	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	KERALA GST State Goods & Services Tax
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BEFORE THE AUTHORITY OF: Dr. S.L. Sreeparvathy, IRS &
: Shri Abraham Renn S, IRS

Legal Name of the applicant	M/s Prime Property Developers
GSTIN	32AACFP8883E1Z5
Address	TC-4/432-14, Temple Square, 3 rd Floor, Ambalamukku Junction, Kowdiar, Thiruvananthapuram – 695003.
Advance Ruling sought for	<p>1. When agreement for construction is entered into with a purchaser before the execution of sale deed for land in favour of the purchaser, is PPD eligible for effective rate of 5% on gross value of land and construction (i.e; availing 1/3rd deduction towards land on effective rate of 7.5% as per notification number 03/2019 dated 29.03.2019)?</p> <p>2. When agreement for construction with a purchaser is entered into after the execution of sale deed for land in favour of the purchaser, is PPD eligible for effective rate of 5% on gross value of land and construction (i.e; availing 1/3rd deduction towards land on effective rate of 7.5% as per notification number 03/2019 dated 29.03.2019)?</p>



		3. Pursuant to the agreement for sale of land and agreement for construction entered into with a purchaser, there may be supplementary items of works executed by PPD for the purchaser prior to completion of construction of the villa. Can GST on such extra works be at 5% without input credits?
Date of Personal Hearing	20.07.2022	
Authorized Representative	Shri. S.Unnikrishnan, Chartered Accountant	

ADVANCE RULING No. KER/05/2023 Dated 22.02.2023

M/s. Prime Property Developers (**hereinafter referred to as the applicant**) is a partnership firm registered under the Indian Partnership Act and engaged in the business of construction and sale of real estate projects, including villa projects.

2. At the outset, the provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act) and the Kerala State Goods and Services Tax Act, 2017 (hereinafter referred to as KSGST Act) are same except for certain provisions. Accordingly, a reference hereinafter to the provisions of the CGST Act, Rules and the notifications issued there under shall include a reference to the corresponding provisions of the KSGST Act, Rules and the notifications issued there under.

3. The Applicant requested advance ruling on the following:

1. When agreement for construction is entered into with a purchaser before the execution of sale deed for land in favour of the purchaser, is PPD eligible for effective rate of 5% on gross value of land and construction (i.e.; availing 1/3rd deduction towards land on effective rate of 7.5% as per notification number 03/2019 dated 29.03.2019)?



2. When agreement for construction with a purchaser is entered into after the execution of sale deed for land in favour of the purchaser, is PPD eligible for effective rate of 5% on gross value of land and construction (i.e.; availing 1/3rd deduction towards land on effective rate of 7.5% as per notification number 03/2019 dated 29.03.2019)?

3. Pursuant to the agreement for sale of land and agreement for construction entered into with a purchaser, there may be supplementary items of works executed by PPD for the purchaser prior to completion of construction of the villa. Can GST on such extra works be at 5% without input credits?

4. Contentions of the Applicant:

4.1. The applicant submits that for villa projects they identify land for the project and either buys the land outright or enters into agreement for sale with the Landowners. The agreement for sale is to purchase the property in their name or in the name of their nominees in one or more deeds. A combination of outright purchase of a part of the property and agreement for sale for the remaining area may also be followed. Then they prepare layout plan and get it approved by the local authority.

4.2. After obtaining layout approval they start the project. They initially do development work of common amenities like compound wall for the entire project area, internal roads, electrification, plumbing and sanitary works, recreational facilities etc. Then, they obtain registration for the project with Kerala Real Estate Regulatory Authority and carry out marketing activities and identify purchasers.

4.3. Once a purchaser confirms his interest to purchase a plot together with a villa, an agreement for sale of the plot together with undivided share in common land is entered into between the purchaser and Landowners. The plot together with undivided share



in common land is transferred to the purchaser, once the purchaser makes full payments for land, through execution of a sale deed.

