

**GIB/KN/Durga Projects /25.07.2019/AAR-224**

**Advance Ruling Category :** Taxability

**State :** Karnataka

**Order No.:** GIB/KN/Durga Projects /25.07.2019/AAR-224

**Name of Entry :**

Durga Projects and Infrastructure Pvt. Ltd

**Date :** 25-07-2019

**Breif Issue :**

**Facts & Issue Of The Case :**

Durga Projects and Infrastructure Private Limited is a registered incorporated company under the Goods and Service Tax Act,2017. Durga projects and infrastructure is engaged in construction and sale of residential complex based under joint development agreement.

**The company has sought advance ruling in respect of the applicability of GST on partially completed flats having identified customers before GST Regimes, after the implementation of GST Regime and also a situation where no customer is identified?**

The applicant had stated the activity of construction which they are doing falls under the “work contract” and GST is not leviable because consideration is received after issuance of completion certificate ,where required by the competent authority or its first occupation whichever is earlier, in accordance with para(5) of CGST Act,2017. The applicant meant by the “identification of customers” that the agreement has been entered into with the customer for construction of particular flat.

In terms of schedule II ,their activity is liable to be treated as a supply of service. The applicant contented that as per the provisions of CGST Act 2017 (Section 141,142 and 143) the tax was leviable under earlier law but not in GST Law. Therefore in respect of partially completed flats, tax is applicable on the value of work already executed under earlier law, irrespective of whether payments are received or not.

**Decision of Advance Ruling Authority :**

**Decision :**

The applicant is liable to pay service tax prior the GST Regime and from 01.07.2017 the applicant is liable to pay GST proportionate to the services, in terms of section 142(11)(b) of the CGST Act 2017.

It's the situation where there is partially completed flats having identical customers before GST Regime.

The applicant is liable to pay GST on the transaction value of supply , in respect of partially completed flats where customers are identified after implementation of GST.

Where no customers are identical, the applicant is not liable to pay GST as there is no involvement of supply.

GST can only be paid on the transaction value of supply, if the supply is made prior to the issuance of completion certificate