



Week of 18th March, 2019

A. CHANGES IN THE GST REGIME

Constitution of GST Appellate Tribunal

The Central Government, in exercise of the powers conferred under section 109 of the CGST Act, 2017 and on the recommendation of the GST Council, has constituted the National Bench of the Goods and Services Tax Appellate Tribunal (GSTAT) at New Delhi by a issuing a notification for the same. This notification was to come into effect from the date of publication of the said notification in the Gazette of India (Extraordinary). This notification was published on the www.egazette.nic.in website on 14th March, 2019.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

34th GST Council meet

The 34th GST Council meeting held on 19th March, 2019 has discussed the implementation and operational details of the changes proposed in the real estate sector by the 33rd GST Council meeting held on 24th February, 2019 (Please refer to ALMT GST Update Volume 87 1st March 2019). These changes will be effective from 1st April, 2019 once notified. Some of the key discussions of the meeting are as under:-

• New tax rates

The new tax rates, which shall apply to the real estate sector, are as follows:-

- (1) Construction of affordable housing projects – 1% without ITC (present rate - 8% with ITC).
- (2) Construction of houses other than affordable housing projects – 5% without ITC (present rate – 12% with ITC)

• Conditions for availing the new tax rates

The conditions for availing the new tax rates are as follows:-

- (1) ITC cannot be availed; and
- (2) 80% of inputs and input services should be purchased from registered persons.

• Transition of ongoing projects

The promoters of the ongoing projects will be given a one-time option to continue to pay tax at the old rates on ongoing projects. Ongoing projects shall mean buildings where construction and actual booking have both

started before 1st April, 2019 and which have not been completed by 31st March, 2019. This option should be exercised once within a prescribed period and where the option is not exercised within the prescribed period, new tax rates will apply.

- **ITC provisions**

The ITC provisions will be amended to bring greater clarity on monthly and final determination of ITC and reversal thereof in the case of real estate projects. The amended provisions would clearly provide procedure for availing ITC in relation to commercial units as such units would continue to be eligible for ITC in a mixed project.

- **TDR/ FSI and long term lease project**

The following treatment shall apply to TDR/ FSI and long term lease projects commencing after 1st April, 2019:-

- (1) The supply of TDR, FSI or long term lease (premium) of land by a landowner to a developer shall be exempted from GST subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them.
- (2) Exemption of TDR, FSI or long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, however such withdrawal shall be limited to GST at the rate of 1% in case of affordable houses and 5% in case of other than affordable houses.
- (3) The liability to pay tax on TDR, FSI or long term lease (premium) shall be shifted from land owner to builder under the reverse charge mechanism (RCM).

Glossary

CGST – Central Goods and Services Tax

FSI – Floor Space Index

GST – Goods and Services Tax

ITC – Input Tax Credit

TDR – Transfer of Development Rights

GST Council – Goods and Services Tax Council, a constitutional body comprising of members of the Central and the State Governments to recommend changes under the existing GST regime.

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