



**PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND  
ADVANCE RULINGS, BANGALORE.**

Present: 1. **Sri.M.D. Jain,**

Additional Commissioner of  
Commercial Taxes  
(Head Quarters)-1, Bangalore. .... Chairman.

2. **Sri.H.D.Arun Kumar,**

Additional Commissioner of  
Commercial Taxes (Policy &  
Law), Bangalore. .... Member.

3. **Sri.R.Jagadish Prasad,**

Additional Commissioner of  
Commercial Taxes (GST),  
Bangalore. .... Member.

**No.AR.CLR.CR.49/12-13.**

**Dated: 19.9.2013**

Name and address of the Applicant	<b>M/s.S.N. Builders &amp; Developers,</b> No.3761, N.S. Palya Main Road, 29 <sup>th</sup> Main, BTM Layout, 2 <sup>nd</sup> Stage, Next to BWSSB Pump House, Off Bannerghatta Road, Bangalore - 560 076.
TIN	29370496012
Jurisdictional LVO on whose files the Applicant is borne	LVO-025, Bangalore.
Nature of activity of the Applicant	Civil works contract
Represented by	Sri.Sanjay Dhariwal, Chartered Accountant

## **ORDER UNDER SECTION 60(4) OF THE KVAT ACT, 2003**

1. The Applicant M/s.S.N. Builders & Developers, No.3761, N.S. Palya Main Road, 29<sup>th</sup> Main, BTM Layout, 2<sup>nd</sup> Stage, Next to BWSSB Pump House, Off Bannerghatta Road, Bangalore - 560 076 is a registered dealer under the provisions of the KVAT Act, 2003 with TIN 29370496012 borne on the rolls of the Assistant Commissioner of Commercial Taxes, LVO-025, Bangalore. The Applicant has filed an Application under Section 60 of the KVAT Act, 2003 before this Authority for Clarification and Advance Ruling seeking clarification on exigibility of tax liability under the provisions of KVAT Act, 2003 on the following nature of activity:

(a) Whether the portion of the built up area relating to the land owner's share falling under the Joint Development Agreement without involving money consideration is liable to tax as works contract under section 3(1) of the KVAT Act, 2003 or not?

(b) If land owner's built up area is liable to tax as works contract in the hands of the applicant, what is value to be arrived in order to levy tax?

(c) If land owner's built up area is taxed, whether applicant can claim reduction of land value relating to his share of flats from total receipts in computing the total and taxable turnover?

(d) If land owner's built up area attracts tax under KVAT Act, whether applicant can claim input tax credit on purchase of goods used in construction of land owner's share of built up area?

2. After receipt of the Application in Form VAT 540 from the Applicant, the Applicant was provided an opportunity of personal hearing. Accordingly, notice dated 14.8.2013 was issued under Rule 165(15)(e) of the KVAT Rules, 2005, posting the case for hearing on 23.8.2013. Responding to this notice, Sri.Sanjay Dhariwal, Chartered Accountant, duly authorized by the Applicant appeared and argued the case. The learned Chartered Accountant raised the very same issues that are urged in the Application filed in Form VAT 540 and filed copy of judgment of the Hon'ble High Court of Karnataka in the case of M/s.Vaswani Estates Developers Pvt. Ltd., V/s. State of Karnataka reported in 2011-12 KCTJ 288 and requested to allow the application filed by the Applicant.

