Shapoorji Pallonji and Company Private Limited

Authority for Advance Ruling — Maharashtra

GST-ARA-28/2019-20/B-122, Mumbai, dated 26/12/2019 (as printed: "NO.… Dated **26.12.2019**

Q Questions Before the Authority

- Whether the Applicant, being the Contractor at Joyville, Virar, is eligible for the concessional rate of GST under Entry (v)(da) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended by Notification No. 01/2018-Central Tax (Rate) with effect from 25.01.2018, and can discharge GST at 12%.
- Whether building completion and finishing services are a separate service, or a composite supply of works contract service covered under Entry (v)(da) of Notification No. 11/2017 so as to avail the reduced rate.
- What is the appropriate GST rate on works contract services for construction of the units, common areas and amenities on a pro-rata basis which do not qualify as low cost houses.

F Facts

The Applicant is a civil contractor engaged under a term sheet dated 16.11.2015 by Joyville Shapoorji Housing Private Limited (the Developer) for the Joyville Virar affordable housing project in Palghar, comprising several RERA phases and towers. Roughly 1,360 apartments are planned, of which about 95% are below 60 sq. m. carpet area, with 44 apartments above that size. The Applicant sought to charge the Developer GST at 12% under the low-cost housing entry, arguing that the entry is based on the nature of the service and not on the identity of the supplier.

H Ruling

Q1: Eligibility of the contractor for the concessional rate under Entry (v)(da) of Notification 11/2017, as amended by Notification 01/2018	****Yes, 12% GST (6% CGST and 6% SGST)****	Only for affordable housing; the entry is qua the service, not the supplier. The Authority did not rely on Notification 03/2019 for this point.
Q2: Whether building completion and finishing services are a separate service or a composite works contract service under Entry (v)(da)	****Not separate; a composite works contract supply covered under Entry (v)(da)****	Rate of 12% applies only in respect of dwelling units of carpet area under 60 sq. m.
Q3: Rate on works contract services for units, common areas and amenities on pro-rata basis that do not qualify as low cost houses	**18% GST**	Applies to units above 60 sq. m. carpet area. Common areas and amenities follow the principal supply, so the 12% rate applies only in proportion to qualifying low cost units.

The Authority held that the Applicant, as contractor, can claim the 12% rate, because Entry (v)(da) is qualified by the nature of the service and does not restrict the benefit to the Developer. Building completion and finishing services are not separate supplies but form part of a composite works contract with construction as the principal supply. The concessional rate applies only to dwelling units of carpet area up to 60 sq. m., with common areas

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

and amenities on a pro-rata basis, and the full 18% rate applies to units above that size.

R Reasoning

The Authority relied on Entry (v)(da) of Notification 11/2017 as inserted by Notification 01/2018, which covers low-cost houses up to 60 sq. m. carpet area in a project given infrastructure status under the DEA notification of 30.03.2017. It followed its own earlier ruling in Puranik Construction and a Ministry of Finance clarification of 07.05.2018 that the housing project qualifies on the FSI test, with no certificate required. It treated the scope of work in the term sheet as a single composite works contract, so completion and finishing services are not separated. It limited the reduced rate to units under 60 sq. m., with amenities following the principal supply.

P Provisions Relied On

- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, Entry (v)(da) of Sr. No. 3
- Notification No. 01/2018-Central Tax (Rate) dated 25.01.2018
- DEA (Ministry of Finance) infrastructure status notification F. No. 13/6/2009-INF dated 30.03.2017
- GST Council 25th meeting recommendation dated 18.01.2018
- Ministry of Finance (Department of Revenue) clarification F. No. 354/52/2018-TRU dated 07.05.2018
- Maharashtra AAR ruling in Re Puranik Construction Pvt Ltd (2019-VIL-132-AAR)

! For the Practitioner

A contractor on an affordable housing project that has infrastructure status can claim the 12% rate for works contract services on units under 60 sq. m., so the rate does not depend on whether the supplier is the developer. The ruling also settles that finishing and completion work is taken with the principal construction supply, and that the full 18% applies to larger units. It does not decide the ITC or pricing consequences for the Developer, and it does not resolve the pro-rata split of common areas, which the order leaves at a general level. The ruling rests on a term sheet and a draft contract, so practitioners should check the final contract terms before relying on it.

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 -> mah_aar_28_2019-20_b-122_26.12.2019_spcpl.pdf

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