# ODISHA AUTHORITY FOR ADVANCE RULING
## GOODS AND SERVICE TAX (GST)
## RAJASWAVIHAR, BHUBANESWAR-751007(ODISHA)
## PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULINGU/S.98 OF THE GOODS AND SERVICE TAX ACT, 2017

P01.



Members Present:

1. Sri Harsh Vardhan, IRS, Additional Commissioner, Office of the Chief Commissioner, GST, Central Excise & Customs, Bhubaneswar.
2. Smt Pratima Mohanty, OFS (SAG), Additional Commissioner, CT & GST Commissionerate Odisha, Banijyakar Bhawan, Cantonment Road, Cuttack-753001- Odisha.

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| **Name and Address of the Applicant** | M/s. Amarjyoti Granites India Private Limited, Building No. 4,6, Bhagabanpur, Dakhinipur, Balakrishnapur, Ganjam, Odisha, 760002. |
| **GSTIN or User ID** | GSTIN- 21AAACA7359P1ZF |
| **Date of Filing of Form GST ARA-01/ Date of submission of required documents** | 07.03.2025 |
| **Present for the Applicant in the Personal hearing.** | No one from the applicant has attended personal hearing on the scheduled dates. |
| **Date of Personal Hearing** | 29.04.20226 & 26.05.2025 |

**ORDER NO.02/ODISHA-AAR/2026-27** **Dated: 05.06.2026**

**Subject:** M/s. Amarjyoti Granites India Private Limited, , (herein after referred to as the 'Applicant') having principal place of business/registered office/corresponding address at Building No. 4,6, Bhagabanpur, Dakhinipur, Balakrishnapur, Ganjam, Odisha, 760002 bearing GSTIN: 21AAACA7359P1ZF has filed an application for advance ruling under Section 97 of CGST Act, 2017 and Section 97 of the OGST Act, 2017 in FORM GST ARA-01 discharging fee of Rs. 5,000/- each under the CGST Act and the SGST Act.

**1.0** The Applicant has sought ruling in respect of the following question:

***(a) Whether GST paid under reverse charge mechanism on mining royalty is eligible to be considered as Input Tax Credit for the purpose of refund under inverted duty structure under Section 54(3) of the CGST Act, 2017?***

***(b) Whether mining royalty, being a statutory payment intrinsically linked to extraction of minerals, can be treated as differently from ordinary input services for the purpose of refund calculation under Rule 89(5) of the CGST Rule?***

***(c) Whether the GST paid on mining royalty under RCM can form part of the refundable Input Tax Credit in cases where accumulation arises due to inverted duty structure in the mining industries?***

1.1 At the outset, we would like to make it clear that the provisions of both the CGST Act and the OGST 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 provision under the OGST Act.

**2.0** **Submission of the Applicant:**

**2.1** M/s Amarjyoti Granites India Pvt. Ltd. [here-in-after referred to as "the Company/Applicant"] is a company engaged in the business of mining, extraction

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and sale of granite blocks. The applicant is duly registered under the Central Goods and Service Tax Act, 2017 and Odisha Goods and Service Tax Act, 2017 bearing GSTIN: 21AAACA7359P1ZF.

2.2 That, in course of its mining activities, the Applicant is required to pay royalty and statutory mining dues to Government under the provisions of Mines and Mineral (Development and Regulation) Act, 1957 (MMDR Act).

2.3 GST is payable on such royalty under the Reverse Charge Mechanism (RCM) in terms of Section 9(3) of the CGST Act read with Notification No. 13/2017-Central Tax (Rate).

2.4 During the relevant tax period, the Applicant's output supply of granite blocks was subject to GST at a lower rate than the GST paid on inward supplies including royalty, resulting in accumulation of Input Tax Credit due to inverted duty structure.

2.5 The Applicant has accumulated Input Tax Credit (ITC) arising primarily from GST paid under reverse charge on mining royalty. Under Section 54(3) of the CGST Act, refund of unutilized ITC is allowed in case of inverted duty structure. However, Rule 89(5) of the CGST Rules prescribes the formula for refund of accumulated ITC and restricts refund primarily to input goods, which has created ambiguity in cases where ITC arises from statutory payments such as mining royalty.

