M/s. Maarq Spaces Pvt. Ltd. (printed as M/s. MAARQ SPACES PVT. LTD., Bengaluru; GSTIN 29AAGCC1998Q1ZO)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG ..../2019 (the number after 'ADRG' is not… Dated **30.09.2019**

Q Questions Before the Authority

- Whether the activity of development and sale of land attracts tax under GST?
- If the answer to question 1 is yes, for the purpose of taxable value, whether the provision of Rule 31 can be made applicable in ascertaining the value of land and supply of service?

F Facts

The applicant entered into a Joint Development Agreement with landowners to develop land into a residential layout. The applicant bears the development cost, and the revenue from plot sales is shared 75% to the landowners and 25% to the applicant. The applicant contended that the sale of developed plots is a sale of land excluded from 'supply' under Entry 5 of Schedule III.

H Ruling

Whether development and sale of land attracts GST (Q1)	**Yes. The activities amount to a supply of service and are taxable under GST.**	The order states that the classification of the service was not discussed because the applicant did not ask about it.
Whether Rule 31 applies for determining taxable value of land and supply of service (Q2)	**Yes. Rule 31 applies and the value of supply equals the total amount received by the applicant, i.e. 25% of the market value of each plot.**	Rules 27 to 30 were held inapplicable: consideration is wholly in money, and no distinct or related persons are involved.

The activities under the agreement amount to a supply of service and are liable to GST , because the applicant has no title in the land and acts only as a developer and service provider to the landowners. The value of the supply is determined under Rule 31 of the CGST Rules as the total amount received by the applicant, which is **25% of the market value of each plot** .

R Reasoning

The Authority held that the applicant does not own the land, and the agreement bars any claim to title or delivery of possession in part performance of a sale, so Entry 5 of Schedule III (sale of land) cannot apply. The applicant's role is that of a developer and service provider whose core competence is land development, with sale of plots incidental to it. On valuation, the Authority held that Rules 27 to 30 do not apply, so Rule 31 (residual method,

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

using reasonable means consistent with Section 15) governs. The applicant's 25% share of plot sale proceeds is the consideration for the service, so the land cost cannot be excluded from the value.

P Provisions Relied On

- Section 7 of the CGST Act and KGST Act, 2017 (scope of supply), including sub-sections (1), (1A), (2) and (3)
- Section 9 of the CGST Act and KGST Act, 2017 (charge of tax)
- Entry 5 of Schedule III to the CGST Act (sale of land and sale of building)
- Section 2(30) (composite supply) and Section 2(90) (principal supply)
- Section 2(31) (consideration)
- Section 15 (value of taxable supply)
- Section 25(4) and (5) (distinct persons)
- Rules 27, 28, 29, 30 and 31 of the CGST Rules, 2017
- Section 32(1) to (5) of the Karnataka Urban Development Authorities Act, 1987 (formation of layouts and transfer of roads an…

! For the Practitioner

This ruling is useful for developers under joint development agreements where the landowner keeps title and the developer is paid a share of plot sale proceeds. It holds that such a developer is a service provider taxable under GST, not a seller of land exempt under Entry 5 of Schedule III, and that the taxable value is the developer's share of the sale price under Rule 31. It does not decide the classification of the service or the applicable rate, and the order expressly leaves those points open. It is an Authority ruling binding only on the applicant.

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 -> kar_aar_119_2019_30.09.2019_mspl.pdf

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