MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.

(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri. D.P. Gojamgunde, Joint Commissioner of, State Tax (Member)
(2) Smt. Himani Dhamija, Joint Commissioner of Central Tax, (Member)

ARN No.		AD270625045297S
GSTIN Number, if any/ User-id		27AFBPT0152N1Z9
Legal Name of Applicant		**M/s. Vijaykumar Siyamani Tiwari**
Registered Address/Address provided while obtaining user id		104, 1st Floor, New Krishna Niwas CHSL, Roshan Nagar, Opp. Starbucks, Chandavarkar Road, Borivali (West), Mumbai-400092
Details of application		GST-ARA, Application No. 46 Dated 31.07.2025
Concerned officer		JURISDICTION – Maharashtra State, Zone - MUMBAI_NORTH, Division – BORIVALI, Charge – GORAI-701
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Service Recipient
B	Description (in brief)	The applicant's society underwent redevelopment process. Upon redevelopment, the Applicant was offered new flat in the new building admeasuring 659.1 sq.ft RERA carpet area. The Developer demanded GST payment on the area admeasuring 209.6 sq.ft. RERA carpet area vide its Demand letter dated 12th January 2025.
Issue/s on which advance ruling required		➢ classification services or both of Goods and/or ➢ applicability of a notification issued under the provisions of the Act ➢ determination of the liability to pay tax on any goods or services or both ➢ whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

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

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act" respectively] by

M/s. Vijaykumar Siyamani Tiwari, the applicant, seeking an advance ruling in respect of the following question.

Whether the area provided by the Developer to the Applicant by virtue of redevelopment process is amenable to GST payment is the point of law falling for consideration before this good office?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

1. FACTS AND CONTENTION – AS PER THE APPLICANT FACTS:

The Developer had demanded Rs. 4,72,483/- (Rupees Four Lakh Seventy-Two Thousand Four Hundred and Eighty-Three Only) towards alleged GST on the area which was provided to the Applicant post redevelopment. Whether the same was to be paid by the Applicant, if at all amenable to GST payment. Whether the Developer was justified in demanding GST from the Applicant when all that the Applicant was been provided was the area which was due to be provided to the Applicant by the Developer basis the Development Agreement entered. Whether the GST is bound to be paid by the Applicant, if at all the same is agreed in any Agreement executed by the parties.

2. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW

In the Applicant's most humble submission, the area provided under the Development Agreement read with the Permanent Alternate Accommodation Agreement is not amenable to GST provisions for the reason that the Applicant is as such not receiving any additional or extra area. The new area provided in the New Flat is the entitlement of the Applicant and not a service by the Developer to the Applicant. Therefore, the act of providing area in the New Flat cannot be construed as "Supply" under the provisions of GST laws. The Applicant understands that had the Developer provided additional area for a consideration over and above the entitlement of the Applicant in the New Flat, GST would have been attracted on the additional area. In the present case, the Applicant has purchased additional area in the New Flat and has duly paid the GST dues. However, what needs consideration by this good office is the question of amenability of GST to the area being provided under the DA and the PAAA which neither can be construed as "Additional Area" nor "Extra Area".

3 HEARING

Preliminary e-hearing in the matter was held on 04.06.2026. The Authorized representative of the applicant, Mr. Hitesh Mishra, advocate was present. The Jurisdictional officer Ms. Kiran Kolte, State Tax Officer of SGST was present. The Authorized Representatives made oral submission with respect to admission of their application.

4 OBSERVATIONS AND FINDINGS:

4.1 We have gone through the application filed by the applicant and the submissions made by them at the time of the preliminary hearing held on 04.06.2026. The applicant has filed an application under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 seeking an advance ruling on the following question:

Whether the area provided by the Developer to the Applicant by virtue of redevelopment process is amenable to GST payment?

The applicant has submitted that the developer has demanded GST of Rs. 4,72,483/- on the area allotted to him pursuant to redevelopment under the Development Agreement and Permanent Alternate Accommodation Agreement. According to the applicant, the area received represents his entitlement under the redevelopment arrangement and does not constitute any additional area supplied by the developer. Therefore, according to the applicant, such allotment should not be liable to GST.

