M/s Nani Resorts and Floriculture Pvt. Ltd., Gurugram (GSTIN 06AABCN4603L1ZK)

Authority for Advance Ruling — Haryana

Advance Ruling No. HAR/HAAR/R/2019-20/13 (In Application No. 13/2019… Dated **20.11.2019**

Q Questions Before the Authority

- Whether the applicant is liable to pay tax at 6% + 6% (after land abatement of 4% + 4%), availing input tax credit, as provided under Notifications 11 and 17 of 2017 (CGST) and Notifications 46 and 74 of 2017 (HGST).
- Whether the applicant is liable to pay tax at 0.5% + 0.5% as provided under Notifications 3 and 4 of 2019 (CGST) and Notifications 45 and 46 of 2019 (HGST).

F Facts

The applicant is a developer building an Affordable Group Housing Colony in Sector 102, Gurugram, under the Haryana Affordable Housing Policy, 2013. It holds two licences: License No. 11 of 2014 for 5.00 acres, on which construction began before 01.04.2019 and bookings were made pre-GST, and License No. 82 of 2018 for 4.36875 acres, granted on 05.12.2018, with a building plan approved on 27.05.2019 and RERA registration on 11.06.2019. The applicant's own RERA declaration showed a likely construction start date of 05.07.2019 and nil expenditure to date, and the project had no environment clearance yet.

H Ruling

Tax on flats on the 5.00 acre land under License No. 11 of 2014 (question 4.1)	**12% (with input tax credit and land abatement)**	The project is ongoing because construction began before 31.03.2019. The applicant opted to pay at the old effective rate of 8% and 12% with ITC under Notification 20/2017-CT(Rate). The scan reads 12% in the ruling paragraph, but the text layer shows '1-2%'. Verify against the original.
Tax on flats on the 4.36875 acre land under License No. 82 of 2018 (question 4.2)	**0.5% + 0.5% (without input tax credit)**	Not an ongoing project under Notification 03/2019-CT(Rate). Construction began only after 01.04.2019, and the bookings and RERA steps also fall after that date.

The project under License No. 11 of 2014 is an ongoing project because construction started on the 5.00 acres before 31.03.2019. The applicant's flats on that land attract tax at **12% with input tax credit and land abatement** , as the applicant had opted to pay at the old effective rate. The project under License No. 82 of 2018 is **not an ongoing project** , so it attracts **0.5% + 0.5% without input tax credit** .

R Reasoning

The authority applied the 'ongoing project' test in Notification 03/2019-CT(Rate), read with the definitions of

'project', 'real estate project', 'commencement certificate' and 'competent authority', and with RERA 2016 sections 2(zn), 2(zq) and 3(1). For the 5.00 acre project, construction started before 31.03.2019, so the older regime with ITC applies. For the 4.36875 acre project, the sanction, RERA registration, likely construction start date (05.07.2019), bookings and environment clearance all came after 31.03.2019, and the applicant declared nil expenditure. The project therefore falls outside the ongoing category and within the new 0.5% + 0.5% rate without ITC.

P Provisions Relied On

- Section 97(2)(b) of the CGST/HGST Act, 2017 (scope of the advance ruling question)
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 (HGST counterpart Notification No. 46/ST2 dated 30.06.2017)
- Notification No. 20/2017-Central Tax (Rate) dated 22.08.2017 (HGST counterpart Notification No. 74/ST2 dated 22.08.2017)
- Notification No. 3/2019-Central Tax (Rate) and Notification No. 4/2019-Central Tax (Rate) dated 29.03.2019 (HGST counterp…
- Explanations in Notification 03/2019-CT(Rate) defining 'project', 'affordable residential apartment', 'ongoing project', 'compete…
- Real Estate (Regulation and Development) Act, 2016, sections 2(zn), 2(zq) and 3(1)

! For the Practitioner

This ruling is useful for developers with mixed-phase affordable housing projects who need to separate land parcels by licence and commencement date. It shows that the 'ongoing project' test is applied to the specific licence and land, and that RERA registration, sanction and bookings dated after 31.03.2019 can defeat ongoing status. It does not settle the rate for a project whose construction began before 31.03.2019 but whose registration came later, and it does not resolve whether the 5.00 acre project's pre-2019 bookings alone satisfy the test.

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 -> har_aar_13_2019-20_20.11.2019_nrfpl.pdf

Prepared 14-11-2026.

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