, 1994 as the same has not been defined under the CGST  
Act, 2017, and thereby, the Appellant’s activities related to the project management, which  
were otherwise the responsibilities and functions of the Appellant’s client, VL, can be  
construed as support services attributing to the reason that the impugned activities of  
  
management and supervision of the projects have been outsourced by VL to the Appellant as  
per the agreement entered between them.  
  
Further, the aforesaid entry under SI. No. 24(ii) of the Rate Notification inter alia contains  
the term “mining”, which is relevant in the context of the present case. Since the meaning of  
the term “mining” has not been provided under the CGST Act, 2017, we would resort to the  
  
dictionary meaning of the said term, which is being reproduced hereinunder:  
  
As per Cambridge Dictionary:  
  
the industry or activity of removing substances such as coal or metal from the ground  
by digging:  
  
Thus, on perusal of the aforesaid meaning of the term “mining”, it is observed that, in  
  
common parlance, mining is construed as digging up of earth for extracting something  
  
valuables. It is further observed from the aforesaid notification entry under SI. No. 24(ii)  
  
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16.  
  
ing of petroleum crude or natural gas or e  
  
that the phrase support services and the phrase min  
  
i i reted and elaborated by  
both have been connected with the word “to”, which has been interp  
  
F lant have  
  
; regard, the Appel  
  
the Appellant under their submissions made hereinabove. In this reg d as “towards” or  
an? strued a  
  
interpreted that the meaning of the term “to” should be con  
  
“concerned”. Here also, we tend to agree with the interpretation and meaning ee  
respect of the word “to” on the basis of the dictionary meaning of the said word. Now, alter  
having drawn the interpretation and meaning of the aforesaid words and phrases, we  
Proceed to interpret the scope of the pertinent entry, i.e., entry under SI. No. 24(ii) of the  
Rate Notification. On bare perusal of the said entry and on application of the fundamental  
principle of literal rule of interpretation, it is observed that the said entry covers only such  
activities or services which are used directly in the mining operations as understood by the  
aforesaid dictionary meaning of the term “mining” which essentially entails the excavation.  
of the land or sea to extract the valuable substances therefrom. In this regard, we would also  
like to refer to the explanatory note to the scheme of classification of services which inter  
alia indicates the scope and coverage of the pertinent entry by illustrating certain activities  
which are to be included under the specific Chapter Heading, group or service code. In the  
context of the case, the relevant service code under the Chapter Heading 9986, having  
description as “Support services to agriculture, hunting, forestry, fishing, mining and  
utilities”, is 998621 which bears the description “Support services to oil and gas  
extraction”, under which the Appellant intends to classify their services. The relevant  
extracts of the said explanatory note is being reproduced hereinunder:  
  
‘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  
  
Sire extinguishing services, operation of oil or &as extraction unit on a fee or  
  
contract basis  
  
On perusal of the above provisions made in the said explanatory note to the scheme of  
classification of services, it is adequately evident that the activities, which merit  
classification under SAC 998621, are in the nature of physical performance or activities  
  
which are being directly used in the mining and extraction operations whereas the services  
  
Page 18 of 23  
provided by the Appellant are not so as the said Services are in the  
n  
  
, ature i  
monitoring, of review,  
  
management and supervision of the project works which a  
  
mor m i te done towards  
realization of mining activities, Hence, we agree with the MAAR observati  
ati  
  
m on wherein it h  
been held that it is the services provided by the EPC com ine the  
  
; pany who are undertaki  
actual infrastructur: King the  
  
al work for increasing the production capacity of their client, VL  
  
fr would  
be classified under the entry at SI. No. 24(ii)  
  
. of the Rate Notification, and not the Project  
anagement Consultancy services provided by the Appellant which are not directly  
concerned with the mining Operation.  
  
Further, the use of the word “include” in the pertinent explanatory note to SAC 998621 does  
  
Not suggest in any manner that the activities which are not similar in the nature and import  
to the ones enumerated in the said explanatory note will be covered under the scope of the  
subject SAC. Since, the Appellant’s activities are not in the similar nature to those of  
activities enumerated under the subject explanatory note, hence there is no question of  
inclusion of the impugned services under the SAC 998621. Thus, the Appellant’s contention  
  
made in this regard is erroneous, and hence, not tenable.  
  
As regards the Appellant’s contention with respect to the amendment in the Notification No.  
8/2017-L.T. (Rate) carried out by the Notification No. 19/2019 dated 30.09.2019 wherein  
against entry at SI. No. 24, in item (ii), ‘support services ‘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’, thereby, widening  
the scope of the pertinent entry to such an extent that the said entry would aptly include the  
impugned services, it is opined that the said substitution appears to be more in the  
grammatical nature rather than the intention of widening the scope of the pertinent entry as  
the preposition “to” substituted in place of the preposition “of’ removes the ambiguities, if  
any, and add more relevance and meaning to the clause of the pertinent entry. Thus, the  
  
Appellant’s contention put forth in this regard is fictitious, and hence, not tenable.  
  
