



Indirect Taxes - Court Room Highlights 112304

GST implications on developed land sales, land development services, and transfer of development rights.

Telangana State Authorities “AAR”



► Sale of Developed land falls outside GST, but GST applies to works contract services for land-owners.
**[M/S Vaishnai Infratech and Developers Pvt Ltd.-
TS-592-AAR(TEL)-2023-GST]**

The Applicant, an entity engaged in the business of real estate development, applied the Telangana State Authorities (“AAR”), seeking Advance Ruling under GST Laws on the following issues:

i. Taxability of selling developed plots under GST laws

Circular No. 177/09/2022 dated August 03, 2022, clarifies that Land sold after certain developments such as leveling, laying down of drainage lines, water lines, electricity lines, etc is considered the sale of land, covered by SL. No. 5 of Schedule III of CGST Act, 2017. The ruling stated that the value of Land is not taxable whether sold in an undeveloped or developed state.



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ii. Taxability of services by way of development of plots provided to land owners under GST laws

Circular No. 177/09/2022 dated August 03, 2022, also clarifies that the services related to the development of plots provided to landowners fall under the GST radar. The circular specifies that these development services attract GST. The applicable GST rate for these services is 18% under entry number 3(xii) of the Notification 11/2017-Central Tax (Rate) with SAC 9954.

iii. Taxability of Transfer of Development Rights (“TDR”) by Land Owner in exchange for land development services

According to Notification No. 5/2019-Central Tax (Rate) dated March 29, 2019, these services are subject to GST under a Reverse charge basis vide Notification No. 5/2019-Central Tax (Rate) dated



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March 29, 2019. The applicable GST rate for TDR in this scenario is 18%.

iv. Determining the value of supply in case of TDR and Plot Development Services

If the value of the works contract, for the development of land, is mentioned, than the specified amount becomes the value of the supply. However, if in case the value of the works contract is not separately specified then Rule 30 (i.e., value to be 110% of the cost) read with Section 15 of the CGST Act, 2017 shall be applied for arriving at the value of supply of such services.

v. Eligibility of Input Tax Credit (ITC) for TDR received by the Applicant

It was held that the Applicant is entitled to claim ITC of the GST paid on a reverse charge basis on TDR and utilize the same for discharge of output



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tax liability including GST liability on Land Development Services provided by the Applicant.

vi. Time of Supply in case of TDR and Plot Development Services

The time of Supply for TDR would be determined based on Section 13(3)(b) read with Section 31(3)(f) and (g) of the CGST Act, 2017. In brief, the time of supply for TDR is the date immediately following 60 days from the issuance of the invoice, voucher, or any other document by the supplier.



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