

GOA AUTHORITY FOR ADVANCE RULING.

(Constituted under section 96 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) read with Rule 103 of the Goa Goods and Services Tax Rules, 2017)

BEFORE THE BENCH OF

- (1) Shri. Ashok V. Rane, Addl Commissioner of State Tax
(2) Shri. S. K. Sinha, Addl Commissioner of Central Tax

Advance Ruling No. GOA/GAAR/2 of 2018-19/ 2270

Name of the Applicant	Quattroporteluxury Homes LLP
Address	Bungalow No. 7, Kamat Kinara, Miramar, Panaji – Goa.
GSTIN	30AAAFU6041P2Z8
Date of Application	23/08/2018
Under Section 97(2) of the CGST/GGST Act, 2017 under which question raised	Determination of liability to pay tax on sale of villas after completion and obtaining necessary approvals from the competent authority.
Date of Hearing	03/08/2018
Persons Present for Hearing	C. A Jetin Kumar Paty



(Handwritten signature)



PROCEEDING

(Under Section 98 of the Goa Goods and Services Tax, Act 2017)

The present application has been filed under section 97 of the Goa Goods and Services Tax Act, 2017 and the Central Goods and Services Tax, Act 2017 (hereinafter referred to as the SGST Act and CGST Act) by Quattroporteluxury Homes LLP, Bunglow No. 7, Kamat Kinara, Miramar, Panaji – Goa seeking an Advance Ruling in respect of the following question: “Determination of liability to pay tax on sale of villas after completion and obtaining necessary approvals from the competent authority”.

The applicant is a limited Liability Partnership Firm engaged in the business of building villas for sale in Goa and is having GSTIN 30AAAFU6041P2Z8. The applicant states that, they construct villas for sale when they are ready and after getting the occupancy certificate. During the last year due to financial constrains they borrowed money from Mr. Zubin Dubash amounting to ₹ 5,50,00,000/- on 30/03/2017 and during this year they received and advance of ₹ 11,23,74,756/- from said person and the applicant has paid GST accordingly. The applicant submits that they have inadvertently paid the GST on the borrowings.

As per the provision of GST Law construction of a complex, building, civil structure or apart 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.





In case of supply of services specified above involving transfer of property in land or undivided share of land, as the case may be, the value of supply of service and goods portion in such supply shall be equivalent to the total amount charged for such supply less the value of land or undivided share of land, as the case may be. Such supply shall be deemed to be one third of the total amount charged for such supply. Here total amount means sum of total consideration charged for aforesaid service and amount charged for transfer of land or undivided share of land as the case may be.

In the instant case the applicant has taken advance of ₹ 5,50,00,000/- on 30/03/2017, ₹ 1,00,00,000/- on 11/07/2017, ₹ 1,00,00,000/- on 08/08/2017, ₹ 44,35,002/- on 01/11/2017, ₹ 19,39,754/- on 01/01/2018 and ₹ 8,60,00,000/- on 08/03/2018 from Mr. Zubin Dubash and claimed it as borrowings from him and later on due to financial difficulty decided to sell the same villa to Mr. Zubin Dubash.

The applicant has failed to produce supporting documents to prove that he has borrowed money from Mr. Zubin Dubash and the amount received by the applicant is accounted in the books of accounts of the applicant as loan and advances. In absence of the supporting documents the amount received by the applicant has been considered as advances received towards sale of villa. The applicant has received advance towards sale of villa prior to issuance of completion certificate. Hence, the same is taxable under GST Act @ 12%.



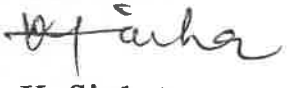
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ADVANCE RULING UNDER SECTION 98 OF THE CGST/GGST ACT,
2017

The advance amount received for sale of villa on or after the appointed day prior to issuance of occupancy certificate by the local panchayat is considered as construction services and GST is applicable on two third of the total amount charged for such supply.


(Ashok V. Rane)
Member




(S. K. Sinha)
Member

Dated: - 20/09/2018

Place: - Panaji – Goa

To,

Quattroporteluxury Homes LLP,
Bungalow No. 7, Kamat Kinara,
Miramar, Panaji – Goa.

Copy to

1. The Commercial Tax Officer, Panaji Ward, Panaji – Goa;
2. The Dy. Commissioner of State Tax, Panaji Ward, Panaji;
3. The Commissioner of State GST, Panaji – Goa;
- ✓ 4. The Commissioner of Central GST, Panaji – Goa;
5. Office file;
6. Guard file.

