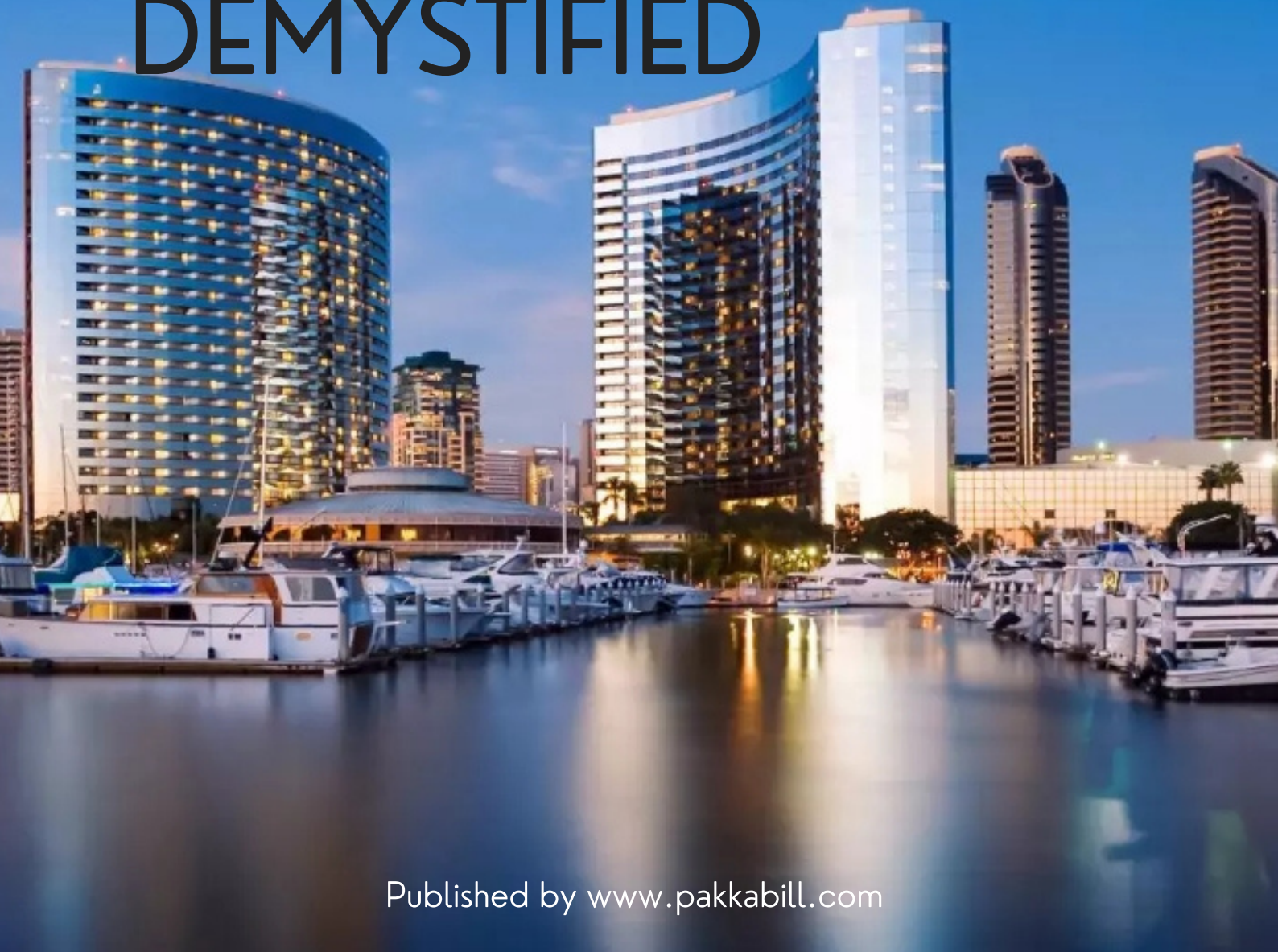


MONTHLY NEWSLETTER

GST TRACKER

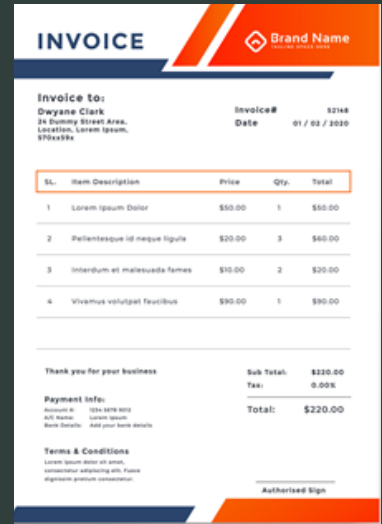
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EDITOR'S NOTE



Getting unlocked

With the Second wave of coronavirus (Covid-19) in the country showing downward signs, the process of unlocking is gaining momentum and people are trying to get back to their old routine. With states, easing the restrictions imposed to check the spread of coronavirus infection, the most important task in front of all of us is to bring the battered Indian economy back on track.

At the same time, we also need to be cautious, as the possibility of a new surge (third wave) still looms around. The best way is to follow the guidelines established by the government, maintain social distance and keep necessary hygiene.

No doubt, getting unlocked is a sigh of relief, but we do advise our readers to remember the price we all paid to get unlocked and exercise caution in all their future actions.

Pankaj Kataria

(Founder Pakkabil)

GST on Real Estate Transactions including under-developed Plots from April 2019

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As per Schedule II of CGST Act, following Real Estate Transactions shall be treated as supply of services.

Para 5(b): 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.

Para 6(a): Composite supply of Works contract as defined by Section 2(119).

Therefore, all the aforesaid services are being taxed under Entry 3 of the Notification No.11/2017-Central Tax (Rate) dated 28/06/2017. On 1st July 2017, Entry 3 of Notification No.11/2017-Central Tax (Rate) had only 3 sub-entries mentioned below and rate of tax for all the 3, was 18% (9% CGST plus 9% SGST).

(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.

(ii) Composite supply of works contract as defined in clause (119) of Section 2 of Central Goods and Services Tax Act, 2017.

(iii) Construction services other than (i) and (ii) above.