4.4. The applicant also enters into agreement for construction with the purchaser wherein the purchaser agrees to pay for the proportionate cost of common development works and for the construction of his villa. This agreement may be entered into either before or after execution of the sale deed for the plot and undivided share in common land in favour of the purchaser.

4.5. The Building Permit for the Villa is obtained in the name of the purchaser or in the name of the original Landowners. If the Building Permit is in the name of Landowners, then the name is changed to that of the purchaser after the sale deed for land is executed in favour of the purchaser, through an application to the Local Authority.

4.6. The purchaser makes payment to the applicant for the construction part as per the agreement for construction. On completion of construction including any additional works, the possession of the Villa is handed over to the purchaser by the applicant after occupancy certificate is received and all payments have been completed. Before completion of construction and handing over of the Villa, some of the Villa buyers may request the applicant to make changes, add additional area, undertake interior works or extra items etc for which the applicant charges extra amount based on a supplementary agreement or by endorsement on the construction agreement itself. In respect of some Villas for which the purchasers cannot be initially identified by the applicant, construction is undertaken by the applicant using their own funds and transferred to the purchasers when they are identified. In some cases such transfers will be done after the occupancy certificate for the Villa is obtained.

4.7. The applicant is currently promoting a Villa Project namely; "Prithvi" in 509.81 ares of land in Attipra Village, Thiruvananthapuram Taluk. Majority of the land area; i.e., 308.76 ares of land is owned by the applicant and for



the remaining portion of land they have entered into agreements for sale with the Landowners. A copy of the agreement with one such Landowner is attached as Annexure – A. The applicant has obtained Development Permit from the Corporation of Thiruvananthapuram and the permit is attached as Annexure –B. They have started initial work and had obtained registration from Kerala Real Estate Regulatory Authority and the Certificate of Registration is attached as Annexure-C. The agreements entered into with purchaser comprising agreement for sale of land is attached as Annexure –D and agreement for construction is attached as Annexure –E. The gross amount [Land + Construction] for all the Villas is expected to exceed Rs. 45 lakhs and hence do not fall under affordable apartment category.

4.8. The applicant has started the Villa Project “Prithvi” after 01.04.2019 and is covered under Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 03/2019 - Central Tax (Rate) dated 29.03.2019. Since all the Villas under the project are having a gross value of above Rs. 45 lakhs they are not covered under the definition of affordable residential apartments and accordingly the rate applicable are as follows;

Type of Construction	GST Rate applicable [CGST+SGST]	Effective GST Rate after excluding 1/3 rd towards land portion
Construction of residential apartments other than affordable residential apartments	7.5%	5%

4.9. The term “Real Estate Project” is defined in Para 4 (xviii) of the Notification No. 11/2017 CTR as “Real Estate Project (REP)” shall have the same meaning as assigned to it in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016.



4.10. The term apartment is defined in Section 2(e) of Real Estate (Regulation and Development) Act, 2016 and as per Paragraph (xxix) of Notification No. 11/2017; residential apartment means an apartment intended for residential use as declared to the Real Estate Regulatory Authority or to Competent Authority.

4.11. Therefore, the applicant submits that a Villa being a dwelling unit and a separate and self-contained part of an immovable property used or intended to be used for residential purpose is by definition an apartment as well as a residential apartment. Accordingly, Villa is covered under Serial No: 3 of Notification No: 11/2017 Central Tax (Rate) dated 28.06.2017 as amended by Notification No: 03/2019 – Central Tax (Rate) dated 29.03.2019.

