

Shri Sanjeev Sharma

Authority for Advance Ruling — Delhi

Advance Ruling No. 03/DAAR/2018

Dated 28.03.2018

Q Questions Before the Authority

- Whether GST will be applicable on the sale of undivided and impartible share of land represented by Agreement to sell the land?
- Whether GST shall be applicable on sale of superstructure (which is under construction)?
- If yes: i. What will be the value on which tax is payable? ii. What would be the applicable rate for charging GST?

F Facts

The applicant plans to develop and sell residential houses in India. The business model involves either purchasing land or entering into collaboration agreements with land owners to develop and sell units. The applicant intends to execute two separate agreements for each transaction: one for the sale of an undivided share in land and another for the sale of the superstructure.

H Ruling

GST on sale of undivided share of land	Not applicable	Sale of land is outside the scope of supply under Schedule III
GST on sale of superstructure	Applicable	Treated as a composite supply of construction services
Value and rate of tax	Taxable on two-thirds of total amount at 18% (9% CGST + 9% SGST)	One-third of total amount is deemed value of land

The authority ruled that for the construction of a complex or building intended for sale, the supply is a composite supply. GST is payable on two-thirds of the total amount charged, with one-third of the total amount deemed to be the value of land and excluded from the tax base. The applicable rate of GST on the taxable portion is 9% CGST and 9% SGST.

R Reasoning

The authority relied on Section 7(1)(d) and Paragraph 5(b) of Schedule II of the CGST Act, which classify construction of a complex intended for sale as a supply of services. It determined that the transaction is a composite supply where the land and superstructure are inseparable. Applying Notification No. 11/2017-Central Tax (Rate), it held that the **deemed value of land** is one-third of the total amount charged. Consequently, GST is leviable on the remaining two-thirds of the consideration under the authority of Section 15(5) of the CGST Act.

P Provisions Relied On

Section 7 of the CGST Act, 2017

Section 15 of the CGST Act, 2017

Schedule II of the CGST Act, 2017

Schedule III of the CGST Act, 2017

Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017

! For the Practitioner

This ruling clarifies that developers cannot avoid GST on construction projects by splitting agreements into separate land and superstructure components. It confirms the **mandatory one-third abatement** for land value in composite construction contracts. Practitioners should note this settles the valuation methodology for such projects under the 2017 GST framework.

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 -> [delhi-order-3.pdf](#)

Prepared 16-10-2026.

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Pune (HQ)

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

Delhi

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

Ahmedabad

Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp...

Mumbai

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

Gurugram

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

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