With the intention of reducing the rate of tax on works contract services pertaining to government departments, institutions etc. some sub-entries have been amended, deleted and inserted from time to time. Today there are 18 sub-entries to Entry 3. In case of Real Estate Projects, Promoter is liable to pay tax. There are two kinds of Promoters as shown below.

Developer-promoter is a promoter who constructs or converts a building into apartments or develops a plot for sale. A contractor who merely undertakes the construction work for others, without the authority to sale, cannot be treated as a developer-promoter.

Landowner-promoter is a promoter who transfers the land or development rights or FSI to a developer-promoter, for construction of apartments and receives constructed apartments against such transferred rights and sells such apartments to his buyers independently.

From April 2019, tax rate was drastically reduced to @ 1% and 5% on construction without ITC depending on whether the project is Residential Real Estate Project (RREP) or Real Estate Project (REP). New scheme is explained below.

Construction of affordable residential apartments in RREP and REP are respectively covered under Entry 3(i) and 3(ic):

Rate of tax 1% i.e. 0.50% CGST plus 0.50% SGST (Actually 0.75% CGST plus 0.75% SGST, but considering 1/3rd deduction for land, effectively it is 1%).

Applicable to construction in RREP or REP commenced on or after 1st April, 2019 (new project) and ongoing project in respect of which the promoter has not exercised the option to pay tax at the rates specified for Entry 3(ie) or (if).

Applicable to Construction intended for sale to a buyer wholly or partly, except where the entire consideration is received after issuance of completion certificate where required by competent authority or after its first occupation whichever is earlier.

Construction of other than affordable residential apartments in RREP and commercial apartments (shops, offices, godowns etc.) in RREP, are respectively covered under Entry 3(ia) and Entry 3(ib).

