

M/s. Sunil Vishvasrao Khune

Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 54/2020-21/B- 51 Mumbai, dt. 30/03/2026

Dated **30.03.2026**

Q Questions Before the Authority

- Whether the activity of construction / developing commercial units on vacant plot of land being acquired as capital asset out of surplus funds be treated as in the course or furtherance of business in respect of income generated on account of following transactions: a. Sale of commercial units to prospective buyers b. Rent received on leasing of commercial units
- If yes, whether input tax credit be eligible for inputs & input services used for the construction of commercial units in case of above transactions i.e. a. Sale of commercial units to prospective buyers b. Rent received on leasing of commercial units

F Facts

The applicant, a retired individual, proposed to develop a commercial building on a vacant plot of land held as a capital asset to generate rental income and funds for retirement. The applicant sought to sell some units to fund the construction and lease out the remaining units. The applicant contended that this was not a business activity but rather the management of a personal investment.

H Ruling

Whether activity is in course or furtherance of business	Yes, both sale and rental activities are in the course or furtherance of business.	Sale of units after receipt of completion certificate is not subject to GST.
Eligibility for Input Tax Credit	ITC is available for units sold prior to completion certificate; no ITC for units leased out.	ITC is restricted under Section 17(5)(d) for immovable property constructed on own account.

The authority ruled that the sale of commercial units and the receipt of rent are activities in the course or furtherance of business. Consequently, the applicant is liable to GST on these transactions, subject to specific conditions regarding the timing of the sale. Regarding input tax credit, the authority held that it is available for units sold before the completion certificate but denied for units intended for leasing.

R Reasoning

The authority determined that the activities constitute a supply under Section 7 of the CGST Act and are in the course or furtherance of business, regardless of the source of funds or the applicant's status as an individual. It

relied on Section 17(5)(d) of the CGST Act, which restricts input tax credit for the construction of immovable property on one's own account. The authority clarified that the definition of plant and machinery does not include land or buildings, thereby excluding the applicant from claiming ITC for the construction of the commercial premises. It further noted that the sale of units after the completion certificate is not a taxable supply.

P Provisions Relied On

Section 7 of the CGST Act

Section 16 of the CGST Act

Section 17(5)(d) of the CGST Act

Section 2(17) of the CGST Act

Notification No. 11/2017 CT (Rate) dated 28.06.2017

! For the Practitioner

This ruling clarifies that **individual investors** developing commercial property for sale or rent are considered to be engaged in business under GST. It reinforces the **strict application of Section 17(5)(d)**, which denies input tax credit for construction of immovable property on one's own account, even if the property is used for business purposes. Practitioners should note that the timing of the completion certificate is **decisive for GST liability** on sales.

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 -> 4-sunil vishvarao khune ara order compress.pdf

Prepared 11-10-2026.

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