

GIB/KL/PPD LIVING/26.09.2018/AAR-473

Advance Ruling Category : Classification of Supply

State : Kerala

Order No.: GIB/KL/PPD LIVING/26.09.2018/AAR-473

Name of Entry :
PPD LIVING SPACES PVT. LTD.

Date : 26-09-2018

Breif Issue :

FACTS AND ISSUE OF THE CASE:

In this case the applicant is executing a layout development project '*Emerald Hills*'. They have converted eleven acres of property into residential plots with the facility of paved roads up, water and electricity supply to each plot, water drains, trees, party hall, health club, play courts, compound wall etc. Total cost of plot is divided as cost of land and cost of development.

They have collected 18% GST on the development charge. Now Completion Certificate dated 31.05.2018 for layout development has been issued. Therefore, they intend to structure future agreements by fixing land cost, fully absorbing development charge. Entire payment made for a plot will be shown in the sale deed and stamp duty and registration fee will be paid.

ISSUE OF THE CASE:

Is it correct to structure agreement by fixing the land cost by absorbing the development charges?

Whether the ITC availed has to be paid back on pro rata basis, on plots sold after completion?

Decision of Advance Ruling Authority :

DECISION:

As per Paragraph 5 (b) of Schedule II, construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required by the competent authority or after its first occupation, whichever is earlier shall be treated as a supply of services.

In the instant case, the Completion Certificate in respect of the project has been issued on 31.052018 and the proposed transaction is in respect of sale of developed plots/ land with civil structures after the issuance of Completion Certificate. Therefore the transaction is covered by Paragraph 5 of Schedule III of the GST Act. Hence the sale deed executed for plot as well as undivided share in common area attracts only stamp duty and registration charge - The Input Tax Credit availed in respect of the GST paid on goods and/ or services used / consumed for the development of the land is liable to be reversed on pro rata basis in respect of the plots sold after the issuance of completion certificate.

It is lawful to structure agreement by fixing the land cost after absorbing the development charges. The Input Tax Credit availed in respect of the GST paid on goods and/or services used/consumed for the development of the land, in respect of the plots sold after the issuance of Completion Certificate is liable to be reversed on pro rata basis.