

AUTHORITY FOR ADVANCE RULING, TAMIL NADU
No.207, 2nd FLOOR, PAPJM BUILDING, No.1, GREAMS ROAD,
CHENNAI 600 006.

ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND
UNDER SECTION 98(4) OF THE TNGST ACT, 2017

Members present:

Shri Balakrishna S, I.R.S., Additional Commissioner/Member (CGST), Office of the Commissioner of GST and Central Excise, Audit II Commissionerate, Chennai - 600 034.	Shri B.Suseel Kumar, B.E., MBA., Joint Commissioner/Member (SGST), Authority for Advance Ruling, Tamil Nadu, Chennai - 600 006.
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Advance Ruling No. 21 /ARA/2025, Dated 09.05.2025

1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-Section (1) of Section 100 of CGST Act 2017/ TNGST Act 2017, within 30 days from the date on which the ruling sought to be appealed, is communicated.

2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-

(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling.

(b) on the concerned officer or the jurisdictional officer in respect of the applicant.

3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.

5. The provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act (hereinafter referred to as the 'Act') are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act.

GSTIN Number, if any / User id	33ABFCS0726E1ZR
Legal Name of Applicant	M/s. Sripriya Constructions Private Limited
Trade Name of Applicant (Optional)	M/s. Sripriya Constructions Private Limited
Registered Address/ Address provided while obtaining user id	Ground Floor, No. G-1, No.30, Door No. 60/12A, Kamadhenu Flat, K.K. Salai, Kaveri Rangan Nagar, Saligramam, Chennai – 600 093.
Details of Application	Application Form GST ARA – 01 received on 14.10.2024
Jurisdictional Office	State: Saligramam Assessment Circle Chennai (Central) Division
Other	Center: Chennai-South Commissionerate, Vadapalani Division
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for	
A Category	Service Provider.
B Description (in brief)	<p>(i) The applicant is a developer, builder and promoter of small sized residential premises and apartments in and around the city of Chennai.</p> <p>(ii) In respect of a project at Saligramam, the applicant entered into a Joint Development Agreement (JDA) dated 23.11.2023 with the landowner. As per the terms of the JDA, the applicant was permitted to construct 6,318 Sq.ft. of built-up area consisting of 4 apartments. Two apartments aggregating to 3,158 Sq.ft of built-up area handed over to the owners while the Developer retained the remaining two flats aggregating to 3,160 Sq.ft. of built-up area of sale to prospective buyers of the applicant.</p> <p>(iii) With effect from 14.12.2023, the value for the purpose of registration of residential complex has been substantially revised by the Tamil Nadu Government vide Circular No. 45438/L1/2023, dated 14.12.2023.</p> <p>(iv) The applicant had addressed SRO/ Virugambakkam vide letter dated 16.07.2024 under RTI and sought certain information from the Public Information Officer, Sub-</p>

	<p>Registrar, Virugambakkam, SRO. The Sub-Registrar, vide letter dated 16.07.2024 has replied as follows:</p> <p><i>"In the documents falls under first sale category as per G.O.Ms.No.131/C.T.& RE (J1) dated 01.12.2023 and IGR Circular No.45438/L1/2023 dated 01.12.2023 and 14.12.2023, composite value to be follow".</i></p> <p>(v) As per the reply of the Sub-registrar, Virugambakkam, indicate that for the purpose of registration of UDS, the composite value of the built-up area would also have to be taken into account. The applicant thus inferred that the value of building would also be taken into account while registering the land (UDS area in the case) notwithstanding the fact that the construction would be executed not by the landowner but by the applicant. In other words, the applicant hold that the entire value represents the sale of land despite the element of construction of built-up area by the applicant.</p>
Issue/s on which advance ruling Required	Determination of the liability to pay tax on any goods or services or both.
Question(s) on which the advance ruling is required	Whether this execution of Sale Deed by the landowner for the UDS area covering the built up area to be constructed by the applicant would be sufficient ground to claim exclusion as sale of land under Item No. 5 of Schedule III of the CGST Act/TNGST Act resulting in non-liability in the hands of the Applicant on the construction of built up area to the buyers notwithstanding the fact that the same are treated as Sale of land (including building) in the Sale Deed to be executed by the land owners for the Saligramam project in favour of the Applicant's buyers for the sale of apartments that are allocated to us.

1. At the outset, we would like to make it clear that the provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act are in *pari materia* and have the same provisions in like matters and differ from each other only on few specific provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods

and Services Tax Act, 2017 would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act, 2017.

