

	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	
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BEFORE THE AUTHORITY OF : Shri. JOMY JACOB, IRS &
: Shri. MANSUR.M.I.

Legal Name of the applicant	M/s. ICLOUD HOMES PRIVATE LTD
GSTIN	32AACCI8137M1ZE
ARN No.	AD320623005923E
Address	Indeevaram, Chaithanya Gardens, Pazhaya Road, Pangappara, Kerala, Thiruvananthapuram- 695581.
Advance Ruling sought for	1) What is the classification and SAC code for the following services? a) Services provided by the applicant to Villa-buyers for Villas constructed and sold after 01-04-2019 for other than ongoing projects for which Option was exercised. b) Services provided by applicant to Villa-buyers for additional works executed. 2) What is the rate of tax as applicable under Notification 11/2017- CT (rate) as amended from time to time for a) Services specified in (a) above for other than ongoing projects. b) Services specified in (b) above. 3) Whether the applicant is eligible for ITC on inward supplies related to : a) Services specified in (a) above for other than ongoing projects. b) Services specified in (b) above.



	4) The applicant has availed ITC under protest for other than ongoing projects for which option to continue at rates existing prior to amendments carried out in 01-04-2019 but has not utilized the same, and has kept the balance in Electronic Credit Ledger. a) Whether the applicant is entitled to avail the same for projects with rate of tax 7.5%? b) Whether the applicant can choose to opt for ITC availment and pay a higher rate for other than ongoing Villa projects for which option not exercised, instead of discharging liability at 7.5% with abatement for land value?
Date of Personal Hearing	20/06/2025
Authorized Representative	Shri.Unnikrishnan, Chartered Accountant

ADVANCE RULING No.KER/10/2026 Dated 10.07.2026

1. The Applicant, M/s. ICLOUD Homes Private Limited, is a private limited company, registered as a regular tax payer under the CGST Act. The applicant engaged in the business of construction of Villa projects as well as apartments in Thiruvananthapuram city.

2. In this ruling, a reference to the provisions of the CGST Act, Rules and Notifications issued there under shall include a reference to the corresponding provisions of the KSGST Act, Rules and the Notifications issued thereunder.

3. The issues on which advance ruling are sought are stated above.

4. Contentions of the Applicant

4.1. The applicant submits that they are engaged in the business of construction of villa projects and apartments in the city of



Thiruvananthapuram. The applicant provides construction services of new villa projects as well as modification works and ancillary services.

4.2. The applicant has classified the construction services provided for new villa projects under SAC **995411 – General construction services** of single dwelling or multi-dwelling or multi-storied residential buildings. Further, additional modification works and ancillary services provided during the project stage are stated to be classifiable under SAC **995419 – Services involving repair, alterations, additions, replacements**, renovation, and maintenance or remodeling of buildings.

4.3. The applicant submits that the services provided includes consideration for transfer of land/ undivided share of land and they adopted the 1/3 rd. deduction towards value of land as allowed under Notification No. 11/2017-CT dated: 28.06.2017 and discharges tax at effective rate of 12% for their residential projects prior to 01.04.2019.

4.4. The applicant further submits that the Government introduced changes in the GST rate structure for construction services through Notification No. 03/2019-Central Tax (Rate) dated 29.03.2019, under which promoters of existing “ongoing projects” were required to exercise an option to continue under the earlier tax regime with the benefit of input tax credit. Accordingly, the applicant states that they had exercised the option for all projects qualifying as “ongoing projects” as on 31.03.2019. The applicant further submits that they are presently undertaking new projects under the name and style “Winds of Change – Phase II” and “The 44 Club – Phase II”, which do not fall under the category of “ongoing projects” as on 01.04.2019.

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 informed that there is no pending or decided proceedings against the applicant regarding the subject matter. The Jurisdictional officer has not submitted any specific remarks on the questions raised by the applicant.



6. Personal hearing

The applicant was granted opportunity for personal hearing on 10/09/2024. Thereafter a re-hearing was conducted on 20/06/2025 due to the change of Central and State members. Shri. Unnikrishnan, Chartered Accountant represented the applicant in the virtual hearing. The representative reiterated the contentions made in the application and requested to issue ruling on the basis of their submissions.