2.6 The issue is further complicated by judicial interpretations including the judgment of the Hon'ble Supreme Court in Union of India vs. VKC Footsteps India Pvt. Ltd., wherein refund under inverted duty structure was restricted to inputs and not input services.

2.7 At the same time, the Constitution Bench of the Hon'ble Supreme Court in *Mineral Area Development Authority vs. Steel Authority of India Ltd.* clarified the legal nature of mining royalty, holding that royalty is not a tax but a statutory payment intrinsically linked to mineral extraction.

2.8 In view of the above, an important legal question arises: Whether GST paid on mining royalty under reverse charge mechanism can be considered intrinsically linked with the extraction and supply of mineral goods and therefore eligible for

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refund under inverted duty structure under Section 54(3) of the CGST Act.

2.9 Mining royalty is not an ordinary commercial service. Royalty is a statutory levy payable to the Government as a condition precedent for lawful extraction and removal of minerals. In mining operations:

- Mineral blocks are identified and extracted.
- Royalty is calculated based on quantity of minerals extracted.
- Payment of royalty is mandatory before dispatch or movement of minerals.
- Only after payment of royalty can the mineral be transported and sold.

Thus, royalty is directly linked with the quantity of mineral extracted and sold, establishing a direct nexus between royalty payment and outward supply of granite blocks

2.10 Section 54(3) of the CGST Act provides for refund of unutilized ITC where the rate of tax on inputs is higher than the rate of tax on output supplies. The objective of this provision is to prevent blockage of working capital and maintain tax neutrality in the GST regime.

2.11 In the Applicant's case:

a. GST is paid under RCM on mining royalty

b. Granite blocks are sold at a lower GST rate

c. This leads to genuine accumulation of ITC

Denial of refund results in permanent blockage of working capital, which is contrary to the fundamental design of GST as a consumption-based tax system.

2.12 There exists significant ambiguity in the interpretation of Rule 89(5) in cases involving statutory payments such as mining royalty. The Applicant therefore seeks a ruling from this Hon'ble Authority regarding the eligibility of refund of GST paid on mining royalty under reverse charge mechanism in cases of inverted duty structure.

**3.0 <u>Submission of jurisdictional tax authority on Advance Ruling Application:</u>**

The Jurisdictional Tax Authority vide letter dated 23.04.2026 has informed that, the applicant has filed an application of refund on ITC

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accumulated due to Inverted Tax Structure on dated 13.02.2026 and after due examination the said application has been rejected. The Jurisdictional Tax Authority has forwarded the refund rejection order (RFD-06) dated 31.03.2026 for reference.

4.0 **Personal Hearing:**

The personal hearing was fixed on 29.04.20226 & 26.05.2025 under due intimation to the applicant, the jurisdictional officer of State & Central GST (intimated through their respective Commissionerates along with a copy of the application and the written submission of the Applicant). However, no one from the applicant side has attended the personal hearing on the above scheduled dates.

## Discussion & findings

**5.0** We have gone through the advance ruling application, question on which advance ruling has been sought and the Applicant's interpretation of law and/or facts, as the case may be, in respect of the question asked.

5.1 Before venturing into the merits of the questions, the admissibility of the application under the provisions of the GST Act must be evaluated. Hence, the primary issue before this Authority is whether the questions raised in the application are covered by Section 97(2) of the CGST/OGST Act, 2017 and are therefore admissible for determination under the Advance Ruling mechanism.

5.2 The term Advance Ruling under Section 95 of CGST Act, 2017 is defined as follows:

*(a) "advance ruling" means a decision provided by the Authority or the Appellate Authority [1][or the National Appellate Authority] to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100 [2][or of section 101C], in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;*

Further, Section 97(2) prescribes

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*The question on which the advance ruling is sought under this Act, shall be in respect of,-*

*(a) classification of any goods or services or both;*

*(b) applicability of a notification issued under the provisions of this Act;*

*(c) determination of time and value of supply of goods or services or both;*

*(d) admissibility of input tax credit of tax paid or deemed to have been paid;*

*(e) determination of the liability to pay tax on any goods or services or both;*

*(f) whether applicant is required to be registered;*

*(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

5.3 The Advance Ruling mechanism is a statutory creation and the jurisdiction of this Authority is confined strictly to the matters enumerated under Section 97(2) of the CGST Act. The Applicant seeks a ruling regarding the eligibility of **refund of accumulated Input Tax Credit under Section 54(3)** of the CGST Act and the methodology for computation of such refund under Rule 89(5) of the CGST Rules. It is evident from the application that, all three questions raised by the applicant essentially query the eligibility, treatment, and calculation of a **refund** of accumulated Input Tax Credit under Section 54(3) of the CGST Act read with Rule 89(5) of the CGST Rules.