Rate of tax 5% i.e. 2.50% CGST plus 2.50% SGST (Actually 3.75% CGST plus 3.75% SGST, but considering 1/3rd deduction for land, effectively it is 5%).

Applicable to construction in RREP commenced on or after 1st April, 2019 (new project) and ongoing project in respect of which the promoter has not exercised the option to pay tax at the rates specified for Entry 3(ie) or (if).

Applicable to Construction intended for sale to a buyer wholly or partly, except where the entire consideration is received after issuance of completion certificate where required by competent authority or after its first occupation whichever is earlier.

Construction of other than affordable residential apartments in REP are covered under Entry 3(id):

Rate of tax 5% i.e. 2.50% CGST plus 2.50% SGST (Actually 3.75% CGST plus 3.75% SGST, but considering 1/3rd deduction for land, effectively it is 5%).

Applicable to construction in REP commenced on or after 1st April, 2019 (new project) and ongoing project in respect of which the promoter has not exercised the option to pay tax at the rates specified for Entry 3(ie) or (if).

Applicable to Construction intended for sale to a buyer wholly or partly, except where the entire consideration is received after issuance of completion certificate where required by competent authority or after its first occupation whichever is earlier.

Common conditions for all the aforesaid entries [Entry 3(i) to (id)] are as follows.

Tax shall be paid in cash by debiting electronic cash ledger. This means ITC is not available except of an amount equivalent to ITC attributable to construction in a project, time of supply of which is on or after 1st April, 2019. It shall be calculated in the manner as prescribed in the Annexure I in the case of REP other than RREP and in Annexure II in the case of RREP.

Annexure I in the case of REP provides details and calculations for ITC attributable to construction of residential portion in REP, which has time of supply from April 2019 for new and old projects for which option for tax at the rates specified for Entry 3(ie) or (if) is not taken.

Calculation of Tax payable or the balance credit to be availed to be done before due date for furnishing the return for September, following the end of F.Y.2018-19.

Annexure I provides that the ITC on commercial apartments is available and the ITC attributable to ongoing projects where time of supply is upto 31st March 2019, is eligible to be claimed only if goods or services qua such supplies are received on or after 1st April 2019.

In case of ongoing projects where time of supply is on or before 31st March 2019, if the attributable ITC is claimed in excess, it shall be reversed.

Annexure II in the case of RREP provides details and calculations for ITC attributable to construction of residential and commercial portion in RREP, which has time of supply from 1st April 2019 for new and old projects for which option for tax at the rates specified for Entry 3(ie) or (if) is not taken. Calculation of Tax payable or the balance credit to be availed to be done before due date for furnishing the return for September, following the end of F.Y.2018-19. The commercial apartments in RREP are not eligible for ITC. Accordingly ITC Rules have been amended.

Developer-promoter's supply to independent buyers

Taxable value for supply to independent buyers (1/3rd Land deduction):- As per Para 2 of Notification No.11/2017-CT as amended by Notification No.3/2019-Central Tax (Rate) dated 29/03/2019, in case of supply of service specified in column (3), in items (i), (ia), (ib), (ic), (id), (ie), and (if) against Serial No.3 of the Table above, involving transfer of land or undivided share of land, as the case may be, the value of such supply shall be equivalent to the total amount charged for such supply, less the value of transfer of land or undivided share of land, as the case may be, and the value of such transfer 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.

Whether 1/3rd deduction for land can be challenged? No GST can be levied on a consideration received for sale of land. Therefore, deduction should not have been restricted to 1/3rd. In pre-GST era, initially no

deduction for land was provided. Only after the levy of tax on sale of flats etc. was challenged before the Bombay High Court, the deduction for land value was provided, as per provisions of the respective State Act such as Bombay Stamp (Determination of True Market Value of Property) Rules, 1995.

Issue: For the purpose of determining the total amount, whether the amounts charged by the promoter for preferential location charges, development charges, parking charges, common facility charges, stamp duty payable to the statutory authority, maintenance charges / deposits for maintenance of apartment or maintenance of common infrastructure etc. are to be included?

