



Week of 6th May, 2019

A. CHANGES IN THE GST REGIME

Integrated new portal

After the implementation of GST, the taxpayers are required to transact through www.gst.gov.in. The taxpayers who pay GST are also required to visit www.aces.gov.in for arrears of service tax payment or refund claims and other transactions under central excise and service tax law. In order to integrate the existing aces website functionalities of central excise and service tax with GST, the CBIC has vide circular no. 1069/2/2019/2019 CX dated 8th May, 2019 provided that a new portal www.cbic-gst.gov.in will be launched from 26th May, 2019. The data migration from Aces portal to the new portal has commenced from 2nd May, 2019. Post migration taxpayers will be able to log in on the new portal 'www.cbic-gst.gov.in' by using their existing user id & password.

FAQs on Real estate sector under GST

The GST department had issued a revised GST rate structure for real estate sector with effect from 1 April 2019 (For details, refer ALMT GST Highlight Volume 92). The CBIC has vide circular F.No.354/32/2019-Tru, dated 7th May, 2019 issued FAQs on real estate sector with reference to the revised new structure for guidance and easy understanding of all the stakeholders. The FAQs *inter alia* includes the rate of GST applicable, the definitions of the certain terms illustrated in verbatim as follows:-

- (1) "What are the rates of GST applicable on construction of residential apartments?"

With effect from 01-04-2019, effective rate of GST applicable on construction of residential apartments by promoters in a real estate project are as under:

- (i) *Effective rate of GST (after deduction of value of land) at the rate of 1% without ITC on total consideration in case of construction of affordable residential apartments.*
- (ii) *Effective rate of GST (after deduction of value of land) at the rate of 5% without ITC on total consideration in case of construction of residential apartments other than affordable residential apartments.*

The above rates are effective from 01-04-2019 and are applicable to construction of residential apartments in a project which commences on or after 01-04-2019 as well as in on-going projects. However, in case of on-going project, the promoter has an option to pay GST at the old rates, i.e. at the effective rate of 8% on affordable residential apartments and effective rate of 12% on other than affordable residential apartments and, consequently, to avail permissible credit of inputs taxes; in such cases the promoter is also expected to pass the benefit of the credit availed by him to the buyers.

(2) *What is an affordable residential apartment?*

Affordable residential apartment is a residential apartment in a project which commences on or after 01-04-2019, or in an ongoing project in respect of which the promoter has opted for new rate of 1% (effective from 01-04-2019) having carpet area upto 60 square meter in metropolitan cities and 90 square meter in cities or towns other than metropolitan cities and the gross amount charged for which, by the builder is not more than forty five lakhs rupees. [Cities or towns in the notification shall include all areas other than metropolitan city as defined, such as villages.]

In an ongoing project in respect of which the promoter has opted for new rates, the term also includes apartments being constructed under the specified housing schemes of Central or State Governments.

[Metropolitan cities are Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR) with their geographical limits prescribed by Government.]

(3) *What is an on-going project?*

A project which meets the following conditions shall be considered as an ongoing project.

- (a) Commencement certificate for the project, where required, has been issued by the competent authority on or before 31st March, 2019, and it is certified by a registered architect, chartered engineer or a licensed surveyor that construction of the project has started (i.e. earthwork for site preparation for the project has been completed and excavation for foundation has started) on or before 31st March, 2019.*
- (b) Where commencement certificate in respect of the project, is not required to be issued by the competent authority, it is to be certified by any of the authorities specified in (a) above that construction of the project has started on or before the 31st March, 2019.*
- (c) Completion certificate has not been issued or first occupation of the project has not taken place on or before the 31st March, 2019.*
- (d) Apartments of the project have been, partly or wholly, booked on or before 31st March, 2019.*

(4) *What is the criteria to be used by an architect, a chartered engineer or a licensed surveyor for certifying that construction of the project has started by 31st March, 2019?*

Construction of a project shall be considered to have been started on or before 31st March, 2019, if the earthwork for site preparation for the project has been completed, and excavation for foundation has started on or before the 31st March, 2019.”

B. PROPOSED CHANGES AND INDUSTRY ISSUES

E-invoicing under GST

As per media reports, all invoices for business-to-business (B2B) sales by entities beyond a specified turnover threshold will be generated on a centralized government portal by September. This move by the government is intended to control the menace of fake invoices and evasion of GST. Based on the success of the project in the B2B segment, the government would look for extension of the project to business-to-consumer (B2C) sales in sectors where the probability of tax evasion is high.

GST on real estate sector

Ongoing real estate developers can choose to avail the old or the new GST rates by 10th May, 2019. If the developers do not opt for any of the rates then the new rates will mandatorily apply. As per media reports, buyers of identical flats in same complex but in two different buildings may end up paying different GST rates after 1st April, 2019 due to the new GST rate structure in the real estate sector.

Glossary

CBIC – Central Board of Indirect taxes and Customs

GST – Goods and Services Tax

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