# Puranik Construction Pvt. Ltd.

Authority for Advance Ruling — Maharashtra

**NO.GST-ARA-99/2018-19/B-31, Mumbai** Dated **20.03.2019**

## Q Questions Before the Authority

- Whether the applicant, a works contractor supplying civil construction services to a developer for a Low Cost House project in an Affordable Housing Project, is eligible for the concessional GST rate of 12% under Notification 01/2018-Central Tax (Rate) dated 25.01.2018, which provides for a concessional rate on works contract services for original works pertaining to construction of a Low Cost House in an AHP.

## F Facts

Puranik Construction Pvt. Ltd. is a civil contractor that proposed to enter into two civil construction contracts with Puranik Builders Limited for a residential project at Nerul, Navi Mumbai. Contract I covers 109 buildings with only residential units of carpet area up to 60 sq. mts., and Contract II covers 26 buildings with residential units plus commercial units on the ground floor. The applicant contended that about 98.5% of the FSI would be used for units up to 60 sq. mts., so the project qualifies as an AHP.

## H Ruling

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|---|---|---|
| **Eligibility of the concessional GST rate under Notification 01/2018-Central Tax (Rate) dated 25.01.2018 for works contract services for construction of Low Cost Houses in an AHP** | ****Eligible for concessional rate of 12%**** | Applies only to residential units of carpet area up to 60 sq. mts. in the project; not available for commercial units. |

The applicant is eligible for the concessional GST rate of 12% (6% CGST and 6% SGST) for the project, as the facts stand. The concession applies only to residential units of carpet area up to 60 sq. mts., and not to commercial units.

## R Reasoning

The Authority held that the Notification entry (Sr. No. 3, item (v), sub-item (da)) is a supply-based entry and does not restrict the concession to developers, so a contractor supplying works contract services for low cost houses in an AHP may also claim it. Relying on the Department of Economic Affairs notification F. No. 13/6/2009-INF dated 30.03.2017, an AHP is a project using at least 50% of FAR/FSI for dwelling units with carpet area not more than 60 sq. mts., and the Authority accepted the applicant's Architect's certificate and the jurisdictional office's concurrence on that basis. The Authority followed its own earlier ruling in Prajapati Developers, the GST Council's 25th meeting recommendation, and the CBEC clarification F. No. 354/52/2018-TRU dated 07.05.2018, under which self-determination by the builder or developer suffices without certificate from any authority. The benefit was limited to supplies after 25.01.2018 and to residential units up to 60 sq. mts.


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

## P Provisions Relied On

- Notification 01/2018-Central Tax (Rate) dated 25.01.2018, Sr. No. 3, item (v), sub-item (da)
- Notification No. 11/2017 (Central Tax (Rate)), as amended, Heading 9954 (as stated in the order)
- Notification F. No. 13/6/2009-INF dated 30.03.2017, Department of Economic Affairs (definition of Affordable Housing)
- Section 97 and Section 98 of the CGST Act, 2017 and the MGST Act, 2017
- Section 171 of the CGST Act, 2017 (anti-profiteering), referred to in the GST Council recommendation
- CBEC clarification F. No. 354/52/2018-TRU dated 07.05.2018
- Prajapati Developers advance ruling (TS-404-AAR-2018-NT), as relied on by the Authority

## ! For the Practitioner

A works contractor to a developer of an AHP can rely on this ruling to claim the 12% rate for low cost house construction, provided the project meets the 50% FSI and 60 sq. mts. carpet area test. The ruling does not decide the rate for commercial units, which remain at the normal rate, and it does not settle the position for supplies made before 25.01.2018. It also does not resolve how the 12% rate should be applied to the composite contract, since the ruling was not expressly tested against that issue.

### 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 -> ara_order_99_2018_maharashtra_pcpl.pdf

Prepared 01-11-2026.

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