

GST payable at the time of transfer of possession/ rights in the building to the person supplying development rights: The AAR, Telangana

Fact of the Case

The applicant, M/s. Vajra Infracorp India Private Limited are providers of taxable services of construction of residential complexes. They have averred that they have entered into a supplementary agreement with land owner on 15.05.2017 duly fixing the total number of flats to be shared with the land owner. This was prior to the introduction of GST. It was averred that the construction was expected to be completed by October/November 2018 i.e., after the introduction of GST.

The applicant has relied on CBE & C circular no. 151/2/2012-ST dated 10.02.2012, where in it is stipulated that the land owners share of flats are liable to service tax, but the date of possession or right in the property of said flats are transferred to the land owner by entering into the conveyance deed or any other instrument such as allotment letter.

The applicant has sought the advance ruling on the issue in respect of time of supply and point of taxation with respect to flats allotted to land owner by the builder by way of supplementary agreement on 15.05.2017 (i.e., before the GST regime) whereas the construction will be completed during the GST regime.

Decision of the Case

The two-member bench of Additional Commissioner of State Tax S.V. Kasi Visweshwar Rao and Additional Commissioner of Central Tax B. Raghu Kiran ruled that as per Notification No.4/2018 dated January 25, 2018 the date of transfer of possession of the building or the right in it to the person supplying development rights will be the time of supply and the liability to pay tax on the said services shall arise on that day. The time of supply shall not be at any other time.

The Telangana Authority of Advance Ruling (AAR) ruled that the Goods and Service Tax (GST) shall be payable from date of transfer of possession of the building or right to person supplying development rights.