7. Discussion and findings.

7.1. We have carefully examined the application, the statement of facts, the applicant's interpretation of law, the documents produced, and the submissions made during the personal hearing. The applicant has sought ruling on the classification of the construction services supplied by them to villa buyers, the applicable rate of tax under Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017, as amended, and the admissibility of input tax credit in respect of such supplies. The questions raised relate to classification of services, applicability of a notification issued under the provisions of the Act, determination of liability to pay tax, and admissibility of input tax credit. Therefore, the questions fall within the scope of clauses (a), (b), (d) and (e) of sub-section (2) of Section 97 of the CGST Act, 2017. Further, on the basis of the declaration furnished by the applicant and the report of the jurisdictional officer, it is seen that the questions raised are neither pending nor decided in any proceedings in the applicant's case under the provisions of the Act. Accordingly, the application is admitted and taken up for consideration on merits.

7.2. The issues to be determined are the classification of construction services provided by the applicant in respect of villa projects constructed and sold after 01.04.2019, in light of the amendments made to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. The applicant has also sought clarification regarding the applicable rate of tax on additional works executed for villa buyers



and the eligibility to avail input tax credit on inward supplies used for such projects.

7.3. The applicant is engaged in the construction and sale of residential villas which are stated to form part of Residential Real Estate Projects (RREP). The present application relates to villa projects claimed to have been commenced after 01.04.2019, namely "Winds of Change – Phase II" and "The 44 Club – Phase II". According to the applicant, these projects are distinct from the earlier projects for which option had been exercised under Notification No. 03/2019-Central Tax (Rate), dated 29.03.2019, and do not fall within the category of "ongoing projects" as on 31.03.2019. The applicant has submitted that the approvals/permissions from the Local Self Government authorities, as well as the execution of the relevant works in respect of the said projects, are subsequent to the cut-off date of 01.04.2019. The applicant has also produced copies of the development permits issued by the Thiruvananthapuram Corporation in support of the claim that the said projects are to be treated as projects other than ongoing projects. In view of the above facts, the issue for consideration is classification and applicable rate of tax in respect of the construction services rendered by the applicant to villa buyers in such projects and the eligibility of input tax credit on inward supplies used for rendering such services. This ruling is rendered on the basis of the applicant's submission that the projects under consideration were separate projects commencing on or after 01.04.2019 and not part of any earlier ongoing project for which option had already been exercised.

7.4. The first question to be answered is the classification and SAC of construction services supplied to villa buyers in other than ongoing projects in view of the amendment made in Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 vide Notification No.3/2019- Central Tax (Rate) dated 29/03/2019. The applicant constructs residential villas in the category- "other than affordable residential apartments" in Residential Real Estate Projects (RREP) and therefore fall under the category of "developer- promoter" as defined in Explanation in Column (5) against Sl.No.3 Table given in Notification No.



11/2017 Central Tax (Rate) dated 28.06.2017, as amended. Hence, the construction services provided by the applicant for the construction of villas "other than ongoing projects" is to be appropriately classified under entry at serial No. 3(ia) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended by Notification No.3/2019- Central Tax (Rate) dated 29/03/2019. The relevant part of the Notification is reproduced thereunder.

SI No. (1)	Chapter, Section or Heading (2)	Description of Service (3)	Rate (per cent) (4)	Condition (5)
3	Heading 9954 (Construction services)	(ia) Construction of residential apartments other than affordable residential apartments by a promoter in an RREP(Residential Real Estate Project) which commences on or after 1 st 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)	3.75	Provided that.....



7.5. Further, the valuation of service as per the above entry is governed by paragraph 2 of the Notification, which says that *"in cases of supply of service involving transfer of property in land or undivided share of land, as the case may be, the value of supply of service and goods portion in such supply, shall be equivalent to the total amount charged for such supply less the value of land or undivided share of land, and the value 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"*. This means that where the gross amount charged for the construction service includes charges for construction service as well as the cost of land/undivided share of land, value attributable to land would be deemed to be 1/3 of such gross amount charged and GST would be payable on the remaining 2/3 of the said amount. This would translate to effective rate of CGST @2.5% ($3.75 \times 2/3$) on the gross amount charged by the applicant.

