

	<b>KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM</b>	
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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 Palal Realty
GSTIN	32AAPFP2434C1ZL
Address	1 <sup>st</sup> Floor, 31/988-H5, Poovathankavil Gardens, Subhash Chandra Bose Road, Poonithura Village, Ernakulam – 682019.
Advance Ruling sought for	<ol style="list-style-type: none"> <li>1) Whether the rate of GST applicable on the applicant on the construction and sale of villas is 1.5% / 7.5% (effective tax rate 1%/5%) without benefit of Input Tax Credit?</li> <li>2) How the taxable value of construction of villa is to be calculated by the applicant on the projects developed and promoted by the applicant on the arrangement of agreement with landlord, landlord selling the plots directly to various villa buyers identified by the applicant. Whether out of the total value of the villa including land value, 2/3rd of the total value shall be taken for payment of GST at the rate of 1.5% / 7.5% (effective rate of 1% / 5% on the total value of villa)?</li> <li>3) Whether the amount charged by the applicant from villa buyers for some structural changes, to add some additional area or undertake interior works etc carried</li> </ol>



	out before the completion of the construction is also part of gross amount charged for construction and sale of villa and accordingly the effective tax rate of 1%/5% will also be applicable on such amount charged without input tax credit?
Date of Personal Hearing	05.07.2022
Authorized Representative	Shri. M.P. Tony, Chartered Accountant

**ADVANCE RULING No. KER/01/2023 Dated 20.02.2023**

M/s. Palal Realty (**hereinafter referred to as the applicant**) is a partnership firm registered in Kerala and engaged in business as builders and developers.

1. 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.

**2. The Applicant requested advance ruling on the following:**

**2.1.** Whether the rate of GST applicable on the applicant on the construction and sale of villas is 1.5% / 7.5% (effective tax rate 1%/5%) without benefit of Input Tax Credit?

**2.2.** How the taxable value of construction of villa is to be calculated by the applicant on the projects developed and promoted by the applicant on the arrangement of agreement with landlord, landlord selling the plots directly to



various villa buyers identified by the applicant. Whether out of the total value of the villa including land value, 2/3rd of the total value shall be taken for payment of GST at the rate of 1.5% / 7.5% (effective rate of 1% / 5% on the total value of villa)?

**2.3.** Whether the amount charged by the applicant from villa buyers for some structural changes, to add some additional area or undertake interior works etc carried out before the completion of the construction is also part of gross amount charged for construction and sale of villa and accordingly the effective tax rate of 1%/5% will also be applicable on such amount charged without input tax credit?

### **3. Contentions of the Applicant:**

**3.1.** The applicant submits that they are presently engaged in development of a Villa Project (namely, The Mateo) for the prospective villa buyers and have started the construction activities in October 2020. They have entered into agreement with the landlords [2 landlords] for the purchase of the entire land area required for the project. The agreement so executed for purchase of the land is registered with the office of the Sub-Registrar of Thrikkakara. The copy of the agreements so executed with the landlords for purchase of the land is attached as Annexure A and B.

**3.2.** They are registered with the Kerala Real Estate Development Authority as a Promoter and the project "The Mateo" is registered as a Residential Real Estate Project under RERA. The copy of the RERA Registration Certificate of the project is attached as Annexure C.

**3.3.** They started the construction activities in October 2020 after getting Development Permit (for the entire land area) and Building Permits (based on the booking of villas) issued by the Thrikkakara Municipality. The copy of the Development Permit for development of the total land area and the Building Permit issued to some of the Villas are attached as Annexure D and E respectively.



**3.4.** After the approval from local authorities, they provide all amenities required for the gated communities. They do marketing activities such as digital, paper ads, media advertisement etc and identify suitable villa buyers for the projects.

**3.5.** They market the villa project and based on bookings by the villa buyers they enter into two agreements with the villa buyer. First, they along with the landlord enter into an agreement with the villa buyers for sale of land including the undivided portion of common area and also enter into an agreement to construct the villa with the villa buyer. A copy of the agreement for sale of land including the undivided portion of common area and agreement to construct the villa is attached as Annexure - F and G respectively.

**3.6.** The land including the undivided portion of common areas is registered by the landlord directly in the name of the villa buyers before starting or during the construction of the villa and the consideration for such sale is fixed between the applicant and the landlord. The landlord will receive the sale consideration of the plot from the villa buyers through the applicant. A copy of the draft sale deed to be entered into between landlord and villa buyers is attached as Annexure - H.

**3.7.** They receive the consideration from the villa buyers for the sale of land including the undivided portion of common areas and the consideration for construction of villa stage wise as per the agreed terms and conditions in the agreement for sale of land including the undivided portion of common area and agreement to construct the villa. On completion of the construction of the villa, the occupancy certificate is taken in the name of the villa buyer. After completion and handing over of the villas to the villa buyers they make necessary arrangements to form an association including all villa buyers in that project and then hand over all common amenities to them to take care.

**3.8.** They submitted that some of the villa buyers before completion of construction and handing over of the villa may request them to make some structural changes, to add some additional area or undertake interior works



etc for which they charge extra amount based on a supplementary agreement or by endorsement on the construction agreement itself.

