

Goods and Services Tax

AAR-Gujarat-Part of township cannot be considered as a standalone housing project and condition of 50% to be checked for entire project for eligibility of reduced rate of GST.

Facts

- 1.) The applicant submitted that they are engaged in the construction and development of a township namely **"AMBA TOWNSHIP"** located at Adalaj, Gandhinagar, Gujarat. That they are developing a township which consists of many real estate projects within a township and that since the development of the town is a continuous process, the applicant is developing the township in a phased manner. At present Sector-4 of the township is being constructed which is also divided into two parts namely Part-A and Part-B.
- 2.) The applicant have further submitted that with effect from 25.01.2018, Notification No.01/2018-Central Tax(Rate), dated 25.01.2018 has inserted sub-clause(da) to clause(v) of entry number-3 of Notification No.11/2017-Central Tax(Rate) which reads as follows.
“(da) Low-cost houses upto a carpet area of 60 square metres per house in an affordable housing project which has been given infrastructure status vide notification of Government of India, in Ministry of Finance, Department of Economic Affairs vide F.No.13/6/2009-INF, dated 30th March, 2017.”
- 3.) The applicant has submitted that Sector-4 is registered under RERA Act, 2016 as three independent projects/phases:-
 - a) Amba Township-Sector 4 Part A – Phase-1
 - b) Amba Township-Sector 4 Part A – Phase-2
 - c) Amba Township – Sector 4 Part-B

and have submitted 3 registration certificates issued under RERA Act, 2016. Applicant claimed that Part-B of Sector-4 is a separate project in itself and also separately registered under RERA Act, 2016 as a “Real Estate Project” and 'Part B' is independent of other projects within its Phase and Township and has its separate facilities like parking, foyer, electricity connection, water supply etc.

Issue before the AAR

Whether, under given facts and circumstances, is benefit of reduced rate as provided under Entry Number 3(v)(da) of the Notification No.11/2017-Central Tax (Rate) as amended by Notification No.01/2018-Central Tax (Rate) dated 25.01.2018, available to the applicant for houses constructed with a carpet area of 60 square metres per house?

Discussion and Findings of the AAR

- 1.) In order to be eligible for the benefit of the aforementioned notification, the work should be for construction of low-cost houses up to a carpet area of 60 square metres per house in an affordable housing project (Affordable housing has been defined as a housing project using at least 50% of FAR/FSI for dwelling units with carpet area of not more than 60 sq.meters).
- 2.) The applicant has submitted that as total FSI for the project is 35046.74 square metre and out of that 25961.33 square metres of FSI is used for units having carpet area of not more than 60 square metres, 74.08% of FSI of total Part B of Sector 4 is used for affordable housing and hence Entry No.3(v)(da) is applicable to the appellant.
- 3.) In this regard, it is observed from the submission made by the applicant that 74.08% of the FSI of Part-B of the township of Sector-4 has been used for constructing units with a carpet area of upto 60 sq meters. However, since Part-B of Sector-4 of township cannot be considered as a standalone housing project and since 50% of FAR/FSI of the entire housing project of Sector-4 (of Amba township) comprising of Part-A and Part-B has not been used for construction of dwelling units with carpet area of not more than 60 sq.meters, the benefit of Entry No.3(v)(da) of Notification No:11/2017-Central Tax(Rate) dated 28.06.2017 is not applicable to the applicant.
- 4.) In view of the above discussions, it can be concluded that the applicant has not fulfilled the conditions and therefore the benefit of Entry No.3(v)(da) of Notification No:11/2017-Central Tax(Rate) dated 28.06.2017 (as amended by Notification No.01/2018-Central Tax (Rate) dated 25.01.2018) is not applicable to them.

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