7.6. The second issue to be taken up is classification of services provided to Villa buyers for additional works executed. In this regard, the applicant has submitted that additional modification works and ancillary services during the project stage were carried out as addendum to original construction agreement. In general parlance, for large construction projects, the scope of facilities to be provided is typically settled between the promoter and buyer through a construction agreement and the stipulations of minor structural changes, replacement of materials, remodeling of certain portions in the building, change in the brand of building materials, etc. are also generally covered therein. The applicant has neither submitted the copies of agreement executed with the buyers nor specified the nature of additional works, ancillary services etc. in the statement of facts submitted along with the application or at the time of personal hearing. Hence in absence of details regarding the exact nature and scope of such additional works, a specific ruling cannot be given as the same would depend on facts & circumstances of each case. In such circumstances, it seems that the additional modification works/ancillary services undertaken prior to issuance of completion certificate or first occupation, essentially remain part of the Original Construction agreement for construction of the residential



villas and therefore should be classifiable under SAC 995411, along with the principal construction service and not under SAC 995419.

7.7. The third issue for consideration is the eligibility of input tax credit on inward supplies used by the applicant for the construction of residential villas in projects stated to be other than ongoing projects and for additional modification works/ancillary services supplied to villa buyers. A revised scheme was introduced by Notification No. 03/2019-Central Tax (Rate), dated 29.03.2019, by amending Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017, for the real estate sector with effect from 01.04.2019 which provided that the services of construction of residential apartments in a Residential Real Estate Project (RREP) are taxable at the prescribed concessional rate subject to the condition that credit of input tax charged on goods and services used in supplying the said service has not been taken except to the limited extent specifically provided in the notification.

7.8. In this regard, it is imperative to distinguish between ongoing projects as on 31.03.2019 and projects commencing thereafter. For the ongoing projects, the promoter was given a one-time option to continue to pay tax at the earlier applicable rates with eligibility to avail input tax credit subject to the conditions prescribed in the said notification. Further, where such option was not exercised, the said ongoing project would fall under the revised rate structure without the benefit of input tax credit applicable from 01.04.2019 onwards. In such cases, the transitional mechanism prescribed in Annexure I/Annexure II to Notification No. 03/2019-Central Tax (Rate), as applicable, becomes relevant for determining the eligible input tax credit attributable to the construction undertaken before and after 01.04.2019 and for determining the amount of credit, if any, required to be reversed or paid.

7.9. However, the present application concerns projects which according to the applicant, commenced only on or after 01.04.2019. The construction of residential villas, being residential apartments other than affordable residential apartments in an RREP, is taxable under Entry 3(ia) of Notification No.



11/2017-Central Tax (Rate), dated 28.06.2017 as amended, subject to the condition that input tax credit shall not be availed on goods and services used in providing such construction service. Therefore, in respect of such projects commencing on or after 01.04.2019, the applicant is not eligible to avail or utilise input tax credit of tax paid on inputs and input services used for construction of the residential villas. The transitional mechanism under Annexure II to Notification No. 03/2019-Central Tax (Rate) does not confer any entitlement to input tax credit in respect of projects commencing on or after 01.04.2019; it is relevant only for ongoing projects transitioning to the revised rate structure.

7.10. With regards to the eligibility of input tax credit on additional modification works and ancillary services executed for villa buyers, it is stated that the tax treatment would depend upon the nature of such supplies. In cases where such additional works are carried out during the project stage, i.e., prior to issuance of completion certificate or first occupation and form part of the construction of residential villas under the original construction agreement or an addendum thereto, such works would be treated as part of the same supply and accordingly, is taxable under Entry 3 (ia) of Notification No. 11/2017-Central Tax (Rate), as amended which would mean that input tax credit on goods and services used for such supplies shall not be available. However, when such additional works are provided as a separate and independent supply, not forming part of the construction of residential apartments in the said RREP, the classification, rate of tax, and eligibility of input tax credit shall be determined independently, based on the nature of such supply as per the provisions of the CGST Act, 2017 and the Notifications issued thereunder.