2. M/s. Sripriya Constructions Private Limited, located Ground Floor, No. G-1, No.30, Door No. 60/12A, Kamadhenu Flat, K.K. Salai, Kaveri Rangan Nagar, Saligramam, Chennai – 600 093. (hereinafter referred to as 'the Applicant') is registered under GST with GSTIN 33ABFCS0726E1ZR. The applicant is a developer and a builder, promoting small size residential premises/apartments in and around the city of Chennai.

3. The applicant is under the Administrative jurisdiction of 'STATE' under Saligramam Assessment Circle, Chennai (Central) Division. The Applicant has made a payment of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST Rules, 2017 and TNGST Rules, 2017, vide 2BKID24083300032089 dated 23.04.2024, towards the application fees payable.

FACTS OF THE CASE AS STATED BY THE APPLICANT:

4. In respect of a particular project at Hari Krishna Street, Kaveri Rangan Nagar, Saligramam, Chennai – 600 093, the applicant entered into a Joint Development Agreement (JDA) dated 23.11.2023 with the landowner. As per the terms of the JDA, the applicant was permitted to construct a total of 6,318 Sq.Ft. of built-up area consisting of 4 apartments. Two apartments aggregating to 3,158 Sq.Ft. of built-up area to be given to the owner while the applicant retains the remaining two flats aggregating to 3,160 Sq.Ft of built-up area for sale to prospective buyers.

4.1 For the earlier projects, the applicant informed that they have executed two types of documents viz.:-

- a) Sale Deed between the landowners and the applicant's buyers towards transfer of the undivided share (UDS) of land to the prospective buyers; and
- b) Builder/construction agreement for the built up portion constructed by the applicant to the prospective buyers wherein the applicant paid Stamp Duty/Registration charges on the former while paying Service Tax/GST on the later.

4.2 With effect from 14.12.2023, the value of property for the purpose of registration of residential complex has been substantially revised by the Tamil Nadu Government vide Circular No.45438/L1/2023 dated 14.12.2023 (New

circular). A cursory perusal of the aforesaid circular indicated that the Sub-Registrar has affixed a composite value for the building in addition to the land for the purpose of registration of property (documents) with the Sub-Registrar Office (SRO). Thereafter, the landowner of the Saligramam project addressed the Public Information Officer, Sub-Registrar, Virugambakkam, SRO under RTI Act vide letter dated 16.07.2024, and sought the following information

"If and When a 'Sale Deed' is prepared concerning the scheduled property for registering an apartment, kindly indicate if it is required to mention the 'Composite value' of the property.

4.3 The Sub-Registrar, Virugambakkam vide letter dated 16.07.2024 has replied as follows:

"In the documents falls under first sale category as per G.O.Ms.No.131/C.T.& RE (J1) dated 01.12.2023 and IGR Circular No.45438/L1/2023 dated 01.12.2023 and 14.12.2023, composite value to be follow".

4.4 A perusal of the reply under RTI would indicate that for the purpose of registration of UDS, the composite value of the built up area would also have to be taken into account. The natural analogy on the aforesaid would be that the value of building would also be taken into account while registering the land (UDS area in this case) notwithstanding the fact that the construction would be executed not by the landowner but by the applicant. In other words, the applicant holds that the entire value represents the sale of land despite the element of construction of built-up area by the applicant.

INTERPRETATION OF LAW BY THE APPLICANT:

5. On interpretation of law, the applicant has reiterated the reply which was given by the Sub-Registrar Officer, Virugambakkam under RTI and stated as follows:-

- 1) Reply under RTI would indicate that for the purpose of registration of UDS, the composite value of the built-up would also have to be taken into account.
- 2) The natural analogy on the aforesaid would be that the value of building would also be taken into account while registering the land (UDS area in this case)

notwithstanding the fact that the construction would be executed not by the landowner but by the applicant.

- 3) The applicant holds that the entire value represents the sale of land despite the element of construction of built-up area by the applicant.

6. The applicant falls within the administrative jurisdiction of 'State'. The concerned Authorities of the State and Centre were addressed to report the detailed remarks. The Assistant Commissioner (ST), Saligramam Assessment Circle in the reference No.624/2024/A2 dated 06.01.2025 have furnished his comments and further stated that there is no pendency proceedings on the questions raised by the applicant in the present application.

7. No remarks has been received from the Center Authority, and hence, it is construed that there is no pending proceedings on the question raised by the applicant in their advance ruling application.