Ans: All the above shall be included except stamp duty payable to the statutory authority, maintenance charges / deposits for maintenance of apartment or maintenance of common infrastructure, because, the stamp duty etc. are after sale amount. [Refer FAQ 4 dated 14/05/19, though it is for the purpose of determining the gross amount of Rs.45 lakhs in case of affordable residential apartment]

What will happen, if the purchaser sold the flat before completion?

According to me, as the purchaser is not supplying construction service to new buyer, the question of paying tax on such supply will not arise. Moreover, he is not doing business of development for sale of apartments. The question is whether such transaction is of cancellation of booking or direct sale by him to new buyer with the consent of developer-promoter as a confirming party. As per FAQ No.20 dated 07/05/2019, if apartment is booked before April 2019 and cancelled after April 2019, the promoter can refund the amount with tax to him.

Developer-promoter's supply to landowner-promoter of his share

Developer-promoter shall pay tax on supply of construction of apartments to landowner-promoter.

Issue: In case of supply of flats to landowner promoter, if the landowner promoter wants to retain the flats for sale after completion or for his own use, and therefore if he instructs the developer promoter, not to handover such flats to him till completion, whether the developer promoter can also avoid the output tax on such supply to landowner promoter.

Ans: The answer is in the negative, because as per condition for the said entry, the developer promoter shall pay tax on supply to landowner promoter. So, it cannot be avoided by arguing that the possession is given after completion. Therefore, time of supply of service provision will apply and as per Section 13(2), the time of supply shall be the earliest of the three dates specified. In this case, as per clause (c) of the aforesaid sub-section, tax on service shall be paid on the date of receipt of payment. As the consideration in form of development rights etc. is already received by the developer promoter, before the application for commencement certificate was filed by him, he shall pay tax in that tax period.

Only the time to pay output tax was deferred upto completion vide clause (d) of the Notification No.06/2019-Central Tax (Rate) dated 29.03.2019. However, in a case where the landowner-promoter wanted to sale such flat to outside buyer in under construction stage, he was unable to avail ITC, for which the amendment to aforesaid notification is introduced by Notification No.03/2021-Central Tax (Rate) dated 02/06/2021 w.e.f. 02/06/2021, to provide that the developer-promoter is liable to pay tax in a tax period not later than the tax period in which the date of issuance of the completion certificate or the date of its first occupation, whichever is earlier. The above amendment is in consonance with the time of supply provision as per Section 13 of the CGST Act.

Joint Development Agreements: Real Estate Projects are generally carried out by entering into JDA between landowner-promoter or Society and developer-promoter. It can be for construction on vacant land, of a new building, consisting of apartments/flats, as well as for demolition of existing building and construction of new building or buildings in its place, consisting of apartments /flats.

As per Section 2(zn) of RERA “*Real Estate Project means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or buildings, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto.*”

In case of construction on vacant land, the developer-promoter is liable to pay tax on the supply of flats to landowner-promoter, as well as on his sale to independent buyers. **In case of reconstruction**, the developer-promoter is liable to pay tax on the supply of flats to landlord/society, existing flat owners, existing tenants, as well as on his sale to independent buyers. If the Society or landlord directly sells the flats of its share to independent buyers, it shall get GST Registration and pay tax.

Taxable value for supply to landowner-promoter: As per Para 2A of Notification No.11/2017-CT, as amended by Notification No.3/2019-Central Tax (Rate) dated 29/03/2019, in case of supply of service of construction of apartments to a landlord-promoter, against receipt of service by way of transfer of development right or FSI (including additional FSI), **the taxable value shall be** deemed to be equal to the total amount charged for similar apartments in the project from the independent buyers, other than the person transferring the development right or FSI (including additional FSI), nearest to the date on which such development right or FSI (including additional FSI) is transferred to developer-promoter, less the value of transfer of land, if any, as prescribed in paragraph 2 above.

Landowner-Promoter’s supply to independent buyers.

