

GIB/KN/Anonymous/24.08.2020/OTHERS-13

Others Category : Input Tax Credit

State : Karnataka

Order No.: GIB/KN/Anonymous/24.08.2020/OTHERS-13

Name of Entry :

Anonymous Vs Aryan Hometec Pvt. Ltd. (NAA)

Date : 24-08-2020

Breif Issue :

Facts&Issue of The Case:

Applicant No. 1, who has sought anonymity, had filed an application under Rule 128 (1) of the CGST Rules, 2017 against the Respondent alleging profiteering in respect of construction service supplied by him.

The Applicant No. 1 had stated that he had purchased a flat in the Respondent's project "Aryan Fountain Square", Attiblele-Surajpura Road. Bengaluru and had alleged that the Respondent had included VAT and Service Tax in the MRP of the flat at the time of booking and demanded 12% GST on the pending amount which had resulted in double taxation, whereas the Respondent was actually required to pass on the benefit of ITC for the construction done after the GST implementation which he had not passed on.

It is revealed from the plain reading of Section 171 (1) that it deals with two situations one relating to the passing on the benefit of reduction in the rate of tax and the second pertaining to the passing on the benefit of the ITC. On the issue of reduction in the tax rate, it is apparent from the DGAP's Report that there has been no reduction in the rate of tax in the post GST period; hence the only issue to be examined is as to whether there was any additional benefit of ITC with the introduction of GST availed by the Respondent or not.

Decision of Advance Ruling Authority :

Decision

Therefore, the application filed by the Applicant No. 1 requesting action against the Respondent for alleged violation of the provisions of the Section 171 of the CGST Act is not maintainable and hence the same is dismissed.

As per the provisions of Rule 133 (1) of the CGST Rules, 2017 this order was required to

be passed within a period of 6 months from the date of receipt of the Report from the DGAP under Rule 129 (6) of the above Rules. Since, the present Report has been received by this Authority on 31 01.2020 the order was to be passed on or before 30 07.2020. However, due to prevalent pandemic of COVID-19 in the Country this order could not be passed on or before the above date due to force majeure.

Accordingly, this order is being passed today in terms of the Notification No. 55/2020-Central Tax dated 27.06 2020 issued by the Government of India, Ministry of Finance (Department of Revenue), Central Board of Indirect Taxes & Customs under Section 168 A of the CGST Act, 2017.