7.11. The final issue relates to the input tax credit stated to have been availed by the applicant "under protest" in respect of projects claimed to be other than ongoing projects, but not utilised and retained in the electronic credit ledger. The applicant has sought to know whether such credit can be availed or utilised for projects taxable at the rate prescribed under Entry 3(ia), or whether the applicant can choose to pay tax at a higher rate with availment of input tax



credit. As discussed above, in respect of residential real estate projects commencing on or after 01.04.2019 and falling under Entry 3(ia) of Notification No. 11/2017-Central Tax (Rate), as amended, the prescribed rate is subject to the condition that input tax credit on goods and services used in supplying such construction service shall not be taken. The said entry also requires that the tax payable at the specified rate shall be discharged in cash, that is, by debiting the electronic cash ledger only.

7.12. Therefore, where the projects under consideration are projects commencing on or after 01.04.2019 and are not ongoing projects, the applicant is not entitled to avail or utilise input tax credit attributable to such projects for discharge of tax liability under Entry 3 (ia) of the Notification No. 11/2017-Central Tax (Rate), as amended. The applicant also has no option to pay tax at a higher rate with input tax credit in respect of such projects, since the option to continue under the earlier rate structure with ITC was available only for eligible ongoing projects and not for projects commencing on or after 01.04.2019. Any input tax credit wrongly availed in respect of such new projects, even if not utilised and retained in the electronic credit ledger, shall be reversed or paid back in accordance with the provisions of the CGST Act, 2017 and the rules made thereunder. The transitional mechanism under Annexure II to Notification No. 03/2019-Central Tax (Rate) would be relevant only in respect of ongoing projects transitioning to the revised rate structure, and not for conferring ITC eligibility in respect of projects commencing on or after 01.04.2019.

7.13. This position is also clarified in the FAQs issued by CBIC vide F. No. 354/32/2019-TRU dated 07.05.2019, wherein it is stated that in respect of projects commencing on or after 01.04.2019, the promoter has no option to pay tax at the earlier rates with availment of input tax credit and is required to discharge GST at the prescribed rates without ITC.

8. Given the observations and legal provisions stated above, the following rulings are issued;



RULINGS

Question No. 1. What is the classification and SAC code for the following services?

a) Services provided by the applicant to Villa-buyers for Villas constructed and sold after 01-04-2019 for other than ongoing projects for which Option was exercised.

RULING: Classification of residential villa project other than affordable in an RREP is classifiable under SAC 995411- General construction services of single dwelling or multi dwelling or multi-storied residential buildings.

b) Services provided by applicant to Villa-buyers for additional works executed.

RULING: Where the additional modification works and ancillary services provided to villa buyers form part of the construction of residential villas under the original construction agreement prior to issuance of completion certificate or first occupation, the same shall be treated as part of the supply of construction services classifiable under SAC 995411. However, where such additional works constitute a separate and independent supply of service, the classification shall be determined based on the nature of such service in accordance with the scheme of classification of services.

Question No. 2. What is the rate of tax as applicable under Notification 11/2017- CT (rate) as amended from time to time for,

a) Services specified in (a) above for other than ongoing projects.

RULING: The supply of construction services relating to residential villas other than affordable residential apartments in a Residential Real Estate Project (RREP) is taxable under Entry 3(ia) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended, at the rate of 3.75% CGST and 3.75% SGST, subject to the conditions prescribed therein. In cases where the supply involves transfer of land or undivided share of land, as per Paragraph 2 of the said notification the value attributable to land shall be deemed to be one-third of the total amount charged, and GST shall be payable on the remaining two-



thirds of the consideration, resulting in an effective GST rate of 5% (2.5% CGST and 2.5% SGST) on the total value.

b) Services specified in (b) above.

RULING: Where the additional modification works and ancillary services provided to the villa buyers form part of the construction of residential villas in a Residential Real Estate Project (RREP) prior to issuance of completion certificate or first occupation, such services shall be treated as part of the same supply taxable under Entry 3(ia) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended, and shall be liable to GST at the same rate applicable to the principal supply. However, where such works constitute a separate and independent supply, the applicable rate of tax shall be determined based on the classification of the service under the provisions of the said notification.

