M/s. Kara Property Ventures LLP

Authority for Advance Ruling — Tamil Nadu

ORDER No.01/AAR/2019 DATED: 21.01.2019 Dated **21.01.2019**

Q Questions Before the Authority

- What is the value of supply of services provided from July 1, 2017 in terms of the provisions of CGST Act 2017 read with Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time)?

F Facts

The Applicant is building a residential project called 'One Crest' in Chennai, with 43 units and amenities such as a club house and swimming pool, on land it bought. For each buyer it signs two agreements on the same day: an Agreement for Sale of an undivided share in the land and a Construction Agreement for the apartment, with payments tied to construction milestones. The sale deed for the land share is executed after 80% of the consideration is received, and possession is given only after the sale deed and completion certificate.

H Ruling

Value of supply of construction services under the dual-agreement structure from 1 July 2017	****2/3rd of the total value** charged for construction service and amount charged for transfer of undivided share of land**	Applies under entry 3(i) of Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 as amended, and G.O. (Ms) No. 72 dated 29.06.2017 as amended. The rate of 9 per cent appears in the notification extract in the order, not in the ruling paragraph itself.

The authority held that the two agreements form a single supply of construction of a complex intended for sale to a buyer, which is a supply of services under Schedule II, entry 5(b). The value of that supply is the total amount charged for construction and for the undivided land share, with the land component deemed to be one-third of that total and excluded, so GST is levied on two-thirds of the total.

R Reasoning

The authority treated the two agreements as one supply because they are co-existent and co-terminus, and cancelling one cancels the other. It found the transaction was not a sale of land under Schedule III, entry 5, because the buyer cannot demand partition and the sale deed follows completion of the apartment. It therefore fell under Schedule II, entry 5(b), as construction of a complex intended for sale. For valuation, it applied the Section 15(5) notification, paragraph 2, under which the land or undivided share is deemed to be one-third of the total amount charged.

P Provisions Relied On

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

Section 7 of the CGST Act, 2017	Schedule II, entry 5(b), CGST Act, 2017
Schedule III, entry 5, CGST Act, 2017	Section 15(1) of the CGST Act, 2017
Section 15(5) of the CGST Act, 2017	
Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, entry 3(i) (heading 9954), and paragraph 2 with its Explanation	
G.O. (Ms) No. 72 dated 29.06.2017 (Tamil Nadu), as amended	

! For the Practitioner

Builders in Tamil Nadu who sell an undivided land share and a construction agreement together can use this ruling to see how GST is computed on a dual-agreement structure, with the land element excluded at one-third. It settles that the two agreements are treated as a single supply under Schedule II, entry 5(b). It does not decide the time of supply, eligibility for input tax credit, or how the ruling applies to projects where the sale deed was registered before completion.

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 -> tn-01-aar-2019-kara property ventures pl.pdf

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