GST

Real Estate Industry

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GPVS and Associates

Real Estate & Works Contract

- Before GST
- Transition to GST
- Taxability in GST
- Position during 2017-2019
- Position from 2019 April onwards

Real Estate & Works Contract in GST

- Article 366 (29A) – Deemed Sale
- VAT
- Service Tax

Real Estate & Works Contract in GST

Transition to GST - Section 142 (11) (c)

where **tax was paid on any supply both** under the Value Added Tax Act and under Chapter V of the Finance Act, 1994, **tax shall be leviable under this Act** and **the taxable person shall be entitled to take credit of value added tax or service tax paid under the existing law** to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.

Taxability of Real Estate – Schedule II

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

Taxability of Real Estate

Schedule III

Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building

Land & Land related Transactions

Taxability of Real Estate - RERA

"**real estate project (REP)**" 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 apartments, as the case may be,

Taxability of Real Estate - RERA

"**real estate project**" means ....

- for the purpose of selling all or some of the said apartments or plots or building, 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;

Taxability of Real Estate - GST

Residential Real Estate Project (RREP) shall mean

- a REP in which the **carpet area** of the commercial apartments is not more than **15 per cent**. of the total carpet area of all the apartments in the REP;

Taxability of Real Estate - RERA

"**carpet area**" means

- the net usable floor area of an apartment,
- **excluding** the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but
- **includes** the area covered by the internal partition walls of the apartment

Taxability of Real Estate - GST

"**affordable residential apartment**" shall mean, -

(a) a **residential apartment**

(b) having **carpet area** not exceeding **60 square meter** in metropolitan cities or **90 square meter** in cities or towns other than metropolitan cities and Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR)

(c) for which the gross amount charged is not more than **forty five lakhs rupees**

Taxability of Real Estate

Transition – 1st April 2019

- RREP & Residential Projects in-progress as on 31st March 2019
  - Opt for 5% or 1% (No ITC)
  - Opt for 12% (with ITC)
- RREP & Residential Projects Completed as on 31st March 2019
  - No Such Option

Real Estate – Promoter

- 80% of Inward Supplies Inputs & Input Services from Registered Persons
  - Exclusion – TDR, Electricity, HSD et all, Salary & Wages
- Any Shortfall – Pay RCM @ 18%
- On Cement RCM @ 28%
- Above applicable only if opting for 1% or 5%

Real Estate - Landowner

- TDR / FSI / Long Lease – RCM by Promoter
  - Residential in RREP or REP Before CC – Exempt
  - Any Residential After CC – 18% but restricted to 5% or 1% of the value of Apartment (1/3 dedn. allowed)
  - REP – 18%

Real Estate - Landowner

- TDR / FSI – Liability to Pay
  - When Building is Consideration – on Issuance of CC
  - Consideration in Cash
    - Residential – on Issuance of CC
    - Others - Immediately

Real Estate - Landowner

- Works Contract Service
- Apartment / Building received as Consideration
  - RREP – Affordable Housing – 12%
  - RREP Other than Affordable Housing & Commercial – 18%
  - Entitled to ITC on the above but restricted to Liability on Sale of his share of Apartments

Land & Land related Transactions

Invoice & Time of Supply

- Continuous Supply of Service
- Invoice
  - Payment due date available in contract
  - Payment due date NOT available in contract
  - Based on an Event

Works Contract – Exemption Nn12/2017

- Single Residential Building
  - Pure Labour only
  - Not applicable for Works Contract

Rule 42 & 43 – ITC Reversal

- Based on Carpet Area
  - Exempted
  - Total (incl. Commercial)

Few other points….

- Resident Welfare Association
- Corpus
- Works Contract Services

Thank you

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