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Contribution to sinking fund of CHS subject to GST levy

NEW DELHI: Contributions made by home-owners of a co-operative housing society (CHS) towards a sinking fund meant for future upkeep of the society will be subject to the goods and services tax (GST).

The Karnataka Authority for Advance Rulings (AAR) has held that such contribution towards the sinking fund (also termed as corpus fund) is not a "deposit", but in fact, an "advance" for future supply and thus liable for 18 per cent GST.

The AAR ruling came on a petition of the residents' welfare association (RWA) of the Bengaluru-based Olety Landmark Apartments. The main grounds petitioned by the RWA was contributions made by members towards towards the sinking fund was in the nature of a deposit for future planned or unplanned events and not for the purpose of supplying any goods or services. Hence, as no element of supply was involved, such contributions should be tax exempt.

But the AAR said that contributions by members were not a deposit as the sum was not coming back to them at any future date. It is, in fact, was an advance that members have to extend to the CHS for any future supplies whether planned or unplanned or of any specific nature. Thus, as per GST laws, it liable to tax.

The AAR also addressed the question of applicability of GST on contributions at the time of making it. There was a suggestion that tax should be triggered only at the time of utilisation of the fund. But AAR GST is triggered on receipts.

This means that the CHS would have to collect and pay GST against the contributions to the sinking fund. But such GST collections will only have to be made if the charges collected from members exceed Rs 7,500 per month, per member.