Taxable value for supply to independent buyers (1/3rd deduction for Land):- It will be as per Para 2 of Notification No.11/2017-CT, being supply of service specified in column (3), in items (i), (ia), (ib), (ic), (id), (ie), and (if) against Serial No.3.

Landowner–promoter shall be eligible for ITC of taxes charged by developer-promoter, provided landowner-promoter further supplies such apartments to his buyers before issuance of completion certificate or first occupation, whichever is earlier, and pays tax on the same which is not less than the amount of tax charged to him by developer-promoter. (Refer clause (ii) of 4th Proviso in condition column.)

Landowner-promoter shall be eligible to utilise the credit of tax charged to him by the developer promoter, for payment of tax on apartments sold to his buyers. (Refer clause (iii) of Explanation to 4th Proviso in condition column inserted by Notification No.02/2021-Central Tax (Rate) dated 02/06/2021 w.e.f. 02/06/2021)

Landowner-Promoter’s Output Tax liability on supply of TDR, FSI, Lease on upfront amount etc.:-

(a) When sold for construction other than for residential apartment, output tax @18% (9% CGST plus 9% SGST) being covered by Entry-16(iii) of Notification No.11/2017/CT; and

(b) Output Tax is exempted w.e.f. 01.04.2019 when sold for construction of residential apartment vide Entry No.41A & 41B inserted to Notification No.12/2017-Central Tax (Rate) by Notification No.04/2019-Central Tax (Rate) dated 29.03.2019.

(c) Thus, the exemption is where the said supply is for construction of residential apartments by a developer-promoter, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate or after its first occupation, whichever is earlier.

This exemption is subject to payment of output tax on the sale of residential apartments and RCM, by developer-promoter, @1% in case of affordable residential apartments and @5% in case of residential apartments other than affordable residential apartments, remaining un-booked on the date of issuance of completion certificate or first occupation.

Time of supply w.e.f. 01.04.2019:-Notification No.06/2019-Central Tax (Rate) dated 29.03.2019 as amended by Notification No.03/2021-Central Tax (Rate) dated 02/06/2021 w.e.f. 02/06/2021

Time of supply upto 31.03.2019:- Notification No.4/2018-Central Tax (Rate) dated 25.01.2018 provides that a registered Developer-promoter who supply construction service of complex, building or civil structure to supplier of development rights (Landowner-promoter) against consideration, wholly or partly, in the form of transfer of development rights, the liability to pay central tax on supply of the said services, on the consideration received in the form of development rights shall arise at the time when the said developer-promoter transfers possession or the right in the constructed complex, building etc. to the landowner-promoter supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter).

Time to pay output tax on consideration received in installments for supply of construction services to outside buyers shall be paid as per time of supply provisions in case of services. Therefore in case of ongoing project in which the option to pay tax at new rate is exercised, if the consideration due before 1st April 2019 is received on or after 01.04.2019, tax thereon is to be paid as per old rate along with return for the period upto 31.03.2019. Similarly if the installment becomes due on or after 01.04.2019, tax thereon shall be paid as per new rate.

RCM by Developer–Promoter in respect of purchase of TDR, FSI, lease etc. to be paid:-

- (i) in case of un-booked residential apartments, on the day of completion and
- (ii) in case of purchase for other than residential apartments, on the day of supply.
- (iii) In this case time of supply provisions pertaining to services will apply.

80% value of input and input services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be received from registered supplier only.

For computing said 80%, inward supply on which RCM is paid, shall be deemed to have been purchased from registered person.

Where such inward supply falls short of 80% during F.Y. or part of F.Y. till the date of completion certificate or first occupation of the project, whichever is earlier, RCM shall be paid by promoter on such shortfall at 18% and all the provisions of the CGST Act shall apply to him as if he is liable for paying tax on such supply. In case of exempted supply also, tax @18% is to be paid. This is not rational.

