

Ruling by Uttarakhand AAR – Sale of under construction building under ‘business transfer agreement’ is exempt supply of service

Precise of Ruling:

- ☑ Transfer of running business, capable of being carried on by purchaser as an independent business, is ‘transfer of going concern’
- ☑ After analysing HMRC guidelines and peculiar facts of the case, it was held that transfer of under-construction building as a going concern is exempt service under GST Law vide Not. No. 12/2017-CT(R) dated 28.06.2017 (sr. no. 2)

(AAR Uttarakhand – Re: M/s Rajeev Bansal and Sudershan Mittal – Ruling No. 10/2019-20 on 09.01.2020)



GSC Comments:

It may be noted that AAR has not addressed the following aspects:

- ☑ Is there overlapping in GST Law as ‘transfer of going concern’ is excluded from classification Schedule of supply under GST (Schedule II) and is also covered under an exemption notification?
- ☑ Impact on transfer of unutilised ITC balance of the ongoing project

Disclaimer: The above AAR applies to the applicant who has opted for it only. A detailed consultation with your existing consultant or GSC is required before taking any tax/business decision/s based on this ruling.