PERSONAL HEARING

8.1 The applicant was provided with an opportunity for personal hearing on 16.04.2025 which was duly acknowledged by the applicant. Shri. V. Vijay Anand, M/s. Anand & Kalyan Chartered Accountant and Authorised Representative (AR) of the Applicant appeared for the personal hearing on 16.04.2025. The AR reiterated the submissions made by them while filing the application for Advance Ruling. Further, the AR stated that the applicant is engaged in the business of developing, building and promoting small size residential premises in and around Chennai. Prior to 14.12.2023, the applicant was executing two types of documents viz., sale deed for UDS with the land owner and construction agreement with the builders. Stamp duties were paid in both the cases at different rates. Post, 14.12.2023, the Tamil Nadu Government vide Circular No. 45438/L1/2023, dated 14.12.2023 wherein a composite value for both building and land was taken for the purpose of calculating the amount of stamp duty.

8.2 AR is seeking clarification as to whether the execution of sale deed would be sufficient ground to claim clause (5) of Schedule-III of the CGST/ TNGST Act resulting in non-liability on the hands of the applicant on the construction of built-up area notwithstanding the fact that the same is treated as 'Sale of Land' (including Building). During the personal hearing, AR furnished additional

submissions along with copies of sale deed, related documents and case law in support of their claim.

DISCUSSION AND FINDINGS

9.1 We have carefully considered the provisions of the law, submissions made by the Applicant in their application, copies of the relevant documents furnished by them, the submissions made during the personal hearing, and the comments furnished by the jurisdictional tax officers.

9.2 From the application filed by the applicant, it is seen that they are seeking advance ruling, on the following question:

Whether this execution of Sale Deed by the land owner for the UDS area covering the built up area to be constructed by the Querist would be sufficient ground to claim exclusion as sale of land under Item No.5 of Schedule III of the CGST Act / TNGST Act resulting in non-liability in the hands of the Applicant of on the construction of built up area to the buyers notwithstanding the fact that the same are treated as Sale of land (including building) in the Sale Deed to be executed by the land owners for the Saligramam project in favour of the Applicant's buyers for the sale of apartments that are allocated to us.

9.3 The above query by the applicant is with regard to the determination of liability to pay tax on any goods or services or both, is found to be falling within the purview of Section 97(2) of the CGST Act, 2017 and hence is admitted for consideration.

10. The applicant is a developer and builder promoting small size residential premises in and around the city of Chennai. In respect of a particular project at Hari Krishna Street, Kaveri Rangan Nagar, Saligramam, Chennai – 600 093, the applicant entered into a Joint Development Agreement (JDA) dated 23.11.2023 entered into with the landowners. As per the terms of the aforesaid Joint Venture Development Agreement, the applicant was permitted to construct 6,318 Sq.Ft. of built-up area consisting of 4 apartments out of which two apartments aggregating to 3,158 Sq.Ft. of built-up area to be handed over to the owners while the applicant retains two flats aggregating to 3,160 Sq.Ft of built-up area for sale to prospective buyers of the applicant.

10.1 The applicant stated that for earlier projects, for the first sale category, the applicant used to execute two types of documents with the registration department viz.:-

- a) Sale Deed between the landowners and the applicant buyers towards transfer of the undivided share (UDS) of land to the prospective buyers and
- b) Builder/construction agreement for the built up portion constructed by the applicant to the prospective buyers wherein the applicant pays Stamp Duty/Registration charges on the UDS to the registration department while paying Service Tax/GST on the value of construction.

10.2 With effect from 14.12.2023, the Registration Department of Government of Tamil Nadu had issued Circular No.45438/L1/2023 dated 14.12.2023 (New circular) and framed new norms by introducing Composite valuation for flats of first sale category which is the sum of the value of land (UDS) and building for the purpose of levy of stamp duty and registration fees for purchase of a property with the Sub-Registrar Office (SRO) as per G.O.Ms. NO.131, Commercial Tax and Registration Department (I) dated 01.12.2023, Tamil Nadu.

10.3 Based on the said circular, the applicant has executed single sale deed on composite value (sum of land value and building value) on behalf of landlord through general power of attorney granted by the landlord vide copies of sale deed document No.1344/2025, dated 03.02.2025 and document No.1211/2025, dated 25.02.2025 with the Sub-Registrar Office (SRO)/Virugambakkam.

