

<b>GUJARAT AUTHORITY FOR ADVANCE RULING</b> <b>GOODS AND SERVICES TAX</b> <b>D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,</b> <b>AHMEDABAD – 380 009.</b>	
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ADVANCE RULING NO. GUJ/GAAR/R/64/2020  
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/59)  
Date: 17.09.2020

Name and address of the applicant	:	M/s Jinmagal Corporation, 4, Chintamani Villa Bunglow, B/H. H.H. Patel High School, Ramnagar, Sabarmati, Ahmedabad-380005
GSTIN/ User Id of the applicant	:	Not Applicable (Un-Registered)
Date of application	:	14.11.2019
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	b) Applicability of Notification issued under the provision of Act e ) Determination of the liability to pay tax on any goods or services or both:
Date of Personal Hearing	:	17.08.2020 (through Video Conferencing)
Present for the applicant	:	Shri Hem B Chhajed

M/s. Jinmagal Corporation, 4, Chintamani Villa Bunglow, B/H. H.H. Patel High School, Ramnagar, Sabarmati, Ahmedabad a partnership firm not having GST Registration, filed an application for Advance Ruling under Section 97 of CGST Act, 2017 and Section 97 of the GGST Act, 2017 in FORM GST ARA-01 discharging the fee of Rs. 5,000/- each under the CGST Act and the SGST Act.

2. The applicant submitted that Ahmedabad Urban Development Authority (hereinafter referred to as “AUDA”) had carried out e-auction for leasing certain plots for a period of 99 years. The plot so auctioned could be used only for the purpose of construction of commercial projects.

3. The applicant further submitted that they have secured bid for plot No. 265, TP 22, Chandkheda through e-auction conducted by AUDA. They required to pay one time lease premium /salami of Rs. 35,65,85,940/-as one time long term lease premium/ salami as consideration for the said plot. The applicant is also required to pay annual lease premium of Rs. 5 per Sq. Mtr each year for 99 years as per the tender document as annual lease premium paid.

4. The applicant submitted that they are of the view that a long term lease for a period exceeding 30 years tantamount to sale of the immovable property

since the lessor is deprived of the right to use , enjoy and possess the property once the said lease has been granted.

4. The applicant submitted that the attention is drawn to the Entry No. 49 of the List II of Seventh Schedule of the Constitution of India, which empowers only the State government to levy any tax on land which is produced hereunder :

“49 Taxes on Land and Building”

Attention is also drawn to Article 30 of Gujarat Stamp Duty Act wherein the aforesaid transaction is treated as conveyance. Such an instrument style as conveyance and conveying a right, title and interest in the ‘immovable property’ is brought into existence.

5. The applicant submitted that the Stamp duty is levied on the value including upfront premium and five times the average annual rent reserved. The applicant submitted that this would constitute the market value of the said land. Hence the whole transaction is akin to sale.

6. Attention is invited to Schedule II of the GST Act wherein – “ *any lease, tenancy, easement, licence to occupy land is supply of services*” . Lease premium is a periodical payment, upfront premium / Salami is not.

7. One-time lease premium is different and distinct from lease rent. It is not a periodical payment but a one time. It is inconceivable that on such a premium, the tax could be levied when Schedule III purposefully omits the words- Upfront premium/ Salami. The legislation was to charge GST on this one-time lease premium, then, appropriate provisions would have been inserted.

8. The applicant submitted that he is of the view that long term lease is nothing but akin to sale of immovable property and thus covered under entry 5 of Schedule II of the CGST Act vis-à-vis GGST Act, 2017 and thus the applicant is not liable to discharge any liability u/s 9(3) of the CGST Act vis-a-vis GGST Act, 2017.

9. The applicant has submitted additional submission dated 14.08.2020 in their case wherein it is state that they would like to draw kind attention to Schedule III wherein activities or transactions which shall be treated neither as a supply of goods nor supply of services.

