

IMPORTANT GST UPDATES

Issued in case of M/s Palal Reality by Kerala Authority for Advance Ruling
Advance Ruling No. KER/01/2023 | Date: 20-02-2023

Ruling

Service of Construction of Affordable Residential Apartments attracts 1.5% GST along with Deduction of 1/3rd of Total Supply Value.

Observations & Findings

The applicant, M/s Palal Reality is a partnership firm registered in Kerala and engaged in business as builders and developers. They have approached the KAAR for advance ruling on:

- Rate of GST applicable on the construction and sale of villa
- Calculation methodology for deriving the taxable value of construction of villa
- GST rate applicable for some structural changes carried out in villas before completion of construction and sale

The applicant submitted that they are presently engaged in development of a Villa project for which they have executed the land purchase agreement and also registered the project under RERA. The construction activities for the project commenced in October 2020. For the sale of Villa, they execute two agreements which include sale of land including undivided portion of common area and construction of villa. The payment for the same are received in parts as per agreed terms. The applicant also mentioned that many times the villa buyers request for some structural changes which are executed before the handing over of the villa.

KAAR noted that the residential villas being constructed fall within the definition of residential apartment and the applicant falls within the definition of "promoter". Thereby the services fall within the description of services specified in the Central Tax (Rate) and valuation of service shall also be done accordingly. With regard to the structural changes done as per request, they too are done before the completion of construction and hence shall be considered as part of the construction activities.

Based on the above considerations, KAAR ruled that:

- Applicant is liable to pay GST at the rate of 1.5% for construction of affordable residential apartments and 7.5% for construction of residential apartments other than affordable residential apartments.
- The applicant is eligible to avail deduction of one third of total amount charged for the supply in arriving at the taxable value of supply.
- The amount charged by the applicant for structural changes or interior works shall form part of total amount charged for supply and will be liable to same rate of GST.