10.4 In this backdrop, the applicant has raised question as to whether the execution of Sale Deed by the landowner for the UDS area including the built up area constructed by the applicant would be sufficient ground to claim exclusion as sale of land under Item No.5 of Schedule III of the CGST/TNGST Act resulting in non-liability in the hands of the Applicant on the construction of built up area to the buyers for the sale of apartment that were allocated to them as per the Joint Venture Development Agreement.

11. Before going into the merits of the case, whether the activity of the applicant qualifies as supply under GST Act.

As per entry 5(b) of Schedule II of CGST/TNGST Act 2017, *construction of a complex, building, civil structure or part 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. Thus, if some conditions are satisfied, construction of a complex, building, civil structure or part thereof, including a complex or building intended for sale to a buyer takes on the character of supply.

11.1 From the above, it is clarified that the activity of the applicant being developer/promoter is related to supply under CGST/TNGST Acts undertaken by them.

12. With the introduction of GST, Sl. No. 3 Notification No.11/2017, Central Tax (Rate), dated 28.06.2017 charges 18% of GST as follows.

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (per cent)	Condition
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	All Services		
2	Section 5	Construction Services		
3.	Heading 9954 (Construction Services)	(i) Construction of a complex, building, civil structure or a part 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. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)	9	
		(ii) Composite supply of works contract as defined in clause 119 of Section 2 of Central Goods and Services Tax Act, 2017.	9	
		(iii) construction services other than (i) and (ii) above.	9	

12.1 With effect from 01.04.2019 under new mechanism of taxation of real estate projects and it elaborately envisaged that the builder/promoter who

constructs or converts a building into apartments or develops a plot for sale has to pay GST as per amended Notification No.3/2019, Central Tax (Rate), dated 29.03.2019. The notification prescribes various scenarios under which the developer –promoter or a land promoter liable to pay GST.

12.2 The notification provides exception from payment of GST only for the project where the entire consideration has been received after issuance of completion certificate by the competent authority or after the first occupation of the flats. Further, the notification specifies any on-going project or project which commences on or after 1st April, 2019.

13.1 There are basically two types of JDA namely, (a) Area sharing JDA and (b) Revenue Sharing JDA. The parties involved in the JDA is the land owner and Developer/builder. In a JDA, the land owner has to transfer its developmental rights to the developer and in return the land owner gets continuous supply of construction service from the developer and GST is applicable at the time of supplying such construction service. For a residential project after 31-03-2019, the developer has to discharge the tax liability under Reverse Charge Mechanism (RCM). After the construction of the property, the applicant transfers the possession of the building to the land owner by signing an allotment letter or entering into a conveyance deed for the land owners share. The residential units sold by the builder to buyers before the issuance of completion certificate or first occupation are considered as a supply of construction service and appropriate GST has to be paid by the developer. If the builder's flats are sold after issuance of Completion certificate by the competent authority, the transaction would fall under Schedule-III and hence are not subjected to GST.

13.2 As per the JDA, the applicant has to transfer two residential units to the land owner and retain the remaining two residential units for sale to prospective buyers. The land owner supplies developmental rights to the applicant which are exempt if the builder sells all the flats before the completion certificate is issued by the competent authority. The builder who supplies the construction service to both land owner and prospective buyers before the issue of completion certificate or first occupation is liable to pay GST.

13.3 In the instant case, the Joint Development Agreement between the landlord and the developer-promoter is dated 22nd Nov, 2023 and therefore the various situations described in the notification shall be applicable to the applicant and

accordingly appropriate GST has to be paid by them to the government on both the transactions with landowner (handing over of 2 flats as mentioned in the JDA) as well as with the prospective buyers if the said transactions are before the issuance of completion certificate or before the date of first occupation of any of the residential units. The applicant is very clear on the applicability of GST on the flats handed over to the landlord or sold to the prospective buyers. However, with the issuance of G.O.Ms. NO.131, Commercial Tax and Registration Department (I) dated 01.12.2023 the applicant contends that the composite value which is the component of the value of land and building for the purpose of registration and stamp duty charges is sle of land and therefore claimed that their activity shall be treated neither as supply of goods nor as a supply of service in terms of item No. 5 of Schedule-III of the CGST/TNGST Act, 2017.

14. Para-2 of Notification No. 11/2017-CT (Rate) dated 28th Jun, 2017 specifically states that

2. In case of supply of service specified in column (3), of the entry at item (i) against Serial No. 3 of the Table 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, and the value of land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the total amount charged for such supply.

