

# TAX INFO

*Dated: 20.10.2020*

Latest update on GST Law: Information regarding **GST on residential affordable housing project** based on the **Ruling** given by **West Bengal Authority for Advance Ruling**.

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## **GST on residential affordable housing project**

<b>Name of Applicant</b>	In re Primarc Projects Pvt Ltd
<b>Name of Court</b>	AAR West Bengal
<b>Appeal Number</b>	Order No. 09/WBAAR/2020-21
<b>Date of Judgement</b>	28.09.2020

### **Facts of the Case:**

The applicant is the promoter of residential real estate project, supplying construction service in developing a residential housing project named "Akriti" (hereinafter the RREP) in Burdwan.

### **Questions on which Advance Ruling is sought:**

Whether Entry No. 3(v)(da) of Notification 11/2017 Central Tax (Rate) dated 28/06/2017 (hereinafter the Rate Notification), as amended time to time, applies to the works contract service received from the contractors

### **Contention of Petitioner:**

The applicant submits that half of the total number of dwelling units being constructed measures less than 60 sqm of carpet area for each such unit. It is, therefore, an affordable housing project in terms of Notification No. 13/06/2009 INF dated 30/03/2017 of Department of Economic Affairs, Government of India. The works contract service provided for construction of the project is, therefore, taxable under Entry No. 3(v)(da) of the Rate Notification.

### **Reply of Respondent:**

The concerned officer from revenue argues that exercising reduced tax rate only to be applicable if the applicant fulfils two criteria (i) low-cost houses having carpet area up to 60sqm per apartment (ii) affordable houses in partnership

### **Observations:**

WBHRA issued registration certificate on 19/07/2018 to the applicant for granting the permission of construction of housing project at Burdwan. The registration no is HIRA/P/PUR/2018/000003. The tenure of the registration spans over 19/09/2018 to 30/09/2022. The applicant has also obtained the building permit dated 24/07/2018 from the Burdwan Municipality. Both WBHRA and Burdwan Municipality are competent authorities as prescribed under clause 4(xxv) of the Rate Notification.

Sri Rajkumar Agarwal, a member of the Council of Architecture (Registration No. CA/94/17940), certifies that the earthwork for site preparation for the project was completed before 31/03/2019. Sri Agarwal further submits that out of 192 flats 120 are having carpet area of 60sqm or less per unit.

Affordable housing has been defined in the AHP Notification as a housing project using at least 50% of FAR/FSI for dwelling units with a carpet area of not more than 60 sqm. According to the Project Plan submitted at the time of the hearing, FAR for the entire project is 2.749 after deducting from the total built-up area the common areas like lift-lobby, stair area etc. FAR for the affordable residential apartments in the project should, therefore, be at least 1.375.

### **Judgement:**

The works contract service for the construction of those dwelling units in the project named 'Akriti' (WBHRA Registration No. HIRA/P/PUR/2018/000003) that are affordable residential apartments in terms of clause 4(xvi) of Notification 11/2017 Central Tax (Rate) dated 28/06/2017, as amended time to time, are taxable under Entry No. 3(v)(da) of the said notification, provided the applicant does not opt for paying tax at the rate specified in Entry No. 3(ie) or 3(if).

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