*“Sale of land and subject to clause (b) of paragraph 5 of schedule II, sale of building”*

Hence sale of land is neither a supply of goods nor service and hence not covered under the ambit of GST.

10 The applicant submitted that Land though explicitly not defined in the CGST Act, 2017 viz-a-viz SGST Act, 2017 reference could be drawn from various other statutes as under:

“Section 3(a) of Land Acquisition Act, 1894

*The expression ‘land’ includes **benefits that arise out of land** and things attached to earth or permanently fastened to anything attached to the earth”*

“Section 3(4) of Bombay Land Revenue Code, 1879

*‘land’ includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth and also shares in or charges on the revenue or rent of village or other defined portions of territory”*

Section 3(26) of General Clause Act, 1897

*‘Immovable property’ shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth”*

11. The applicant has drawn the attention to term “Sale” as defined under the Immovable Property Act, 1981:

**Section 54** of Transfer of Property Act, 1882 defines the term “Sale” as a **transfer of ownership** in exchange for a price paid or promised or part-paid and part-promised.

Supreme Court in the case of **Kaliaperumal vs Rajagopal and anr (AIR 2009 SC 2122)** has observed that ‘Sale’ is defined as a transfer of ownership for a price. In a sale there is an **absolute transfer of all rights in the properties sold**. No rights are left with the **transferor**.

Hon’ble Bombay High Court in the case of **Provident investment Co. Ltd vs Commissioner of income tax – AIR 1954 Bom 95** observed that a sale or transfer presupposes the existence of the property which is sold or transferred. It presupposes the transfer from one person to another of the right in the property.

12. The applicant has submitted that Entry 49 of the List II of Seventh Schedule of the Constitution of India, which empowers only the state government to levy any tax on land which is produced hereunder:

**“49. Taxes on Land and Buildings”**

13. The applicant is of the view that a long term lease for a period exceeding 30 years tantamount to Sale of the immovable property since the lessor is deprived of the right to use, enjoy and possess the property once the said lease has been granted.

14. The applicant has drawn attention to Article 30 of the Gujarat Stamp Duty Act wherein the aforesaid transaction is treated as conveyance. Such an instrument styled as conveyance and conveying a right, title and interest in the immovable property is brought into existence.

*Article 30 (vi) of the Gujarat Stamp Act, 1958 which is produced hereunder:*

<i>Where the lease purports to be in excess for a period in excess of ninty eight years</i>	<i>The stamp duty is leviable on a conveyance under the Artcile 20 for the five times the amount of value of the average annual rent reserved</i>
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*Attention is drawn to Article 20 of the Gujarat Stamp Act, 1958 which is produced hereunder:*

<i>Conveyance not being a transfer charged or exempted under article No. 56)</i>	<i>Three Rupees and Fifty paise for every Rs. 100 or part thereof of the amount of the consideration for the amount of the consideration for the conveyance or as the case may be, the market value of the property which is the subject matter of such conveyance which is greater.</i>
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15. The transaction is required to be registered and stamp duty on lease charges treating it as sale of immovable property is to be paid on the said consideration.

16. The applicant submitted that the stamp duty is levied on the value including upfront premium and five times the average annual rent reserved. The applicant submits that this would constitute the market value of the said land. Hence the whole transaction is akin to sale.

17. Further, submitted that as per Section 2(52) of the CGST Act, 2017, “goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

18. The applicant submitted that since land is not a movable property, it does not falls within the definitions of “goods” under GST. Sale of land doesn’t attract GST even as states impose stamp duty and registration fees on such transactions.

19. The applicant submitted that Schedule II of the GST Act,2017 is read as - “any lease, tenancy, easement, licence to occupy land is a supply of services”. Lease premium is a periodical payment. Up front premium/ Salami is not.