On cement, RCM shall be paid at applicable rates. For payment of RCM, following amendments have been carried out.

a) Entry 39 has been inserted to Notification No.11/2017-CT w.e.f. 01.04.2019 vide Notification No.03/2019-Central Tax (Rate) dated 29.03.2019.

b) Notification No.07/2019-Central Tax(Rate) dated 29.03.2019 have been issued to notify the registered developer-promoter procuring supplies from un-registered persons for the purpose of Section 9(4) of the CGST Act.

c) Notification No.05/2019-Central Tax(Rate) dated 29.03.2019 have been issued to insert the entries 5B and 5C in Notification No.13/2017-Central Tax for services of development right etc. received by the developer-promoter.

d) Notification No.08/2019-Central Tax (Rate) dated 29.03.2019 have been issued to insert the entry 452Q in Notification No.1/2017-Central Tax for goods other than capital goods and cement falling under chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 received by the developer-promoter.

After 8th proviso it is stated (Please refer to the illustrations in annexure III).

Explanation 1:

(a) The promoter shall maintain project wise account of inward supplies from registered and unregistered suppliers.

(b) Amount of RCM on the shortfall at the end of the F.Y, shall be submitted in the prescribed form by the end of the quarter following the F.Y.

(c) Amount of said RCM shall be added to his output tax liability in the month not later than the month of June following the end of the F.Y.

Explanation 2: Notwithstanding anything contained in Explanation-1 above, RCM on cement shall be paid in the month in which cement is received.

Explanation 3: ITC not availed shall be reported every month as ineligible ITC in GSTR-3B [Row No. 4 (D)(2)]

Ongoing projects opted to pay tax at the rate specified for Entry 3(ie):

“Construction of an apartment in an ongoing project under any of the schemes specified in sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi), against serial number 3 of the Table, in respect of which the promoter has exercised option to pay central tax on construction of apartments at the rates as specified for this item. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)”

Issue: For a project containing more than one building, partial completion or occupancy certificate, many times obtained for each building. If it is obtained before 31/03/2019, the first occupation shall not be considered to have taken place. It will be considered as ongoing project on which option to pay tax @ 1% or 5% from April 2019 can be exercised by the promoter. [FAQ No.29 dated 07/05/2019 issued by CBIC]

Comments:

Rate of tax is 8% i.e. 4% CGST plus 4% SGST (Actually 6% CGST plus 6% SGST, but considering 1/3rd deduction for land, effectively it is 8%). Only those housing schemes which are covered by clauses of sub-entry (iv), (v) and (vi) of Entry 3 relating to various schemes of Central and State Government pertaining to affordable housing are eligible for payment of 8% with ITC. Affordable residential apartments covered by the 60/90 sq mtr and corresponding Rs.45 lacs value criteria are not covered by Entry 3(ie) but by (if).

Some clauses in brief of sub-entry (iv), (v) and (vi) covered in Entry 3(ie) are mentioned below.

Entry 3(iv) is for composite supply of works contract by way of construction of a civil structure or any other original works pertaining to schemes under JANNURM/RAY/Housing for All (Urban) Mission (HFAM)/Pradhan Mantri Awas Yojana (Urban)/(PMAY). Sub-items referred in sub-entry (ie) are given below.

Sub Item	Type of Scheme
b)	Schemes under Jawaharlal Nehru National Urban Mission or Rajiv Awas Yojana
c)	In-situ redevelopment of slums using land as a resource
d)	Beneficiary led Individual house construction
da)	Economically weaker Section (EWS) Houses
db)	Credit linked subsidy Scheme for EWS/ LIG/ MIG

Entry 3(v): Composite Supply of Works Contract by way of construction of:

Sub Item	Type of Scheme
b)	A single residential unit otherwise than as a part of a residential complex
c)	Low cost houses up to a carpet area of 60 sq mtrs per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by MHUPA by Govt of India
d)	Low cost houses up to a carpet area of 60 sq mtrs per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' component of HFAM / PMAY / State Govt. Housing Schemes.
da)	Low-cost houses upto a carpet area of 60 sq mtrs per house in an affordable housing project which has been given infrastructure status vide GOI notification No.13/6/2009-INF dated 30th March 2017

Entry 3(vi): Composite supply of works contract provided to Central Government/ State Government/UT/Local Authority/Governmental Authority/Government Entity by way by way of construction of:

Sub Item	Type of Scheme
c)	A Residential complex predominantly meant for self use or the use of their employee or other persons specified in para 3 of Schedule III of CGST Act.