5.4 Hence, on a plain reading of the questions raised by the applicants, it appears that, the Applicant is not seeking a ruling on the questions as enumerated in the provision under Section 97(2) of CGST /OGST Act, 2017. Though the Applicant has used the expression "Input Tax Credit" in the questions framed, the substance of the application pertains to **refund entitlement and refund computation** under Section 54(3) and Rule 89(5). The expression appearing in Section 97(2)(d), namely "admissibility of input tax credit", relates to the availability or eligibility of ITC under the provisions of Chapter V of the CGST Act. The Applicant is admittedly availing credit of GST paid on mining royalty under reverse charge mechanism and does not seek determination of whether such credit is available under Sections 16 of the Act.

5.5 The dispute raised concerns whether such credit, even if admissible, can be included for the purpose of refund under the inverted duty structure mechanism prescribed under Section 54(3) and Rule 89(5). Refund of tax or Input Tax Credit is a distinct subject governed by Section 54 of the CGST/OGST Act, 2017. While Section 97(2)(d) allows questions regarding the *"admissibility of input tax credit of tax paid"*, it does not extend to the **refund of unutilized/accumulated input tax credit**. The mechanism, eligibility, formulas, and grant of refunds are strictly governed by Section 54 to 58 of the CGST/OGST Act, 2017 and corresponding Rules.

5.6 Hence, we are in the considered opinion that, the mechanism for evaluating refund claims falls beyond the statutory jurisdiction conferred upon this Authority under Section 97(2) of CGST/OGST Act, 2017. Furthermore, as intimated by the Jurisdictional Tax Authority, a refund application dated 13.02.2026 has been rejected by the refund sanctioning authority vide FORM-GST-RFD-06 dated 31.03.2026. As per the provision under Section 98(2) of CGST/OGST Act, 2017:

**Section 98(2)**

*"The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:*

*Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:*

*Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:*

*Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order."*

5.7 From the above provision of law, this Authority finds that the question raised in the present application has already been decided by the jurisdictional tax

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authority in proceedings under Section 54 of the CGST/OGST Act, 2017 concerning the applicant's refund claim. In view of the proviso to Section 98(2) of the CGST Act, 2017, this Authority is also barred from admitting the application. Accordingly, the application is rejected at the admission stage under Section 97 & 98(2) of the CGST/OGST Act, 2017 as discussed above.

**6.0** In view of the above, we pass the following order:

**RULING**

**The application in GST ARA-01 in respect of** Amarjyoti Granites India Private Limited bearing GSTN: 21AAACA7359P1ZF **is rejected as the same is not maintainable as discussed above.**

**7.0** The Applicant or jurisdictional officer, if aggrieved by the ruling, may appeal to the Odisha State Appellate Authority for advance ruling under Section 100 of the CGST/OGST Act, 2017 within 30 days from the date of receipt of the advance ruling.

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(Harsh Vardhan)
Member, CGST

(Pratima Mohanty)
Member, SGST

C. No. V (30)09/ARA/ODISHA/BBSR/2025-26/09 / 10014A Dated: 11 /06/2026

To

M/s. Amarjyoti Granites India Private Limited,
Building No. 4,6,
Bhagabanpur, Dakhinipur, Balakrishnapur, Ganjam, Odisha,
760002.

Copy forwarded to:

1. The Pr. Commissioner, CGST & Central Excise, Bhubaneswar Commissionerate, Bhubaneswar.
2. The Chief Commissioner, SGST Odisha, Banijyakar Bhawan, Old Secretariat Compound, Cuttack-753001, Odisha.
3. Office copy.