20. The applicant submitted that one-time lease premium is different and distinct from lease rent. It is not a periodical payment, but a one time. It is in conceivable that on such a premium, the tax could be levied when Schedule II purposefully omits the words- Upfront premium/Salami. of the legislation was to charge GST on this one-time lease premium, then, appropriate provisions would have been inserted.

21. The applicant further submitted that if the intention of the legislation was to charge GST on this one-time lease premium, then, appropriate provisions would have been inserted. Though not being inserted, as there was a clear intent to leave out a transaction tantamount to a sale. Lease premium is not a periodical payment, but a one time. It is not, therefore, conceivable that on such a premium, the tax could be levied, assessed and recovered.

22. The applicant further submitted that one time premium under long term leases is generally regarded as equivalent to consideration for sale of land instead of rental income.

23. The applicant submitted that Ahmedabad Urban Development Authority, a governmental authority, has issued a letter claiming that GST shall not be levied on such lease premium/salami treating the lease of 99 years has nothing but sale of land.

24. The Ahmedabad Urban Development Authority is a civilian government body responsible for overseeing and sanctioning construction and infrastructure development across the suburbs of the city of Ahmedabad, in the state of Gujarat in India.

25. When the government body has issued clarification that GST is not applicable on the transaction of long term lease, question of levying GST should not arise.

26. The applicant has submitted that they are of the view that long term lease is nothing but akin to sale of immovable property and thus not covered under entry 5 of Schedule II of the Central Goods and Service Tax Act viz-a-viz Gujarat State Goods and Service Tax Act, 2017 and thus the applicant is not liable to discharge any liability U/S 9(3) of the Central Goods and Service Tax Act viz-a-viz Gujarat State Goods and Service Tax Act, 2017.

27. Accordingly, the applicant sought the Advance Ruling on the following questions:

1. Whether the one time long term lease premium payable/paid by the Jinmangal Corporation to Ahmedabad Urban Development Authority is supply and thus liable to pay tax as pr Section 7?

2. Whether Jinmagal Corporation is required to discharge pay tax under Reverse Charge Mechanism in accordance to Section 9(3) on one time lease premium payable to AUDA in light of notification No. 13/2017 as amended by 05/2019.

3. Whether the annual lease premium payable/paid by the applicant is supply?

4. Whether Jinmangal Corporation is required to discharge/tax under Reverse Charge Mechanism in accordance to Section 9(3) on one time lease premium payable to AUDA in light of Notification No. 13/2017 as amended by Not. No. 05/2019.

### **Personal Hearing**

28. Personal hearing in the matter was held on 17-08-2020. The authorised person appeared on behalf of the applicant and re-iterated the submission made in the Application.

### **Discussion and Finding**

29. We have considered the submissions made by the Applicant in their application for advance ruling. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law. At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

30. We observe that the Ahmedabad Urban Development Authority (hereinafter referred to as "AUDA") had carried out e-auction for leasing certain plots for a period of 99 years. The plot so auctioned could be used only for the purpose of construction of commercial projects and applicant has secured bid for plot No. 265, TP 22, Chandkheda through e-auction conducted by AUDA. They required to pay one time lease premium /salami of Rs. 35,65,85,940/-as one time long term lease premium/ salami as consideration for the said plot. The applicant is also required to pay annual lease premium of Rs. 5 per Sq. Mtr each year for 99 years as per the tender document as annual lease premium paid.

31. The first thing to be determined in the present case is whether the said transaction falls under the definition of Supply under GST. The term "Supply is defined under Section 7 of the GST Act, 2017, the relevant portion is reproduced hereunder:

*Section 7(1) For the purposes of this Act, the expression "supply" includes:-*

- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;*
- (b) import of services for a consideration whether or not in the course or furtherance of*

*business;*

- (c) the activities specified in Schedule I, made or agreed to be made without a consideration; and*
- (d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.*

31.1 Further, the Schedule II of GST Act, 2017 specifies that lease of an industrial place/land or building is the activity to be treated as supply. The relevant portion is reproduced hereunder :-

2. *Land and Building*

- (a) any lease, tenancy, easement, licence to occupy land is a supply of services;*
- (b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.*

31.2 The term 'Lease' has not been not defined explicitly under GST Act. However, reference could be drawn from the Transfer of Property Act, 1882 under Section 105, as under :

*"A lease of immoveable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms."*

We find that the applicant has stated in the submissions that a lease of 99 years is as akin to sale but the above definition of lease marks that lease could be of perpetuity. Therefore, quantum of time has no relation in determination of lease or sale.