Entry 3(if) [Services excluding specified at items (i), (ia), (ib), (ic), (id) and (ie) taxable @12%]

“Construction of a complex, building, civil structure or a part thereof, including,-

- (i) commercial apartments (shops, offices, godowns etc.) by a promoter in a REP other than RREP,
- (ii) residential apartments in an ongoing project, other than affordable residential apartments, in respect of which the promoter has exercised option to pay central tax on construction of apartments at the rates as specified for this item in the manner prescribed herein,

but excluding supply by way of services specified at items (i), (ia), (ib), (ic), (id) and (ie) above 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.

Explanation. -For the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id) and (ie) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5) and shall not be levied at the rate as specified under this entry. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)”

Comments:

Rate of tax 12% i.e. 6% CGST plus 6% SGST (Actually 9% CGST plus 9% SGST, but considering 1/3rd deduction for land, effectively it is 12%).

What is covered under Entry 3(if)

As this entry uses the words including, in addition to items mentioned in it's clause (i) and (ii), other items shall also gets covered in it, provided, they are pertaining to "Construction of a complex, building, civil structure or a part thereof" Therefore, the supply of underdeveloped plots is also covered in this entry.

This covers commercial apartments (shops, offices etc.) in REP, taxable @12% with ITC.

Commercial apartments in ongoing RREP where carpet area of commercial apartments is less than 15% of total carpet area will be eligible for 12% with ITC or new rate of 5% without ITC.

Residential apartments in ongoing other than affordable residential apartment shall have the option of 12% with ITC or new rate of 5% without ITC.

Considering the above criteria, the affordable residential apartments in ongoing project are excluded in item (if) and hence do not have the option of paying tax @12% with ITC. They will be liable to pay tax as per item (i) or (ic) @1% without ITC.

It may be noted that clause (a) to Explanation (xvi) to Para 4 of Notification 11 as amended by Notification 3/2019-CT affordable residential apartments covers the apartments of area 60 sqm in metros/90 sqm in non-metros and value upto Rs.45 lacs whereas clause (b) covers the specified low cost-affordable housing projects under the existing central/state government housing schemes.

Strictly referring to the above explanation (xvi) of affordable residential apartments in the context of item (if) clause (ii), it may be inferred that all affordable residential apartments in an ongoing project are not eligible for exercising the option of paying tax @12% with ITC. However the ongoing specified low cost affordable housing projects under the existing Central/State Government housing schemes are specifically covered by item (ie) and hence such entry being specific, will enable the promoters covered by such schemes to exercise the option of paying tax @8% with ITC or new rate @1% without ITC.

Conditions for Entry (ie) & (if):-

1st Proviso: Provided that in case of ongoing project, the registered person shall exercise one time option in the Form at Annexure IV to pay central tax on construction of apartments in a project at the rates as specified for item (ie) or (if), as the case may be, on or before 10/05/2019 or before the extended date.

2nd Proviso: Provided also that where the option is not exercised in Form at annexure IV on or before 10/05/2019 or before the extended date, option to pay tax at the rates as applicable to item (i) or (ia) or (ib) or (ic) or (id) above, as the case may be, shall be deemed to have been exercised.

3rd Proviso: Provided also that invoices for supply of the service can be issued during the period from 01/04/2019 to 10/05/2019 or extended date, before exercising the option, but such invoices shall be in accordance with the option to be exercised.

Taxation of Under-developed Plots under GST Act

Whether the activity of development & sale of land attracts tax under GST? This activity is commonly known as “sale of under-developed plots”. The question is whether it is covered by Schedule III Para 5 or Schedule II Para 5(b) of the CGST Act.

