M/s. VARDHAMAN HOMES (GSTIN 27AAAFV2926J1Z1)

Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 54/2022-23/B- 157 Mumbai, dt. 28.09.2026 (as printed; the… Dated **28.09.2026**

Q Questions Before the Authority

- Whether, in light of the Bombay High Court's decision in Commissioner of Service Tax v. Shri Krishna Chaitanya Enterprises (25.01.2018), maintenance of the Lotus Building by the applicant, which is a statutory duty under MOFA, can be treated as a taxable service under GST when no co-operative housing society, company or RWA of flat owners has been formed.
- Whether the applicant could levy and charge GST on the 18 months' advance maintenance collected from flat owners at the time of entering into the Agreement for Sale.
- Whether the applicant can levy, charge and collect GST on the monthly maintenance payable by flat owners while no CHS, company or RWA has been formed.

F Facts

The applicant, a developer, built the Lotus Building at Gawand Baug, Thane (West), with 152 flats, of which 95 have been sold under registered Agreements for Sale that make MOFA applicable (Clause 48). The applicant collects 18 months' advance maintenance at signing, with GST at 18%, and charges monthly maintenance with GST at 18%. It provides common-area electricity, security, sweeping, garden, gym, firefighting, intercom, water tank cleaning and plumbing without a formal maintenance contract, and no society or RWA has yet been formed.

H Ruling

Q(A): Whether promoter's maintenance of the Lotus Building, a statutory duty under MOFA, can be treated as a taxable service under GST when no CHS, company or RWA has been formed	**YES**	The order treats the maintenance as a supply under Section 7 and as taxable services, even if undertaken under a statutory obligation under MOFA.
Q(B): Whether GST can be levied on the 18 months' advance maintenance collected at the time of the Agreement for Sale	**YES**	Advance maintenance is advance consideration for future supply, taxable under Section 13 at receipt. The order states no rate; the 18% rate is the applicant's own filing position.
Q(C): Whether GST can be levied and collected on monthly maintenance while no CHS, company or RWA has been formed	**YES**	Monthly maintenance is consideration for supply of services and is taxable. The order states no rate; the 18% rate is the applicant's own filing position.

The authority held that maintenance services provided by the promoter to flat owners are a supply under Section 7 of the CGST/MGST Act for consideration in the course of business, and remain taxable even though they arise from a statutory duty under MOFA. Advance maintenance is advance consideration taxable on receipt under

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

Section 13, and monthly maintenance charges are likewise taxable. The Bombay High Court ruling was held to concern the pre-GST service tax regime and does not override the GST concept of supply.

R Reasoning

The authority read Section 7(1)(a) of the CGST Act as requiring a supply of services for consideration in the course of business, and found all three satisfied because the promoter maintains common areas and collects advance and monthly charges from flat purchasers. It held that a statutory origin under MOFA does not remove an activity from the supply definition, and that Schedule III and Section 7(2) contain no exemption for promoters discharging MOFA duties. It treated the Bombay High Court decision as turning on the Finance Act, 1994 definition of taxable service (Section 65(64)), which has been replaced by a supply-based regime. It also held that the exemption in Entry 77 of Notification 12/2017-Central Tax (Rate) for RWA collections up to Rs. 7,500 per member per month is not available to a promoter, and it relied on CBIC Circular No. 109/28/2019-GST dated 22.07.2019 for the RWA position.

P Provisions Relied On

- Section 7(1)(a), (aa), (b), (c), 7(2) and Schedule III of the CGST Act, 2017
- Section 9 of the CGST Act, 2017
- Section 13 of the CGST Act, 2017 (time of supply)
- Section 2(31) of the CGST Act, 2017 (consideration)
- Notification No. 12/2017-Central Tax (Rate), Entry 77
- CBIC Circular No. 109/28/2019-GST dated 22.07.2019
- Section 65(64) of the Finance Act, 1994 (as discussed in the Bombay High Court ruling)
- Sections 5 and 6 of the Maharashtra Ownership Flats Act, 1963
- Commissioner of Service Tax v. Shri Krishna Chaitanya Enterprises (Bombay High Court, 25.01.2018)

! For the Practitioner

This ruling is useful for promoters and their counsel in Maharashtra, and for flat purchasers disputing GST, because it holds that the statutory MOFA origin of maintenance does not take it outside GST. It also confirms that the Entry 77 threshold exemption is limited to RWAs and CHSs and does not extend to promoters. It does not decide the valuation of the advance amount, the applicable rate (the order states none), or the treatment of any portion of the advance as a refundable deposit. The order is binding only on the applicant and the concerned officer, and an appeal lies to the Maharashtra Appellate Authority for Advance Ruling.

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 -> 6-vardhaman_homes_ara_order.pdf

Prepared 20-11-2026.

About Patron Accounting LLP

Patron Accounting LLP is a CA and CS-led accounting and compliance firm working with businesses across India since 2019 — bookkeeping, GST, income tax, payroll, company and LLP compliance, audit and the certificates banks and regulators ask for.

Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: **+91 94594 56700** | sales@patronaccounting.com | patronaccounting.com