32. The applicant submitted the Annexure "B" of "Terms and Conditions for Lease and Development of Plot. On going through the said documents, we observe that:

- 2. ***The lease deed*** will be a agreement between AUDA and the selected lessee and should be done within 3 (three) months of the Letter of Letter of Possession of plot for construction. The original deed shall remain with the Lessee and duplicate shall be given to the AUDA. The lease period is of 99 years. ***The period of lease may be extended or a fresh lease agreement may be entered with the lessee at the sole discretion of the Lessor for a further period 99 years or less for period as decided by Lessor, provided Lessee shall pay the lease rent at the enhance rate as may be fixed by the Lessor.***
- 9. Plot shall be utilized only for the purpose of which it will be allotted any part of the building . Any part of the building or any unit/permissible therein cannot be soild or given on rent to anybody for the use other tan the permissible use
- 12. ***The Lessee shall not mortgage or transfer or part with permission or sublet the premises or apportion there or without the permission of AUDA. After completion of construction/ development of building over the plot, the lessee shall have the right to sell/ convey/ transfer the built -up space / premise to the unit holder(s)/ occupant(s) along with sub-lease/ assignment of undivided leasehold rights in the land for residue period of lease only.***

22. ***In case of violation of any condition in the Lease Deed will automatically termed as cancelled and the lessee shall have no right for any compensation or any loss/damage.***

From the above facts, we observe that the agreement made between the applicant and the lessee for long term of 99 years is for lease with many restrictions and has right to further sell/convey/transfer to the unit holder(s)/occupant(s) along with sub-lease/ assignment of undivided leasehold rights in **the land for residue period of lease only; the lessee cannot mortgage or transfer or sublet the premises or apportion there or without the permission of AUDA; that in case there is violation of any condition by lessee the lease deed will automatically be treated as cancelled.**

Whereas, when person purchase the commercial plot/land purchaser becomes the absolute owner of the plot and there is sale deed between seller and purchaser. On purchase of land, there is no requirement of renewal or extension of the sale period. The owner of the commercial plot/land is not required to pay any type of salami or annual lease premium for the plot/land. Also purchaser/owner of the land can sell the land to any body and no permission is required from seller as such purchaser have an absolute right of possession on land. Therefore, we are of the view that lease of plot for the 99 years by the applicant is not “sale of land” but is a lease of plot/land and therefore, does not get covered under clause 5 of Schedule III of CGST Act, 2017. Hence, we conclude that this activity i.e. lease of plot and payment of one time lease premium / salami and annual premium paid by the applicant for lease of commercial plot/land is a ‘supply’ and covered under Section 7(1) of CGST Act, 2017, which defines supply as **“all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business”** read with clause 2 of Schedule II of CGST Act, 2017, which specifies that lease of a land or building is a supply. Clause 2 of Schedule II is reads, as under:

2. *Land and Building*

- (a) *any lease, tenancy, easement, licence to occupy land is a supply of services;*
- (b) *any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.*

33. The upfront concession fee received against the lease made for more than 30 years is exempted from the payment of GST under the provisions of entry No. 41 of Notification No. 12/2017-Central Tax (Rate), date 28-6-2017 as amended by Notification No. 32/2017-Central Tax (Rate), dated 13-10-2017, only when all the conditions of the Notification are met. The text of Entry No. 41 in Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017 was substituted vide Notification No. 32/2017-Central Tax (Rate), dated 13-10-