If it is held as mere sale of land, it shall be covered by Para 5 of Schedule III and not liable to tax being the activity “which is neither a supply of goods nor a supply of services. If it is held as covered by Para 5(b) of Schedule II, it shall be treated as service.

I am of the view that, sale of under-developed plots shall be treated as ‘construction of a complex intended for sale to a buyer’ covered by Para 5(b) of Schedule II and hence is covered under Entry 3(if). Therefore, after 1/3rd deduction for land, tax @ 18% shall be levied on balance 2/3rd amount of consideration.

In the case of **Shree Dipesh Anilkumar Naik**, Advance Ruling No.GUJ/GAAR/R/2020/11(in Application No. Advance Ruling/SGST & CGST/2018/AR/49) dated 19.05.2020 it was observed “sale of developed plot is not equivalent to sale of land, but is a different transaction. Sale of such plotted development, tantamount to rendering of service.

This view has also been taken by the Supreme Court in the case of **M/s Narne Construction P Ltd. reported at 2013 (29) STR 3 (SC)**. In present case, we also find that, his sales price includes the cost of the land as well as the cost of common amenities, Drainage line, Water line, Electricity line, Land levelling charges, etc. on a proportionate basis. We find that the activity of the sale of developed plots would be covered under the clause 'construction of a complex intended for sale to a buyer'. Thus, the said activity is covered under 'construction services' and GST is payable on the sale of developed plots in terms of CGST Act / Rules and relevant Notification issued time to time."

GSTN updates May 2021

Date of Issue	Subject
05/05/2021	Module wise new functionalities deployed on the GST Portal for taxpayers
17/05/2021	Generation of GSTR-2B for April 2021
31/05/2021	Extension of the due date of filing Application for Revocation of Cancellation of Registration

Source: www.gst.gov.in

Notifications/Circulars/Orders issued in the month of May 2021

Ø Central Tax Notifications May 2021

Notification Nos.	Date of Issue	Subject
08/2021	01/05/2021	Seeks to provide relief by lowering of interest rate for the month of March and April, 2021
09/2021	01/05/2021	Seeks to amend notification no. 76/2018-Central Tax in order to provide waiver of late fees for specified taxpayers and specified tax periods
10/2021	01/05/2021	Seeks to extend the due date for filing FORM GSTR-4 for financial year 2020-21 to 31.05.2021
11/2021	01/05/2021	Seeks to extend the due date for furnishing of FORM ITC-04 for the period Jan-March, 2021 till 31st May, 2021.
12/2021	01/05/2021	Seeks to extend the due date of furnishing FORM GSTR-1 for April, 2021
13/2021	01/05/2021	Seeks to make third amendment (2021) to CGST Rules.
14/2021	01/05/2021	Seeks to extend specified compliances falling between 15.04.2021 to 30.05.2021 till 31.05.2021 in exercise of powers under section 168A of CGST Act.
15/2021	18/05/2021	Seeks to make fourth amendment (2021) to CGST Rules, 2017.

Ø Central Tax (Rate) Notifications May 2021

No Central Tax (Rate) Notification was issued in the month of May 2021

Ø Integrated Tax Notifications May 2021

Notification Nos.	Date of Issue	Subject
01/2021	01/05/2021	Seeks to provide relief by lowering of interest rate for the month of March and April, 2021

Ø Integrated Tax (Rate) Notifications May 2021

No Integrated Tax (Rate) Notification was issued in the month of May 2021

Source: www.cbic.gov.in

Notifications/Circulars/Orders issued in the month of May 2021

Ø Circulars

Circular Nos.	Date of Issue	Subject
148/04/2021	18/05/2021	Seeks to prescribe Standard Operating Procedure (SOP) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration under section 30 of the CGST Act, 2017 and rule 23 of the CGST Rules, 2017.

Ø Orders

No Orders issued in the month of May 2021

Ø Removal of Difficulty Orders May 2021

No order was issued in the month of May 2021

Source: www.cbic.gov.in

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