4.2 An application under Section 97 of the CGST Act, 2017, can be made by any person before the Authority for Advance Ruling in respect of those questions which are covered under Sub Section 2 of Section 97 of the CGST Act, 2017. Before examining the merits of the issue raised, it is necessary to determine whether the application is maintainable under Section 97 of the CGST Act, 2017. Section 97(2) of the CGST Act specifies the questions on which an advance ruling can be sought. The relevant sub section (2) of Section 97 of the CGST Act, 2017, reads as under:-

Section 97: Application for Advance Ruling.

2) The question on which the advance ruling is sought under this Act, shall be in respect of,–

(a) classification of any goods or services or both;

(b) applicability of a notification issued under the provisions of this Act;

(c) determination of time and value of supply of goods or services or both;

(d) admissibility of input tax credit of tax paid or deemed to have been paid;

(e) determination of the liability to pay tax on any goods or services or both;

(f) whether applicant is required to be registered;

(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

4.3 Any contrary interpretation would be akin to deciding a matter which is restricted by the law and beyond the scope of the Advance Ruling Authority by side stepping the clear intent of the legislation. It would not be out of place to mention that it is well established in law that anything which cannot be done directly cannot be done indirectly also. Accordingly deciding on the place of supply in an indirect manner is also beyond the scope of the advance ruling authority. Top of Form

A plain reading of the application reveals that the applicant has sought a ruling on whether the GST demanded by the developer on the area allotted to him in the redevelopment project is payable by the applicant and whether the developer was justified in collecting such GST.

4.4 The issue raised essentially concerns the taxability of a transaction undertaken by the developer and the correctness of the GST demand raised by the developer upon the applicant. An advance ruling is intended to provide decision regarding the tax implications of supplies undertaken or proposed to be undertaken by the applicant. The Authority is empowered to answer only those questions which fall within the ambit of Section 97(2) and which relate to the supplies made or proposed to be made by the applicant.

In the present case, the applicant is not seeking a ruling in respect of any supply made or proposed to be made by him. Rather, he seeks a determination regarding the GST liability arising on the transaction undertaken by the developer and the validity of the GST amount recovered from him by the developer.

4.5 It is pertinent to note that although clause (e) of Section 97(2) refers to "determination of the liability to pay tax on any goods or services or both", the said provision has consistently been interpreted to mean the liability of the applicant in respect of supplies undertaken or proposed to be undertaken by the applicant. In the instant case, the applicant is neither the supplier of the redevelopment service nor is he seeking determination of his liability as a supplier under the GST law. Instead, the applicant seeks adjudication on the legality of GST charged by the developer, which falls outside the jurisdiction of this Authority under Chapter XVII of the CGST Act.

This additional reasoning makes the rejection more robust because the applicant may argue that the issue falls under Section 97(2)(e) **(**"liability to pay tax"). The clarification distinguishes the applicant's liability *as a supplier* from a dispute about GST charged by another taxable person.

4.6 It seen from the question framed by the applicant that there is essentially contractual disputes relating to the incidence and recovery of tax between the developer and the applicant. These issues do not fall within the scope of any of the clauses specified under Section 97(2) of the CGST Act.

Further, this Authority does not possess jurisdiction to adjudicate upon the correctness of the tax charged by another taxable person or to determine whether a supplier has rightly collected tax from the recipient.

Accordingly, the present application is outside the jurisdiction conferred upon this Authority under Section 97(2) of the CGST Act, 2017.

4.7 In view of the foregoing discussions, we hold that the question raised by the applicant is not covered under Section 97(2) of the CGST Act, 2017 and the MGST Act, 2017 and, therefore, the application is not maintainable before this Authority.

5. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

ORDER

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

NO.GST-ARA- 46/2025-26/B- 154 Mumbai, dt. 28.09.2026

The application filed by M/s. Vijaykumar Siyamani Tiwari under Section 97 of the CGST Act, 2017 and the MGST Act, 2017 is rejected as not maintainable under Section 98(2) of the said Acts, since the questions raised do not fall within the scope of Section 97(2) of the Acts.

D.P. GOJAMGUNDE
(MEMBER)

HIMANI DHAMIJA
(MEMBER)

PLACE - Mumbai

Copy to: -

1. The applicant

2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai
5. The Joint commissioner of State Tax, Mahavikas for Website.

Note:-An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on **gst.gov.in** for online appeal application against order passed by Advance Ruling Authority.