



Supply of developed plot different from sale of land, affirms liability to GST

Gujarat AAAR affirms AAR to rule that GST is applicable on sale of plot of land for which, as per approval of respective authority (Jilla Panchayat), primary amenities such as Drainage line, water line, electricity line, land leveling etc. are to be provided by Appellant; Against Appellant's contention that such transaction be exempted, finds that, plotted development, as in present case, is a scheme which involves forming land into layout after obtaining necessary plan approval from Development Authority which might involve activities of constructing common amenities which clearly indicates that sale of developed plot is not equivalent to sale of land but is a different transaction which tantamounts to supply/rendering of service; Noting that Appellant has reached an agreement with stakeholders for common facilities development by forming an AOP, deems such fact as irrelevant on notion that "irrespective of the fact as to whether the appellant develops the common facilities and then sells the plots of land OR makes an agreement with the buyers of the plots of land mandating them to develop the common facilities by forming an AOP or some other artificial judicial person, it will still be considered a sale of developed land only, since the plan approval authority clearly mandates development of common facilities in the land, prior to its sale"; Clarifies after referring to definition of 'consideration' u/s 2(31) and 'value of taxable supply' in Section 15, "the only thing that gets excluded from the value of supply of services or supply of goods are the discounts as per 3(a) and 3(b) of Section 15, and even if it is assumed that the common facilities ...are to be developed by their individual buyers by forming an AOP on behalf of the appellant, the said expense will undoubtedly be included in the value of supply as per Section 15(b)"; Regarding what should be treated as 'supply of services' in present case, explains against the background of Entry No.5 of Schedule-III and relevant portion of paragraph 5 of Schedule-II, "when the transaction involves mere sale of land, the said transaction will be out of the scope of supply and will be squarely covered under Entry No.5 of Schedule-III which covers



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activities or transactions ..treated neither as a supply of goods nor ..services. However, in view of the common facilities being developed/being got developed..., this activity will be squarely covered under the scope of taxable service i.e. ‘construction of civil structure or a part thereof, intended for sale to a buyer.’ under clause(b) of paragraph 5 of Schedule-II”; Rejects Appellant contention that since the transaction involves two supplies i.e. Sale of land and Development and provision of common facilities, it is covered in the ambit of ‘composite supply’, against the stipulations of section 2(30).