Explanation.—For the purposes of paragraph 2, and paragraph 2A below "total amount" means the sum total of,—

- (a) consideration charged for aforesaid service; and
- (b) amount charged for transfer of land or undivided share of land, as the case may be including by way of lease or sub-lease.

15. The sale and purchase, combined with the registration of land and building is governed by the Registration Act, 1908 which is a central legislation. On the basis of Real Estate (Regulation and Development) Act, 2016, the government of Tamilnadu formulated The Tamil Nadu Real Estate (Regulation and Development) Act, 2016, also known as TNRERA which aimed at regulating and promoting the real estate sector in Tamilnadu which mandates the registration of real estate projects and ensures fair business practices between promoters and buyers.

16. As per Schedule-III of the CGST/TNGST Act, the sale of land does not attract GST only if the transaction exclusively relates to the transfer of ownership of land, which is an immovable property. However, if it includes other services such as an electricity line, water line, drainage line, land levelling, etc., like in the case of plotted developments, then GST will be applicable. This is because construction of plotted developments or similar structures would fall under the Schedule II Para 5 Clause (b) definition of the CGST Act, which is liable to GST, except where the entire consideration for the land is received after the receipt of completion certificate.

17. While the applicant is very clear about the time of supply of service, the query is about the taxability of the composite value of land (UDS) and residential unit as appropriate stamp duty and registration charges have been paid by them on the composite value as per the new norms introduced by the Registration department of the State government. Therefore the applicant is contending that there is sufficient ground for them to claim exclusion as 'sale of land' under item No. 5 of Schedule-III of the Act. Before examining the query on which the applicant sought clarification, we need to understand certain terms used in the registration of property.

17.1 Stamp Duty: Stamp Duty is a form of tax imposed on the sale of property/property ownership by the State Government payable under Section 3 of the India Stamp Act, 1899. The duration of the stamp duty at the time registration shall be based on the value of the property. It varies with the area, location of the property and whether it is old or new. Payment of stamp duty shall be made before the legal document is executed or at the time of execution.

17.2 Registration Charges: Registration charges are incurred when the buyer transfers/purchases the property and gets it registered in his/her name. It serves as a legal evidence of the fact that the buyer has purchased the property.

17.3 Once the stamp duty is paid, the property needs to be registered at the sub-registrar office of the jurisdiction where the property is situated. In Tamilnadu, stamp duty and registration cost is the essential legal costs in property transactions. As on 2025, in respect of the state of Tamilnadu, the stamp duty and the registration charges for the purchase of residential property is 7% and 1% respectively.

18. The GST law doesn't include stamp duty or registration charges in the taxable value. This is because stamp duty is a specific fee imposed by state governments and is neither classified as goods nor services under the GST Act. Stamp duty remains outside the realm of GST because it is a tax collected explicitly by state governments in property transactions. GST focuses on goods and services, and the nature of stamp duty as a state-imposed property tax which is placed beyond the scope of GST integration. **Therefore, no GST on stamp duty and registration can be imposed.** Hence, stamp duty and registration charges are kept out of scope of GST.

19.1 Goods and Services tax is a tax levied on the supply of goods and services, which includes the construction of residential properties. For under-construction properties, the builder typically charges GST on the sale value of the flat.

19.2 From the above, it could be inferred that the nature and the meaning of the stamp duty and registration charges have no nexus with the GST and both are mutually exclusive. The concept of composite value registration of both land (UDS) and building (residential units) introduced by the Government of Tamilnadu, in line with the state of Karnataka, is only for the purpose of arriving at the amount of stamp value and the registration charges during the course of purchase of land. This is to ensure that the entire property including both land and the constructed area is registered in a single document in addition to augment revenue and streamline the registration process.

20. Prior to the introduction of composite value registration, the buyers and sellers had to register two separate documents, one for the undivided share of land (UDS) and another for the construction agreement. For the above two separate documents, the purchaser has to pay stamp duty and registration charges for both the transactions. Practically, there is no difference, pre and post composite value registration, in the payment of stamp duty and the registration charges for the purchase of property but for the increase in the percentage for arriving at the value of stamp duty and registration charges.

21. GST law and the registration Acts and rules are two different statutes which is not comparable and the composite value of UDS and constructed residential units adopted for assessing amount of stamp duty and registration shall not entitle the applicant to claim exclusion from the taxability under GST.