2017 and same is reproduced below:

*“One time upfront amount (called as premium, salami, cost, price, development charges or by any other name) leviable in respect of the service, by way of granting long term (thirty years, or more) lease of industrial plots, provided by the State Government Industrial Development Corporations or Undertakings to industrial units.” [Entry before replacement]*

*“Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 50 per cent. or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area.”*  
**[Entry after replacement]**

33.1 From the provisions of entry No. 41 of said Notification, following criterion may be derived for availing exemption from GST –

(a) the service provider should be ‘State Government Industrial Development Corporation or Undertakings or any other entity having 50 percent or more ownership of Central Government, State Government, union territory’. In the matter of instant case, it is on record that the service provider is an undertaking of Gujarat Government.

(b) The lease shall be for a period of 30 years or more; in the present matter the lease is made for 99 years.

(c) The long term lease shall be in respect of industrial plots or plots for development of infrastructure for financial business, located in any industrial or financial business area.

33.2 The said Notification or GST Act, 2017, does not define the ‘industrial or financial business area’. Therefore, we refer to the definition of ‘industrial or financial business area’ from Gujarat Industrial Development Act, 1962. As **per sub-section (g) of Section 2 of the Gujarat Industrial Development Act, 1962**, the ‘Industrial Area’ means - “any area declared to be an industrial area by the State Government by Notification in the Official Gazette, which is to be developed and where industries are to be accommodated”. Thus, for considering any area as industrial or financial business area, it is necessary that the area must be declared as industrial or financial business area by the state government by Notification.

34. In the instant matter, we find that no such Notification declaring the area consisting of plot leased out by the applicant, as industrial/financial business area, is on record. Therefore, the area cannot be treated as industrial or

financial business area in absence of any evidence in support. Therefore, the benefits of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017, as amended by Notification No. 32/2017-Central Tax (Rate), dated 13-10-2017 are not available to the applicant.

35. The Hon’ble High Court Bombay has dealt with the identical issue in the matter of Writ Petition No. 12194 of 2017 **[2018 (12) G.S.T.L. 232 (Bom.)]** in the case of *Builders Association of Navi Mumbai and Neelsidhi Realties Vs. Union of India and Others*. The issue before their lordship was to decide whether GST can be levied and collected on the long term lease granted by City Industrial and Development Corporation of Maharashtra Ltd. (CIDCO) for 60 years. While dealing with the issue the Hon’ble High Court has observed that lease premium amount is a consideration against supply of service and is subject to Goods and Services Tax. The relevant portion of the said order is reproduced as follows:-

*“21. We are, therefore, of the clear view that the demand for payment of GST is in accordance with law. The said demand cannot be said to be vitiated by any error of law apparent on the face of the record. In these circumstances, we do not find any merit in the writ petition. It is accordingly dismissed. Rule is discharged. There would be no order as to costs.”*

36. Leasing of a private property (land, building etc.) are classifiable under HSN 9972 12 heading “Rental or leasing services involving own or leased non-residential property” attracting GST @ 18% (SGST 9% + CGST 9%) of Annexure to Notification No. 11/2017, dated 28-6-2017. The relevant provision of the Annexure and the Notification is reproduced, as below:-

**Annexure : Scheme of Classification of Services**

Sl. No.	Chapter, Section, Heading or group	Service Code (Tariff)	Service Description
16	Group 99721		Real estate services involving owned or leased property
		9972 12	Rental or leasing services involving own or leased non-residential property