4.12. As per Para 2 of the Notification No. 11/2017 CT (Rate) dated 28.06.2017 the value of construction services provided by the promoter to the buyers of villas shall be the total amount charged for such supply less the value of such transfer of land or undivided share of land in such supply and the value of land or undivided share of land shall be deemed to be one third of the total amount charged for such supply. Therefore, the taxable value shall be $\frac{2}{3}$ rd of the total value of villa including the value of land. The CBIC in Q.No. 36 of the FAQ on Real Estate Sector issued under F.No.354/32/2019 – TRU dated 07.05.2019 clarified that the developer cannot take deduction of actual value of land, as the valuation mechanism prescribed in Para 2 of the said notification clearly prescribes one-third abatement towards value of land. Therefore, in all cases the value of land included in the value of Villa shall be deemed as $\frac{1}{3}$ rd of the total value of Villa including the value of land. The actual value of land even if mentioned in any of the agreement is of no relevance to calculate the GST payable on the construction services of Villa. Accordingly, they are liable to pay GST after deducting $\frac{1}{3}$ rd towards value of land and the actual value of land mentioned in the agreement is to be ignored.

4.13. Accordingly, the applicant is of the view that since the sum of the value of plot and undivided share of land and the value of services provided by the



applicant are considered for the purpose of arriving at the total value, it is not material whether the sale deed was executed before or after the execution of construction agreement. It has no effect on the effective rate of taxation. Hence, irrespective of the fact that the sale deed for land is executed before or after the construction agreement, applicable rate is 5% without input tax credit on the whole value.

4.14. As per Section 9 of the CGST Act, 2017; GST shall be levied on the value determined under Section 15. Section 15 states that the value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration of the supply.

4.15. As per Section 2 (30) of the CGST Act, the term composite supply is defined as follows; "Composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. Based on the above definition, extra works, structural changes, interior works etc carried out before completion of the construction is part of composite supply of service of construction and sale of villa.

4.16. As per Section 8 of the CGST Act, the tax liability on a composite supply, comprising two or more supplies, one of which is a principal supply, shall be determined treating it as a supply of such principal supply. Accordingly, the applicant is of the view that the tax rate applicable on the structural changes or adding some additional area or undertaking interior works, extra works etc carried out before completion of the construction is also liable to tax at the rate of 5% without input tax credit, with completion of construction being the date of occupancy certificate for the Villa or date of handing over of the Villa, whichever is earlier.



4.17. The applicant places reliance on the Advance Rulings under similar facts by the AAR, Kerala in the following orders; Advance Ruling No. KER/116/2021 dated 28.05.2021 of M/s Victoria Realtors and Advance Ruling No. KER/117/2021 dated 28.05.2021 of M/s Dharmic Living Private Ltd.

5. Comments of the Jurisdictional Officer:

The application was forwarded to the jurisdictional officer as per provisions of Section 98(1) of the CGST Act. The jurisdictional officer has not offered any comments and hence it is presumed that the jurisdictional officer has no specific comments to offer. It is also construed that there are no proceedings pending on the issue against the applicant.

6. Personal Hearing:

The applicant was granted opportunity for personal hearing on 20.07.2022. Shri. S.Unnikrishnan, Chartered Accountant represented the applicant for personal hearing. He reiterated the contentions made in the application and requested to issue the ruling on the basis of the submissions made in the application.

7. Discussion and Conclusion:

7.1. The matter was examined in detail. The questions to be answered are regarding the rate of tax and taxable value in respect of the construction services of the Villas rendered by the applicant. The contention of the applicant is that the villas being constructed by them fall under other than affordable category and as per provisions of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 03/2019 Central Tax (Rate) dated 29.03.2019, the rate of GST applicable is 7.5% for villas other than affordable villas and the provisions of Paragraph 2 of the said notification apply for valuation of the service and accordingly one-third of the total amount charged for the supply is eligible as deduction as the value of transfer of land and undivided share of land involved in the supply in determining the taxable value irrespective of the actual value of land or undivided share of land. In



respect of the amount charged by them from the villa buyers for the structural changes or undertaking interior works, extra works etc carried out before completion of the construction the contention of the applicant is that the amount so charged also forms part of the gross amount charged for construction and sale of the villa and accordingly is liable to GST at the same rate as applicable for the construction service.