Question No. 3. Whether the applicant is eligible for ITC on inward supplies related to:

a) Services specified in (a) above for other than ongoing projects.

RULING: The applicant is not eligible to avail or utilise input tax credit of tax paid on inputs and input services used for the construction of residential villas in projects which are other than ongoing projects and which are taxable under Entry 3(ia) of Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017, as amended. The said entry prescribes the concessional rate of tax subject to the condition that credit of input tax charged on goods and services used in supplying such construction service has not been taken. Accordingly, in respect of residential villa projects commencing on or after 01.04.2019, the applicant is required to discharge tax at the applicable rate under Entry 3(ia), without availment of input tax credit.

b) Services specified in (b) above.

RULING: Where the additional modification works and ancillary services provided to the villa buyers form part of the construction of residential villas in



the said Residential Real Estate Project (RREP), such services shall be treated as part of the same supply taxable under Entry 3(ia) of Notification No. 11/2017-Central Tax (Rate) and input tax credit shall not be available. However, where such additional works constitute a separate and independent supply of service not forming part of the construction of residential apartments in the said RREP, the eligibility to avail input tax credit shall be determined in accordance with the provisions of the CGST Act, 2017.

Question No. 4. The applicant has availed ITC under protest for other than ongoing projects for which option to continue at rates existing prior to amendments carried out in 01-04-2019 but has not utilized the same, and has kept the balance in Electronic Credit Ledger.

a) Whether the applicant is entitled to avail the same for projects with rate of tax 7.5%?

RULING: No. The applicant is not entitled to avail or utilise the input tax credit stated to have been availed "under protest" in respect of projects which are other than ongoing projects and which are taxable under Entry 3(ia) of Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017, as amended.

The said entry prescribes the applicable rate of tax for construction of residential apartments other than affordable residential apartments in an RREP, subject to the condition that credit of input tax charged on goods and services used in supplying such service has not been taken. Further, the tax payable at the rate specified under the said entry is required to be paid in cash, that is, by debiting the electronic cash ledger only.

Accordingly, in respect of residential villa projects commencing on or after 01.04.2019, the applicant cannot utilise the balance ITC lying in the electronic credit ledger for discharging output tax liability at the rate prescribed under Entry 3(ia). Any ITC wrongly availed in respect of such projects, even if not utilised, shall be reversed or paid back in accordance with the provisions of the CGST Act, 2017 and the rules made thereunder.



b) Whether the applicant can choose to opt for ITC availment and pay a higher rate for other than ongoing Villa projects for which option not exercised, instead of discharging liability at 7.5% with abatement for land value?

RULING: No. The applicant has no option to choose a higher rate of tax for the purpose of utilizing the balance ITC available in the electronic credit ledger in respect of the construction of residential villas in an RREP, in view of the amendments made with effect from 01.04.2019 to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017.


Jomy Jacob, IRS

**Additional Commissioner of Central Tax Joint Commissioner of State Tax
Member Member**



Mansur M.I.

To,

M/s. Icloud Homes Private Limited,
Indeevaram, Chaithanya Gardens, Pazhaya Road,
Pangappara, Thiruvananthapuram, Kerala - 695581.



Copy submitted 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.
[E-mail ID: cst.sgst@kerala.gov.in]
3. The Commissioner of Central Tax and Central Excise, Kochin
Commissionerate.
4. The Commissioner of Central Tax and Central Excise,
Thiruvananthapuram Commissionerate, GST Bhavan, Statue,
Thiruvananthapuram.



5. The Commissioner of Central Tax and Central Excise,
Calicut Commissionerate.

Copy to :

1. The Additional Commissioner, TPS, HQ, Thiruvananthapuram.
2. The Deputy Commissioner, ITMD, Thiruvananthapuram.
3. The Assistant Commissioner/State Tax Officer, Tax payer services Circle,
Kazhakoottam.
4. The Superintendent, Central Tax, Kazhakoottam Range-1,
North Division. Copy to:

