

GIB/UK/Rajeev Bansal/09.01.2020/AAR-267

Advance Ruling Category : Exemption

State : Uttarakhand

Order No.: GIB/UK/Rajeev Bansal/09.01.2020/AAR-267

Name of Entry :

Rajeev Bansal and Sudershan Mittal

Date : 09-01-2020

Breif Issue :

Facts & Issue Of The Case :

Rajeev Bansal and Sudershan Mittal had seek advance ruling on whether “business Transfer Agreement” is a going concern which consists of transferring under-construction projects is covered under serial No. 12 of the notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 and thus exempted from the applicability of GST.

Applicant is a partnership firm engaged in the business of constructing Residential/ Commercial Complexes. Transfer of going concern can be described as transfer of a running business which is capable of being carried on by the purchaser as an independent business .

The buyer has purchased the under construction building/business to carry the same kind of business as the purchaser themselves engaged in constructing complexes and selling thereof and there is no series of immediately consecutive transfer of the said business.

There are some of the guidelines to treat transfer of business as a going concern are as under:

- a. The assets must be sold as a part of ‘business’ as a ‘going concern’.
- b. The purchaser intends to use the assets to carry on the same kind of business as the seller.
- c. There must not be series of immediately consecutive transfers.

Decision of Advance Ruling Authority :

Decision :

The transfer of business shall be treated as a going concern and is exempted from GST as on date in terms of serial no. 2 of notification No. 12/2017-Central Tax (rate) dated 28.06.2017.