**Notification No. 11/2017, dated 28-6-2017**

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
16	Heading 9972	(i) Services by the Central Government, State Government, Union territory or local authority to governmental authority or government entity, by way of lease of land.	Nil	-
		(ii) Supply of land or undivided share of land by way of lease or sub-lease where such supply is a part of composite supply of construction of flats, etc. specified in the entry in column (3), against serial number 3, at item (i); sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-	Nil	-

		item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi). Provided that nothing contained in this entry shall apply to an amount charged for such lease and sub-lease in excess of one third of the total amount charged for the said composite supply. Total amount shall have the same meaning for the purpose of this proviso as given in paragraph 2 of this notification.		
		<b>(iii) Real estate services other than (i) and (ii) above.</b>	<b>9</b>	<b>-</b>

37. In view of the above discussion, we rule that the Onetime premium/salami and annual lease premium paid by the applicant to the AUDA for leasing of commercial plot/land is covered under supply of service in terms of Section 7 (1) of CGST Act, 2017. Accordingly, the said Onetime premium/salami and annual lease premium paid by the applicant to the Ahmedabad Urban Developmet Authority (AUDA) are taxable under GST in terms of the Notification No. 11/2017-CT (Rate) dated 28.06.2017.

38. Now, we come to the second question wherein applicant has asked whether he is liable to pay GST under Reverse Charge Mechanism under Section 9(3) of CGST Act, 2017. To determine the eligibility of the applicant for payment of GST under Reverse Charge Mechanism, we refer the Section 9(3) of CGST Act, 2017. The relevant text of Section 9(3) of CGST Act, 2017 is reproduced as under:

*3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.*

38.1 The Government on the recommendation of GST Council has issued Notification No. 13/2017-CT (rate) dated 28.06.2017 subsequently amended by Notification No. 05/2019-Ct (Rate) dated 29.03.2019. The relevant entry of the amended Notification No. 05/2019-CT (Rate) dated 29.03.2019 is reproduced as under:

<b>Sl. No.</b>	<b>Category of Supply of Services</b>	<b>Supplier of service</b>	<b>Recipient of Service</b>
(1)	(2)	(3)	(4)
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost,	Any person	Promoter.

	price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.		
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In the clause (j) of the explanation, the term “promoter” has been defined as under:

*(j) the term “promoter” shall have the same meaning as assigned to it in clause (zk) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016).*

Clause (zk) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016) defines the term ‘promoter’, as under:

*(zk) "promoter" means,—*

- (i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or*
- (ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or*
- (iii) any development authority or any other public body in respect of allottees of—*
  - (a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or*
  - (b) plots owned by such authority or body or placed at their disposal by the Government, for the purpose of selling all or some of the apartments or plots; or*
- (iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or*
- (v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or*
- (vi) such other person who constructs any building or apartment for sale to the general public.*

38.2 In view of the aforesaid Notification No.05/2019-CT (Rate) dated 29.03.2019, applicant is liable to pay GST under reverse charge mechanism on the Onetime premium/salami and annual lease premium paid by the applicant to the AUDA.

39. In view of the foregoing, we rule as follows:-

**RULING**

Question1. Whether the one time long term lease premium payable/paid by the Jinmangal Corporation to Ahmedabad Urban Development Authority is supply and thus liable to pay tax as pr Section7?

Answer : Affirmative in view of the above discussion.

Question 2. Whether Jinmagal Corporation is required to discharge pay tax under Reverse Charge Mechanism in accordance to Section 9(3) on one time lease premium payable to AUDA in light of notification No. 13/2017 as amended by 05/2019.

Answer : Affirmative in view of the above discussion.

Question3. Whether the annual lease premium payable/paid by the applicant is supply?

Answer : Affirmative in view of the above discussion.

Question4 Whether Jinmangal Corporation is required to discharge/tax under Reverse Charge Mechanism in accordance to Section 9(3) on one time lease premium payable to AUDA in light of Notification No. 13/2017 as amended by Not. No. 05/2019.

Answer : Affirmative in view of the above discussion.

**(SANJAY SAXENA)**  
**MEMBER**

**(MOHIT AGRAWAL)**  
**MEMBER**

Place: Ahmedabad

Date: 17.09.2020.