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18% GST applicable on Supply of Construction Service to the Land Owner in in lieu of Transfer of Development Rights to the Promoters: AAR [Read Order]

December 15, 2019 2:50 pm | By : Silpa N.P



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The [Authority of Advance Ruling \(AAR\)](#) in [Karnataka](#) has ruled that, 18% [Goods and Services Tax \(GST\)](#) applicable on Supply of Construction Service to the Land Owner in lieu of Transfer of Development Rights to the Promoters.

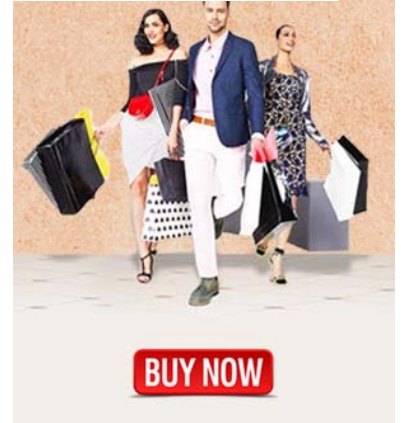
In a recent case, the applicant M/S Team View Developers has filed an application for advance ruling under section 97 of CGST Act 2017 and section 97 of the KGST Act 2017, before the Authority for Advance Ruling Karnataka seeking a ruling on whether the new rates of taxes are applicable to construction comprising entirely of construction of commercial space. And the authority held that the applicant is providing construction services to the landowners to the extent of the value of the rights inland, which is liable to be taxed at the rate of 9% of CGST and KGST Act.

The brief fact of the case is that the applicant is in the business of building, developing, constructing and trading in immovable properties and TDSs, providing construction or real estate or property development-related services. The applicant has entered into a joint agreement to develop commercial space at Whitefield, Bangalore with 60:40 shares, and the applicant entitled 60% and the owners of the land to 40% of the built-up area. In recent recommendation of GST council in its meeting held regarding the construction services, new rates of taxes were made available, 1% without [ITC](#) on construction of affordable houses and 5% without [ITC](#) on construction of all houses other than affordable houses in on-going projects booked prior to or after 01-04-2019, houses in new projects, commercial apartments such as shops, offices etc.. in residential real estate project. The question in consideration is whether the above rates are applicable to construction comprising entirely of construction of commercial space.

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to provide the new rates of tax available their project of to utilise the [ITC](#) relating to the construction activities against the output tax payable on renting of commercial space. He also stated that the lodging or boarding services provided by the educational institutions are exempted from GST. They are providing the paying-guest accommodation exclusively for the students so he is eligible for exemption from GST on the paying-guest accommodation charges.

The authority comprising of members **Harish Dharmia and Dr. Ravi Prasad.M.P** held that landowners are transferring the development rights of the land in lieu of construction services to the applicant and the applicant is



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applicant is not intending sell any of the said commercial areas, the project undertaken by the applicant cannot be covered under "real estate project". Since the applicant is capitalising his portion of the building as immovable property, the applicant is not eligible to claim the input tax credit on the inputs used for such construction as per section 17(5)(d) of the CGST Act, 2017.

To Read the full text of the Order [CLICK HERE](#)



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Central Government notifies The December 14, 2019



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