

**THE AUTHORITY FOR ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

**Advance Ruling No. KAR ADRG 31 / 2022
Dated: 08-09-2022**

Present:

1. Dr. M.P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri. T. Kiran Reddy
Additional Commissioner of Customs & Indirect Taxes Member (Central)

1.	Name and address of the applicant	M/s. Rabia Khanum, No.19/2-6, Ranoji Rao Road, Basavanagudi, Bengaluru-560 004.
2.	GSTIN or User ID	292200000516ARU
3.	Date of filing of Form GST ARA-01	30-05-2022
4.	Represented by	Santhosh S. Chartered Accountant
5.	Jurisdictional Authority - Centre	-NA-
6.	Jurisdictional Authority - State	-NA-
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs.5,000-00 under SGST Act vide Challan No. CPIN 22042900470724 Dated 25-04-2022

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. Rabia Khanum, No.19/2-6, Ranoji Rao Road, Basavanagudi, Bengaluru-560004 (hereinafter referred to as 'The applicant') have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is an individual and is not registered under GST. The Applicant intends to convert their land into residential sites.

3. The applicant has sought advance ruling in respect of the following questions:

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- i. Whether GST is applicable for the consideration received on sale of sites? If yes, at what rate and on what value?
- ii. Whether GST is applicable for the advance received towards sale of site? If yes, at what rate and on what value?
- iii. Whether GST is applicable on sale of plots after completion of works related to basic necessities?
- iv. If GST is chargeable on any of these transactions, can the applicant collect the GST from the prospective buyers?
- v. If GST is chargeable on any of these transactions whether the applicant is eligible for claiming Input Tax Credit that they pay on the expenses they incur on development?

4. Admissibility of the application: The question is about the “determination of the liability to pay tax on any goods or services or both” and hence is admissible under Section 97(2)(e) of the CGST Act 2017.

5. BRIEF FACTS OF THE CASE: The applicant furnishes some facts relevant to the issue:

5.1 The applicant states that she owns three acres of land at Sy No.61/8 (old Sy No.61/1), Bagganadu Village, J G Halli Hobli, Hiriyur Taluk, Chitradurga District hereinafter and they will be applying for permission from the concerned Government Authorities to convert this land for residential usage wherein they will be forming small plots of land (residential sites), and sell them to individuals.

5.2 The applicant states that they will be developing the land as per regulations of the District Town and Country Planning Act. The Karnataka Real Estate Regulation Act and other zonal regulations that would be applicable while obtaining sanction of the plan. The development of land includes formation of roads, formation of rain water drains, laying of electricity cables, water pipes, sewerage lines, drilling of borewells for supply of water, construction of water tank for storage and supply of water, setting up of a power sub-station and obtaining connection from Electricity board for supply of electricity etc, which are basically required for human inhabitation. Without providing these basic necessities, the concerned authorities will not grant permission to sell the plots to individuals for construction of houses.

5.3 The applicant states that the activities they need to follow in a sequence are as under:

- a. Obtaining conversion of land for residential usage.
- b. Prepare a plan to divide the land into small pieces and provide basic necessities as per sanctioning authority the District Town and Country Planning Act.
- c. File the plan with the DTCPA authorities and obtain approval.
- d. Register the project with The Karnataka Real Estate Regulation Authorities and comply with their requirements.
- e. Obtain a work order from DTCPA authorities, which describes the details of the work that they need to complete before the plots are said to be ready for sale.
- f. Complete development works as prescribed.



- g. Handover the works of the roads, drains, parks, playgrounds, bus stops, places identified for construction of places of worship etc. to the DTCPA authorities.
- h. Comply with the regulations of RERA.
- i. Sell plots to the customers.
- j. File relevant documents with the RERA authorities for successful implementation and completion of the project.

5.4 The applicant states that they need to handover the works of the roads, drains, parks, playgrounds, bus stops, places identified for construction of places of worship etc. to the DTCPA authorities. From then, they will start collecting taxes from the owners for maintenance. For all the unsold plots, the applicant have to start paying taxes till they are sold. The development works will then become the property of the authorities and is not sold or transferred to any individual. The transfer of the ownership of the said plots will happen under The Transfer of Property Act.

5.5 The applicant states that they will not be entering into an agreement with any prospective buyer, where consideration is separately identified between cost of the plot and cost of development.