7.2. A new tax structure for real estate sector was introduced with effect from 01.04.2019 onwards by amendment of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 by Notification No. 03/2019 - Central Tax (Rate) dated 29.03.2019. Admittedly, the services of construction of villas are being rendered by the applicant after 01.04.2019 and hence the rate as notified under the new tax structure is applicable in respect of the construction services rendered by the applicant.

7.3. The entries at Items (i) and (ia) of Sl. No. 3 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 03/2019 Central Tax (Rate) dated 29.03.2019 reads as follows;

“Heading 9954 – Construction services -

(i) Construction of affordable residential apartments by a promoter in a Residential Real Estate Project (herein after referred to as RREP) which commences on or after 1st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)

(ia) Construction of residential apartments other than affordable residential apartments by a promoter in an RREP which commences on or after 1st April,



2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service).

7.4. The rate of GST applicable for entry at Item (i) is 1.5% [0.75% - CGST + 0.75% - SGST] and for the entry at Item No. (ia) is 7.5% [3.75% - CGST + 3.75% - SGST]. The above rate of GST is subject to the conditions mentioned therein.

The conditions that are common for both the entries are as extracted below;

“Condition: Provided that the central tax at the rate specified in column (4) shall be paid in cash, that is, by debiting the electronic cash ledger only; Provided also that credit of input tax charged on goods and services used in supplying the service has not been taken except to the extent as prescribed in Annexure I in the case of REP other than RREP and in Annexure II in the case of RREP;

Provided also that the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equivalent to the input tax credit attributable to construction in a project, time of supply of which is on or after 1st April, 2019, which shall be calculated in the manner as prescribed in the Annexure I in the case of REP other than RREP and in Annexure II in the case of RREP;

Provided also that where a registered person (landowner- promoter) who transfers development right or FSI (including additional FSI) to a promoter (developer- promoter) against consideration, wholly or partly, in the form of construction of apartments, - (i) the developer-promoter shall pay tax on supply of construction of apartments to the landowner- promoter, and (ii)



such landowner – promoter shall be eligible for credit of taxes charged from him by the developer-promoter towards the supply of construction of apartments by developer-promoter to him, provided the landowner- promoter further supplies such apartments to his buyers before issuance of completion certificate or first occupation, whichever is earlier, and pays tax on the same which is not less than the amount of tax charged from him on construction of such apartments by the developer- promoter.

Explanation. - (i) —developer- promoter is a promoter who constructs or converts a building into apartments or develops a plot for sale, (ii) landowner-promoter is a promoter who transfers the land or development rights or FSI to a developer- promoter for construction of apartments and receives constructed apartments against such transferred rights and sells such apartments to his buyers independently.

Provided also that eighty percent of value of input and input services, [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be received from registered supplier only;

Provided also that inputs and input services on which tax is paid on reverse charge basis shall be deemed to have been purchased from registered person;

Provided also that where value of input and input services received from registered suppliers during the financial year (or part of the financial year till the date of issuance of completion certificate or first occupation of the project, whichever is earlier) falls short of the said threshold of 80 per cent, central tax shall be paid by the promoter on value of input and input services comprising such shortfall at the rate of nine percent on reverse charge basis and all the provisions of the Central Goods and Services Tax Act, 2017 shall apply to him as if he is the person liable for paying the tax in relation to the supply of such goods or services or both;



Provided also that notwithstanding anything contained herein above, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement at the applicable rates on reverse charge basis and all the provisions of the Central Goods and Services Tax Act, 2017 shall apply to him as if he is the person liable for paying the tax in relation to such supply of cement;

Explanation. - 1. The promoter shall maintain project wise account of inward supplies from registered and unregistered supplier and calculate tax payments on the shortfall at the end of the financial year and shall submit the same in the prescribed form electronically on the common portal by end of the quarter following the financial year. The tax liability on the shortfall of inward supplies from unregistered person so determined shall be added to his output tax liability in the month not later than the month of June following the end of the financial year.

