

M/s. JAYPEE ENTERPRISES

Authority for Advance Ruling — Tamil Nadu

Advance Ruling No. 1/ARA/2026

Dated **08.01.2026**

Q Questions Before the Authority

- Whether the actual value charged for 'transfer of land' is available as per sale deed and the actual value for construction of residential houses is available as per construction agreement, can GST be charged @ 18% as per Entry No. 3(xii) of Notification No. 11/2017-CT(Rate) r/w Notification No. 11/2017-ST(Rate) only on the amount charged in construction agreement(with corresponding benefit of input tax credit) instead of charging GST @ 1.5%/7.5% as per Entry No. 3(i) and 3(ia) on 'total amount charged' as per Notification No. 11/2017-CT(Rate) r/w Notification No. 11/2017-ST(Rate);
- If GST is to be charged @ 1.5%/7.5% as per Entry No. 3(i) and 3(ia) as per Notification No. 11/2017-CT(Rate) r/w Notification No. 11/2017-ST (Rate) without input tax benefit, can the 'amount charged for the transfer of land' at least be considered as per sale deed instead of deemed value of one third of total amount charges?

F Facts

The applicant purchases land, develops residential layouts, and enters into a Memorandum of Understanding (MOU) with prospective buyers for both the sale of land and the construction of residential houses. Pursuant to the single MOU, two separate agreements—sale deed for the plot and a construction agreement—are executed with the buyer on the same day. The applicant sought clarity on whether it could opt to pay GST at 18% with ITC solely on the construction agreement value, or alternatively, whether the actual land value stated in the registered sale deed could be deducted instead of the statutory one-third deemed deduction.

H Ruling

Applicability of 18% GST with ITC on construction value vs 1.5%/7.5% rate without ITC under Entry 3(i)/(ia)

1.5% (effective 1%) for affordable and 7.5% (effective 5%) for other residential apartments without ITC

Applicant commenced construction post 01-04-2019 and did not have an option to exercise the old rate under item (ie) or (if)

Deduction of actual land value per sale deed versus deemed one-third deduction

Only one-third deduction permissible

Taxable value must strictly follow Para 2 of Notification No. 11/2017-CT (Rate) as amended by Notification No. 03/2019-CT (Rate)

The Authority held that the applicant is governed by the mandatory post-01.04.2019 real estate tax structure and must pay **GST at 1.5% for affordable and 7.5% for non-affordable residential apartments** without input tax credit, subject to prescribed conditions. It further ruled that the taxable value must be determined strictly under Paragraph 2 of Notification No. 11/2017-Central Tax (Rate), permitting **only a one-third deduction** of the total amount charged towards land value, irrespective of the actual land value declared in the sale deed.

R Reasoning

The Authority observed that executing both the sale deed and the construction agreement on the same day pursuant to a single MOU constitutes a single integrated transaction for the supply of a residential house. Because construction commenced after 01.04.2019 in a Residential Real Estate Project (RREP), the scheme introduced by Notification No. 03/2019-CT (Rate) is mandatory, eliminating the option to pay 18% with ITC under residual entries. Regarding land valuation, the Authority adhered strictly to Paragraph 2 of Notification No. 11/2017-CT (Rate) and CBIC clarification F. No. 354/32/2019-TRU, holding that advance ruling authorities cannot depart from the statutory one-third deemed deduction mechanism despite the applicant's reliance on Gujarat High Court ruling in **Munjal Manishbhai Bhatt**.

P Provisions Relied On

Notification No. 11/2017-CT (Rate) dated 28-06-2017 (Items 3(i), 3(ia), 3(xii), and Paragraph 2)

Notification No. 03/2019-CT (Rate) dated 29-03-2019

Section 97 of the CGST Act, 2017 / TNGST Act, 2017

Schedule II, Entry 5(b) of the CGST Act, 2017

Schedule III, Entry 5 of the CGST Act, 2017

Section 2(zk) and 2(zn) of the Real Estate (Regulation and Development) Act, 2016

! For the Practitioner

Confirms that for residential projects commenced after 01.04.2019, developers cannot split transactions into separate land and construction agreements to claim 18% GST with ITC or exclude actual land values. Practitioners should note that the AAR refused to apply the Gujarat High Court decision in **Munjal Manishbhai Bhatt**, strictly enforcing the **statutory one-third land abatement** over actual sale deed values.

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 -> 1-jaypee enterprises aar order compressed.pdf

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