5.6 The applicant states that they enter into agreement of sale with the prospective customers towards sale of individual sites and receive advances for the same. On receipt of the full consideration, the sale deed will be executed.

5.7 The applicant states that they may be executing agreements with prospective customers only after receipt of the plan approval from DTCPA Authorities. All the prospective buyers are aware of the fact that they will be purchasing a plot worthy of constructing a house to live since the authorities will be maintaining and managing the amenities required for living.

5.8 The applicant states that all unsold plots will be put to sale after completion of the works related to basic necessities, handing over of works of the roads, drains, parks, playgrounds, bus stops, etc to the authorities.

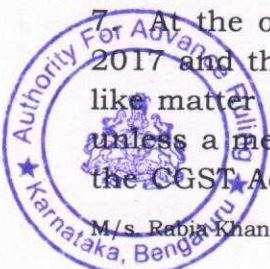
5.9 The applicant states that Schedule III of the CGST Act, 2017 clearly specifies that sale of land is neither sale of goods nor services and since they are developing the land and selling it as sites they are seeking ruling on the same.

PERSONAL HEARING / PROCEEDINGS HELD ON 07-07-2022

6. Shri Santhosh S, Chartered Accountant and Duly Authorised Representative appeared for personal hearing proceedings held on 07-07-2022 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

7. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in



the KGST Act.

8. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by the authorized representative and also their submissions made during the time of hearing.

9. The Applicant is an individual who owns land and planning to convert that land into residential sites and sell them to individuals and the applicant seeks advance ruling whether GST is applicable on sale of these sites.

10. Now let us examine the entries of schedule III of CGST Act 2017 and the same is reproduced below:

SCHEDULE III.

[See section 7]

**ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED
NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES**

- 1.-----
- 2.-----
- 3.-----
- 4.-----
5. *Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.*
- 6.-----
- 7.-----
- 8.-----

Activities or transactions which shall be treated neither as a supply of goods nor a supply of services are listed under Schedule III of CGST act 2017 and sale of land is listed in entry No. 5 of the same. Thus we can say that sale of land (subject to clause (b) of paragraph 5 of Schedule II, sale of building) is neither a supply of goods nor a supply of services subject to conditions mentioned therein.

11. CBIC has issued circular No.177 dated: 03.08.2022 and has issued clarification on whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST as below:

14. Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST

14.1 Representation has been received requesting for clarification regarding applicability of GST on sale of land after levelling, laying down of drainage lines etc.

14.2 As per Sl no. (5) of Schedule III of the Central Goods and Services Tax Act, 2017, 'sale of land' is neither a supply of goods nor a supply of services, therefore, sale of land does not attract GST.



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14.3 Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by Sr. No. 5 of Schedule III of the Central Goods and Services Tax Act, 2017 and accordingly does not attract GST.

14.4 However, it may be noted that any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services.

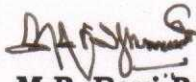
Thus CBIC has clarified that land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines and sale of such developed land is also sale of land and is covered by Sr. No. 5 of Schedule III of the Central Goods and Services Tax Act, 2017 and accordingly does not attract GST.

12. Thus in view of entry No. 5 of schedule III of CGST Act 2017 and clarification issued by CBIC mentioned supra we hold that sale of land does not attract GST.

13. In view of the foregoing, we pass the following

RULING

- i. GST is not applicable for the consideration received on sale of site.
- ii. GST is not applicable for the advance received towards sale of site.
- iii. GST is not applicable on sale of plots/sites even when they are sold after completion of works related to basic necessities
- iv. In view of the ruling given at question (i), this question becomes redundant.
- v. In view of the ruling given at question (i), this question becomes redundant



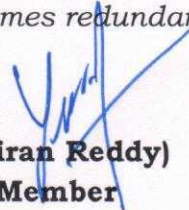
(Dr. M.P. Ravi Prasad)

Member

MEMBER

Karnataka Advance Ruling Authority

Place: Bengaluru - 560 009



(T. Kiran Reddy)

Member

MEMBER

Karnataka Advance Ruling Authority

Bengaluru - 560 009

Date: 08-09-2022

To,
The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.

2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.

3. Office Folder.

M/s. Rabia Khanum