. The Appellant have further contended that in the event services by the Appellant 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 SI. No. 21(ia) of heading 9983 of  
the Rate Notification. It is submitted by the Appellant that Entry (ia) of S] No. 21 of Rate  
Notification uses the phrase ‘other professional, technical and business services’, which has  
  
a broad connotation to inter alia include PMC services rendered by professionals of their  
  
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21.  
  
company. They further contended that since the term ‘mining’ is wide enough © include  
within its ambit, ancillary and incidental activities such as extraction, panneatio,  
development of existing mining facilities, all of which is in relation to the activity of mining  
of minerals/petroleum/natural gas from the Earth. Accordingly, the term ‘mining’ would  
also include development of existing oil and gas facilities to strengthen the mining activities  
carried out at the block. In this regard, it is submitted that PMC services supplied by the  
Appellant 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.  
  
The Appellant further relied upon the Circular 114/33/2019-GST dated October 11, 2019  
(‘Circular’) wherein it has been stated 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 relevant extract of the Circular is reproduced hereinbelow:  
  
‘2. The matter has been examined. Most of the activities associated with exploration, mining  
or drilling of petroleum crude or natural as fall under heading 9986. A Sew services  
Particularly technical and consulting services relating to exploration also fall under  
heading 9983. Therefore, Jollowing entry has been inserted under heading 9983 with effect  
Srom 1" 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’.  
  
The Appellant have further contended that the said Circular has not provided an exhaustive  
list of services which would merit qualification under S|. No. 21(ia) of Rate Notification and  
submitted that certain technical and consulting services which are not specifically covered  
under the Heading 9986, would get covered under the Heading 9983 of the Services  
Accounting Code. In this regard, they have further contended that Entry (ia) to SI. No. 21 of  
the Rate Notification is very wide and that the Circular Cannot per se restrict the scope of the  
Rate Notification to cover only few services, and hence the impugned services provided by  
them would aptly be covered under entry at SI. No. 21(ia) of the Rate Notification. Further,  
  
they have also relied upon the definition of the business as provided under section 2(17) of  
  
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22.  
  
23.  
  
the CGST Act, 2017 to contend that their sery  
  
ices are in the nature of business services  
being provided to augment the business of their Client, and hence merit classi  
  
| fication under  
the pertinent entry at SI. No. 21(ia) of the Rate Notification.  
  
In this regard, we agree with the Appellant’s contention in as much as the impugned services  
provided by them through their professionals are in the nature of professional and technical  
services as the said impugned services provided by them in deed require technically  
qualified and trained professionals and staffs. However, the impugned services provided by  
them are not related to exploration, mining or drilling of petroleum crude or natural gas or  
both’. This observation is also supported by the explanatory note to SAC 998341 which is  
being reproduced hereinunder:  
99834 Scientific and other technical services  
  
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 Page 62 of 130 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, of. 995432  
998343 Mineral exploration and evaluation  
  
This service code includes mineral exploration and evaluation information, obtained on own  
account basis.  
  
On perusal of the above, it is evident that services covered under the SAC 998341 are  
essentially related to the survey and exploration of the mineral deposits and the study of  
their properties, which is certainly not the case with the impugned services which are in the  
nature of project management and supervision, and hence the contention put forth by the  
Appellant are devoid of any merit and cannot be accepted. It is also pertinent to mention that  
the CBIC Circular No. 114/33/2019-GST dated October 11, 2019 clearly specified that the  
  
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25.  
  
scope of the entry at Sr. No. 21 (ia) under heading 9983 of eee iy  
Central Tax (Rate) dated 28.06.2017 inserted with effect from Ist October 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.  
Thus, it is conchided that as per the explanatory note, the impugned services do not merit  
  
classification under SAC 998341,  
  
Now we proceed to classify the impugned services under the proper service head and  
determine the rate of tax thereon. In this regard, we have observed hereinabove that the  
impugned services provided by the Appellant through their professionals are in the nature of  
professional and technical services as the said impugned services provided by them in deed  
require technically qualified and trained professionals and staffs. Thus, we conclude that the  
impugned services provided by the Appellant will merit classification under SAC 998349  
bearing description “Other technical and scientific services nowhere else classified, and  
accordingly merit entry at item (ii) of SI. No. 21 of the Rate Notification bearing the  
description Other professional, technical and business services other than (i) and (ia) above  
and serial number 38 below, attracting GST at the rate of 18% (CGST @9%+SGST @9%).  
  
In view of the above discussions and findings, we pass the following order:  
ORDER  
  
We, hereby, uphold the MAAR Order No. GST-ARA-27/2020-21/B-38 dated  
31.03.2022(‘Impugned Order’) wherein it has been held that the services provided by the  
Appellant are neither covered under Sl. No. 24(ii) nor under SI. No. 21 (ia) of the Rate  
Notification. As regards the classification of the impugned services, it is held that the  
impugned services of project management consultancy services provided the Appellant  
would merit classification under the SAC 998349 bearing description “Other technical and  
scientific services nowhere else classified, attracting GST at the rate of 18% (CGST  
@9I%+SGST @9%),  
  
\\\ Q ()  
(RAJEEV KUMAR MITAL) 3 (Dr. D.K. SRINIVAS)  
  
MEMBER : MEMBER  
  
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Copy to the:  
  
1. Appellant;  
2. AAR, Maharashtra  
  
3. Chief Commissioner, CGST and Central Excise, Mumbai Zone.  
  
4. Commissioner of State Tax, Maharashtra.  
5. Commissioner, CGST& C.Ex, Mumbai East  
  
5, Assistant Commissioner, CGST &C.Ex, Division-V, Mumbai Fast  
  
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