

M/s. Vedant Construction

Authority for Advance Ruling — Maharashtra

NO. GST-ARA-42/2021-22/B-54 dt. 30.03.2026

Q Questions Before the Authority

- Whether supply of flats to MHADA identified customers after Occupancy Certificate (OC) is exempted from levy of GST being it is sale of immovable property which is not liable to GST?
- In these circumstances if it is treated and held as taxable supply assuming that being "services of works contract service" is rendered to MHADA identified 20% flats then what is the value of supply for GST? Whether it is MHADA dictated value of supply or Market value of supply?

F Facts

The applicant is a builder who, as a condition for receiving additional FSI from the local authority, was required to reserve 20% of the constructed flats for MHADA-identified beneficiaries at government-mandated prices. The applicant argued that since these flats were sold after the Occupancy Certificate was received and no consideration was received prior to that date, the transaction constitutes a sale of immovable property outside the scope of GST. The applicant further contended that the MHADA-prescribed price should be considered the open market value for GST purposes.

H Ruling

Exemption of supply of flats to MHADA customers post-OC

Answered in the negative; it is a taxable supply of works-contract service.

Not excluded by Para 5 of Schedule III.

Valuation of supply for GST

To be determined under Rule 27(a) of the CGST Rules, 2017 as the open market value.

The MHADA-prescribed price cannot be adopted as the open market value.

The Authority ruled that the supply of these flats is a taxable supply of works contract service and not a sale of immovable property. It held that the additional FSI received at the commencement stage constitutes non-monetary consideration, thereby disqualifying the transaction from the exemption under Schedule III. Consequently, the value of supply must be determined based on the open market value of comparable flats sold to non-MHADA buyers, rather than the MHADA-prescribed price.

R Reasoning

The Authority determined that the construction obligation was a pre-condition for the grant of additional FSI, which constitutes **non-monetary consideration** received at the inception of the project. Because consideration was received prior to the issuance of the Occupancy Certificate, the transaction falls within the scope of **works**

contract service under Section 2(119) and Para 5(b) of Schedule II of the CGST Act. Since the consideration is not wholly in money, the valuation must be determined under Rule 27(a) of the CGST Rules, 2017, using the open market value of comparable flats sold to non-MHADA buyers.

P Provisions Relied On

Section 2(119) of the CGST Act	Section 7(1)(a) of the CGST Act
Section 15(1) of the CGST Act	Section 15(2)(e) of the CGST Act
Para 5(b) of Schedule II of the CGST Act	Para 5 of Schedule III of the CGST Act
Rule 27(a) of the CGST Rules, 2017	

! For the Practitioner

This ruling clarifies that developers cannot claim the 'sale of immovable property' exemption for mandatory affordable housing units if they received **non-monetary consideration** (such as additional FSI) at the project's inception. Practitioners should note that the Authority will look past the date of the sale agreement to the underlying contractual obligations. It settles that the **open market value** for such units must be based on comparable market transactions, not the government-mandated price.

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 -> 7-vedant construction ara order compress.pdf

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