**3.9.** As per 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 projects started on or after 01.04.2019 attract GST at the following rates subject to fulfilment of the conditions specified therein;

Type of Construction	GST Rate applicable [CGST+SGST]	Effective GST after excluding 1/3 <sup>rd</sup> towards land portion	Rate
Construction of affordable residential apartments	1.5%		1%
Construction of residential apartments other than affordable residential apartments	7.5%		5%

**3.10.** Considering the terms in the agreement executed by them with the landlords and villa buyers, they are engaged in construction of villas with effect from 01.04.2019 and therefore the rate of GST applicable for them on the construction of villas is 1.5% for affordable villas and 7.5% for villas other than affordable villas. The effective rate of GST after excluding 1/3<sup>rd</sup> of total consideration towards land portion as per Paragraph 2 of the Notification No. 11/2017 CTR shall be 1% for affordable villas and 5% for other than affordable villas, subject to fulfilment of other conditions in the notification.

**3.11.** The construction of villas is liable to GST as per 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 and with effect from 01.04.2019 the rate of tax applicable on villas in a Real Estate Project depend on whether the villa is affordable or other than affordable.



**3.12.** 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. Based on the definition of Real Estate Project, the rate of GST applicable is 1.5% for affordable villas and 7.5% for villas other than affordable villas. The effective rate of GST after excluding 1/3<sup>rd</sup> of total consideration towards land portion as per Para 2 of the said notification shall be 1% for affordable villas and 5% for villas other than affordable villas subject to fulfilment of other conditions in the notification.

**3.13.** 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 2/3<sup>rd</sup> 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 1/3<sup>rd</sup> 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 1/3<sup>rd</sup> towards value of land and the actual value of land mentioned in the agreement is to be ignored.

**3.14.** The Kerala Advance Ruling Authority in the case of M/s Dharmic Living Private Ltd in Advance Ruling No. KER/117/2021 dated 28.05.2021 had held in similar situations that the effective GST rate applicable shall be 1%/5% without input tax credit and also that 1/3<sup>rd</sup> of the gross amount shall be taken as value of the land.



**3.15.** The amount charged by them from the villa buyers for some structural changes, to add some additional area or undertake interior works etc carried out before completion of the construction is also part of the gross amount charged for construction and sale of the villa.

**3.16.** 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.

**3.17.** 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, the structural changes, adding some additional area or undertaking interior works etc carried out before completion of the construction is part of composite supply of service of construction and sale of villa.

**3.18.** 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 structural changes, adding some additional area or undertaking interior works etc carried out before completion of the construction of villa is also liable to tax at the rate of 1/5% without input tax credit.

#### **4. Comments of the Jurisdictional Officer:**

**4.1.** 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.

#### **5. Personal Hearing:**

**5.1.** The applicant was granted opportunity for personal hearing on 05.07.2022. Shri M.P. Tony, 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.

#### **6. Discussion and Conclusion:**

**6.1.** 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 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 1.5% for affordable villas and 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 or 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 some structural changes, to add some additional area or undertake interior 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.

**6.2.** 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.

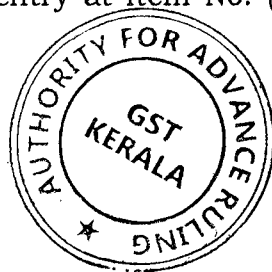
**6.3.** The entries at Items (i) and (ia) of Sl. No. 3 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 03/2019 Central Tax (Rate) dated 29.03.2019 reads as follows;

*"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 1<sup>st</sup> 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 1<sup>st</sup> 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).*

**6.4.** 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.

**6.5.** 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 1<sup>st</sup> 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)].”

**6.6.** 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 1<sup>st</sup> 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.

**6.7.** 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.*

**6.8.** 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.



**6.9.** 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 (i) and (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 entries shall be applicable to the said services supplied by the applicant. Accordingly, the applicant is liable to pay GST at the rate of 1.5% [0.75% - CGST + 0.75% - SGST] in respect of the services of construction of affordable residential apartments as per entry at Item (i) and 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 respective entries.

**6.10.** 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.”

**6.11.** The amount charged by them from the villa buyers for some structural changes, to add some additional area or undertake interior 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.

**6.12.** 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:** Whether the rate of GST applicable on the applicant on the construction and sale of villas is 1.5% / 7.5% (effective tax rate 1%/5%) without benefit of Input Tax Credit?

**Ruling:** The applicant is liable to pay GST at the rate of 1.5% [0.75% - CGST + 0.75% - SGST] in respect of the services of construction of affordable residential apartments as per entry at Item (i) and 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 respective entries in the villa projects.

**Question 2:** How the taxable value of construction of villa is to be calculated by the applicant on the projects developed and promoted by the applicant on the arrangement of agreement with landlord, landlord selling the plots directly to various villa buyers identified by the applicant. Whether out of the total value of the villa including land value, 2/3rd of the total value shall be taken for payment of GST at the rate of 1.5% / 7.5% (effective rate of 1% / 5% on the total value of villa)?

**Ruling:** The taxable value of the construction services supplied by the applicant shall be governed by the provisions of Para 2 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 and accordingly 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.



**Question 3:** Whether the amount charged by the applicant from villa buyers for some structural changes, to add some additional area or undertake interior works etc carried out before the completion of the construction is also part of gross amount charged for construction and sale of villa and accordingly the effective tax rate of 1%/5% will also be applicable on such amount charged without input tax credit?

**Answer:** The amount so charged by the applicant from the villa buyers for some structural changes, to add some additional area or undertake interior works etc 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 Nos. (i) and (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. Palal Realty,  
1<sup>st</sup> Floor, 31/988-H5,  
Poovathankavil Gardens,  
Subhash Chandra Bose Road,  
Poonithura Village, Ernakulam – 682019.

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, Circle - I, Ernakulam. [E-mail ID: ]

