M/s Durga Projects & Infrastructure Pvt Ltd, No 125/1-18, GK Arcade, T. Mariyappa Road, 1st Block, Jayanagar, Bengaluru 560011 (appellant; GSTIN 29AACCD5554H1Z1)

Appellate Authority for Advance Ruling — Karnataka

ORDER NO:-KAR/AAAR/06/ 2019-20, dated 24.12.2019 (Karnataka Appell… Dated **24.12.2019**

Q Questions Before the Authority

- Whether GST is payable on the entire value of partially completed flats where customers were identified after the GST regime but construction commenced before it. The Authority for Advance Ruling had answered yes in Advance Ruling No KAR ADRG 16/2019 dated 25.07.2019, and the appellant challenged that answer in appeal. The Appellate Authority did not reach this question.

F Facts

The appellant is a builder of residential apartments that works under joint development agreements (JDA) with landowners for an agreed ratio of built-up area. Construction began in the pre-GST period and continued after 01.07.2017, and customers for the partially completed flats were identified only after GST came into force. The appellant obtained an advance ruling on the GST treatment of such flats, and the appeal concerns the part of that ruling holding the whole value taxable.

H Ruling

The Appellate Authority dismissed the appeal on grounds of time limitation. The appeal was filed 77 days after receipt of the advance ruling, which is **beyond the outer limit of 60 days** under section 100 of the CGST Act. The Authority held it had **no power to condone delay beyond thirty days** after the initial 30-day period, so the merits of the GST question were not examined.

R Reasoning

The Authority read the proviso to section 100(2) of the CGST/KGST Act as allowing a further extension of only 30 days, so the outer limit is 60 days from communication of the ruling. It relied on the Supreme Court in Singh Enterprises (2008) 3 SCC 70 and Consolidated Engineering Enterprises (2008) 7 SCC 169, and on Hongo India (2009) 5 SCC 791, which hold that section 5 of the Limitation Act, 1963 is excluded where the special statute fixes a final limit. The Authority noted that the words 'not exceeding thirty days' would be rendered otiose if it could go further. Because the appeal was not admitted on limitation, the Authority declined to decide the merits, including the appellant's works contract arguments under Larsen & Toubro (2013) 75 VST 1 and K Raheja Development (2005) 141 STC 298.

P Provisions Relied On

Section 100(1), (2) and (3) of the CGST Act, 2017 and the corresponding KGST Act, 2017 provision (appeal to the Appellate…

Section 98(4) of the CGST Act, 2017 (referred to as the source of appealable advance rulings)

Section 5 of the Limitation Act, 1963 (held excluded in respect of the section 100 period)

Section 35 of the Central Excise Act, 1944 (analogous provision applied by way of precedent)

! For the Practitioner

This order is useful mainly as authority that the 60-day outer limit for appealing an advance ruling under section 100 is strict and cannot be extended by the Appellate Authority, so a practitioner must file within 30 days, or within the further 30 days with a showing of sufficient cause. It does not decide whether GST applies to partially completed flats booked after 1 July 2017, because the merits were never reached, so the Authority's underlying ruling stands unchallenged at the appellate level. Anyone relying on the appellant's works contract arguments needs to look to the Supreme Court and High Court decisions cited in the appeal, not to this order.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> kar_aaar_06_2019-20_24.12.2019.pdf

Prepared 15-11-2026.

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