2. Notwithstanding anything contained in Explanation 1 above, tax on cement received from unregistered person shall be paid in the month in which cement is received.

3. Input Tax Credit not availed shall be reported every month by reporting the same as ineligible credit in GSTR-3B [Row No. 4 (D)(2)].”

7.5. Para 4 of the Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 03/2019 Central Tax (Rate) dated 29.03.2019 provides the definition of the different terms used in the above entries. The relevant definitions are reproduced below;

(xiv) the term —apartment shall have the same meaning as assigned to it in clause (e) of section 2 of the Real Estate (Regulation and Development) Act, 2016;

(xv) the term — project shall mean a Real Estate Project or a Residential Real Estate Project;

(xvi) the term —affordable residential apartment shall mean, - (a) a residential apartment in a project which commences on or after 1st April, 2019, or in an



ongoing project in respect of which the promoter has not exercised option in the prescribed form to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be, having carpet area not exceeding 60 square meter in metropolitan cities or 90 square meter in cities or towns other than metropolitan cities and for which the gross amount charged is not more than forty five lakhs rupees.

(xvii) the term —promoter shall have the same meaning as assigned to it in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016

(xviii) the term —Real Estate Project (REP) shall have the same meaning as assigned to it in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016;

(xix) the term —Residential Real Estate Project (RREP) shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent of the total carpet area of all the apartments in the REP.

(xxix) “Residential apartment” shall mean an apartment intended for residential use as declared to the Real Estate Regulatory Authority or to competent authority.

7.6. The relevant clauses of Section 2 of the Real Estate (Regulation and Development) Act, 2016 which contains the definition of the terms; “apartment”; “promoter” and “real estate project” are reproduced below;

(e) "apartment" whether called block, chamber, dwelling unit, flat, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or godown or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified.

(zk) "promoter" means,— (i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments,



or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or (ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or (iii) any development authority or any other public body in respect of allottees of— (a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or (b) plots owned by such authority or body or placed at their disposal by the Government, for the purpose of selling all or some of the apartments or plots; or (iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its members or in respect of the allottees of such apartments or buildings; or (v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or (vi) such other person who constructs any building or apartment for sale to the general public.

(zn) "real estate project" means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto.

8. On a plain reading of the entries at Item (i) and (ia) of Sl. No. 3 of the Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as extracted above, it is evident that the rate of GST prescribed under the entry at Item (i) applies to construction of affordable residential apartments and under the entry at Item (ia) applies to construction of residential apartments other than affordable residential apartments by a promoter in a residential real estate



project intended for sale to a buyer except where the entire consideration is received after issuance of completion certificate.

9. From the definition of the term “apartment”; “residential apartment” “real estate project” and “promoter” as above it is clear that the residential villas being constructed by the applicant fall within the definition of residential apartment and the projects undertaken by the applicant fall within the definition of real estate project and the applicant fall within the definition of “promoter”. Further, on a conjoint reading of the above provisions of law, the facts as stated in the application; the terms and conditions in the agreements and the documents produced it is seen that the services of construction of villas provided by the applicant squarely fall within the description of services specified in Item (ia) of Sl. No. 3 of the Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 03/2019 Central Tax (Rate) dated 29.03.2019 and accordingly the tax rates as prescribed in the said entry shall be applicable to the said services supplied by the applicant. Accordingly, the applicant is liable to pay GST at the rate of 7.5% [3.75% - CGST + 3.75% - SGST] in respect of the services of construction of residential apartments other than affordable residential apartments as per entry at Item No. (ia) of Sl. No. 3 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 subject to the conditions prescribed under the entry.