22. Though, Schedule-III of the Act, provides that the value of land in the course of its purchase is treated neither as supply of goods nor services, the G.O.Ms. NO.131, Commercial Tax and Registration Department (I) dated 01.12.2023 and the subsequent Circular No.45438/L1/2023, dated 14.12.2023 (New circular) issued by the registration department of Tamil Nadu Government which has brought new norms in the name of composite value (land value and building value) for levy of stamp duty and registration charges has no relevance to the applicability of GST. The Government of India, after making detailed examination of construction and the real estate industry has issued the Notification No. 03/2019-CT(Rate) dated 29-03-2019 that covers all the scenarios that the industry would encounter and enumerated methods to arrive at the quantum of GST to be paid by the service provider.

23.1 Further, the applicant has not produced any document like allotment letter or entering into a conveyance deed for the land owners share or any completion certificate to go out of purview of GST.

23.2 However, there is no clarification or amendment to the GST law or to the notification relating to the supply of construction service in light of the above new norms and subsequent circular issued by the government of Tamilnadu. In the absence of such clarification the claim of the applicant is not tenable. Therefore, the claim of the applicant in the query seeking exclusion under Sl. No. 5 of Schedule-III of the Act shall not be acceded to.

23.3 From the above facts and circumstances, the applicant is a builder promoter and their activity falls within the Serial No.3 (ia) of Notification No.11/2017, Central Tax (Rate), dated 28.06.2017 as amended vide Notification No.3/2019, Central Tax (Rate), dated 29.03.2019, which attracts levy of GST.

23.4 The execution of the sale deed by the land owner for the undivided share of land area is a critical determinant in establishing whether the transfer of land qualifies as an independent transaction. If such execution is completed before or independent of the construction activity undertaken, the exclusion of the land value from GST liability shall be substantiated. For a composite contract where consideration is not bifurcated, GST is liable to be paid on the entire transaction value, subject to one third deduction of land value. After the introduction of new norms read with the circular, if the composite value of the project is considered for

registration of residential units as part of single agreement, where land cost and construction cost cannot be vivisected, GST would apply on the transaction value post deduction of land value.

23.5 Hence, we are of the considered opinion that the applicant's claim of exclusion of entire value of both UDS and the area including the built up area as 'Sale of land' resulting in non-liability in their hands on the construction of built up area to the buyers for the sale of apartment that were allocated to them as per the Joint Venture Development Agreement does not fall under Item No.5 of Schedule III of the CGST Act / TNGST Act.

24. On the other hand, for the purpose of GST, the applicant's activity constitutes supply of service as per entry 5(b) of Schedule II of CGST/TNGST Act 2017, and appropriate levy of GST is attracted. GST is levied at 3.75% each under CGST and TNGST Acts on the total amount charged for such supply of flat/apartment less deemed one third value for transfer of land or undivided share of land as per Sl.No.3 item No.(ia) of Notification No.11/2017, Central Tax (Rate), dated 28.06.2017 as amended vide Notification No.3/2019, Central Tax (Rate), dated 29.03.2019.

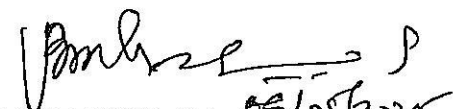
25. In view of the detailed discussions supra, we rule as under:-

RULING

The applicant's claim of exclusion as sale of land for the Sale Deed executed by the landowner for the UDS area including the built up area constructed by the applicant resulting in non-liability in their hands on the construction of built up area to the buyers for the sale of apartment that were allocated to them as per the Joint Venture Development Agreement does not fall under Item No.5 of Schedule III of the CGST Act / TNGST Act.


(B. SUSEEL KUMAR)
Member (SGST)




(BALAKRISHNA S.)
Member (CGST)

To

M/s. SRIPRIYA CONSTRUCTIONS PRIVATE LIMITED,
GSTIN: 33ABFCS0726E1ZR
Ground Floor, No. G-1, No.30,
Door No. 60/12A, Kamadhenu Flat,
K.K. Salai, Kaveri Rangan Nagar,
Saligramam, Chennai – 600 093. **(By RPAD)**

Copy submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600 034.
2. The Commissioner of Commercial Taxes,
2ndFloor, Ezhilagam, Chepauk, Chennai – 600 005.
3. The Commissioner of GST & Central Excise,
Chennai South Commissionerate,
672, MHU Complex, Nandanam, 600 035.

Copy to:

1. The Assistant Commissioner (ST),
Saligramam Assessment Circle,
PAPJM Building (Annex),
No.1, Greaves Road, Chennai – 600 006.
2. Master File / spare – 1.