10. The next question raised by the applicant is regarding the taxable value of the services of construction of residential villas rendered by them. Both the entries at Item (i) and (ia) of Sl. No. 3 of the Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 specify that the provisions of Paragraph 2 of the said notification shall apply for valuation of the service. The provisions of Para 2 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 is extracted below;

“2. In case of supply of service specified in column (3), in item (i), (ia), (ib), (ic), (id), (ie) and (if) against serial number 3 of the Table above, involving transfer of land or undivided share of land, as the case may be, the value of such supply shall be equivalent to the total amount charged for such supply less



the value of transfer of land or undivided share of land, as the case may be, and the value of such transfer of land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the total amount charged for such supply.

Explanation. -For the purposes of this paragraph —" total amount" means the sum total of, -

- (a) consideration charged for aforesaid service; and
- (b) amount charged for transfer of land or undivided share of land, as the case may be including by way of lease or sublease."

The amount charged by them from the villa buyers for some structural changes or undertaking interior works, extra works etc carried out before completion of the construction being part of overall construction services and naturally bundled when supplied to the villa buyers should be included in the consideration charged for the construction service and shall form part of the total amount charged for the supply as defined in explanation to Para 2 of the said notification.

Accordingly, in terms of the above Para 2 of the said notification the taxable value in respect of the service specified at item (i) and (ia) of Sl. No. 3 of the said notification is the total amount charged for the supply less the value of land or undivided share of land and the value of land or undivided share of land shall be deemed to be one third of the total amount charged for the supply. As the value of land or undivided share of land is deemed to be one-third of the total amount charged for the supply irrespective of the actual value of land the applicant is eligible to avail deduction of one-third of the total amount charged for the supply in arriving at the taxable value of the supply.

In view of the observations stated above, the following rulings are issued;



RULING

Question-1: When agreement for construction is entered into with a purchaser before the execution of sale deed for land in favour of the purchaser, is PPD eligible for effective rate of 5% on gross value of land and construction (i.e.; availing 1/3rd deduction towards land on effective rate of 7.5% as per notification number 03/2019 dated 29.03.2019)?

Answer: The applicant is liable to pay GST at the rate of 7.5% [3.75% - CGST + 3.75% - SGST] in respect of the services of construction of residential apartments other than affordable residential apartments as per entry at Item No. (ia) of Sl. No. 3 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 subject to the conditions prescribed under the entry in the villa project irrespective of whether the agreement for construction is entered into with a purchaser before the execution of sale deed for land in favour of the purchaser or after the execution of sale deed for land.

Question-2: When agreement for construction with a purchaser is entered into after the execution of sale deed for land in favour of the purchaser, is PPD eligible for effective rate of 5% on gross value of land and construction (i.e.; availing 1/3rd deduction towards land on effective rate of 7.5% as per notification number 03/2019 dated 29.03.2019)?


Answer: Yes. In view of the answer to Question No. 1 above.

Question-3: Pursuant to the agreement for sale of land and agreement for construction entered into with a purchaser, there may be supplementary items of works executed by PPD for the purchaser prior to completion of construction of the villa. Can GST on such extra works be at 5% without input credits?

Answer: The amount so charged by the applicant from the villa buyers for supplementary items of works carried out before completion of the



construction shall form part of the total amount charged for the supply as defined in explanation to Para 2 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 and accordingly will be liable to GST at the same rate as specified in Item No. (ia) of the said notification subject to the conditions prescribed therein.


Sreeparvathy S L

Additional Commissioner of Central Tax
Member


Abraham Renn S

Additional Commissioner of State Tax
Member

To,

M/s. Prime Property Developers,
TC 4/432-14, Third Floor,
Temple Square, Ambalamukku Junction,
Kowdiar, Thiruvananthapuram - 695003.

Copy to:

- 1) The Chief Commissioner of Central Tax and Central Excise, Thiruvananthapuram Zone, C.R. Building, I.S. Press Road, Cochin-682018. [E-mail ID: cccochin@nic.in; ccu-cexcok@nic.in]
- 2) The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram - 695002.
- 3) The State Tax Officer, Tax Payer Services Circle, Kowdiar, Thiruvananthapuram. [E-mail ID:]

