CREDAI-MCHI

Ref. No. MCHI/PRES/20-21/020

September 29, 2020

To,

Shri Ajit Pawar ji
Hon'ble Deputy Chief Minister &
Finance Minister
Government of Maharashtra

**Sub: Request for your kind recommendation of GST related Reliefs for the Real Estate Industry at the next GST council meet**

Respected Sir,

CREDAI-MCHI is an apex body consisting of members from the Real Estate Industry among Mumbai Metropolitan Region (MMR). It is the most prominent and the only recognized body of Real Estate Developers in Mumbai and MMR.

Under the new GST regime, the total cost impact on real estate sector has increased due to non-availability of Input Tax Credit (ITC). This additional cost due to non-availability of ITC is an added burden for a citizen buying his dream house. Further this has resulted into slowing down of demand in an already sluggish real estate market. Other key issues are GST implication on rehab portion, GST on TDR, Limit of Rs 45 Lakhs for Affordable Housing benefit, etc.

Sir, you being the Finance Minister for the State of Maharashtra, which has large cities as major contributor to GST collection, are requested to strongly represent our GST related especially with regard to Mumbai. Any such GST related relief shall boost the redevelopment prospective of such impending projects and thereby help in creating better infrastructure and Standard of Living.

We therefore request you to take up issues in forth coming GST Council meet on 5th Oct 2020 to look into the aspects affecting Real Estate sector.

It is with this background that we are attaching herewith our short presentation on issues / suggestion for GST and the relief that is being sought for Real Estate.

Thanking you,

Yours Faithfully,
**For CREDAI-MCHI**

| | |
|---|---|
| **Deepak Goradia** | **Pritam Chivukula** |
| President | Hon. Secretary |

लिपिक
उपमुख्यमंत्री यांचे कार्यालय
महाराष्ट्र शासन
मंत्रालय, मुंबई ४०० ०३२

**Encl: Annexed**

**CC**

1) **Shri Manoj Saunik (I.A.S.)**
**Additional Chief Secretary**
**Finance Department**
**Government of Maharashtra**

CREDAI-MCHI
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# CREDAI – MCHI

## GST ISSUES BY REAL ESTATE SECTOR

# IMPACT OF PANDEMIC


Housing sales reduced by 54% in the first half of 2020

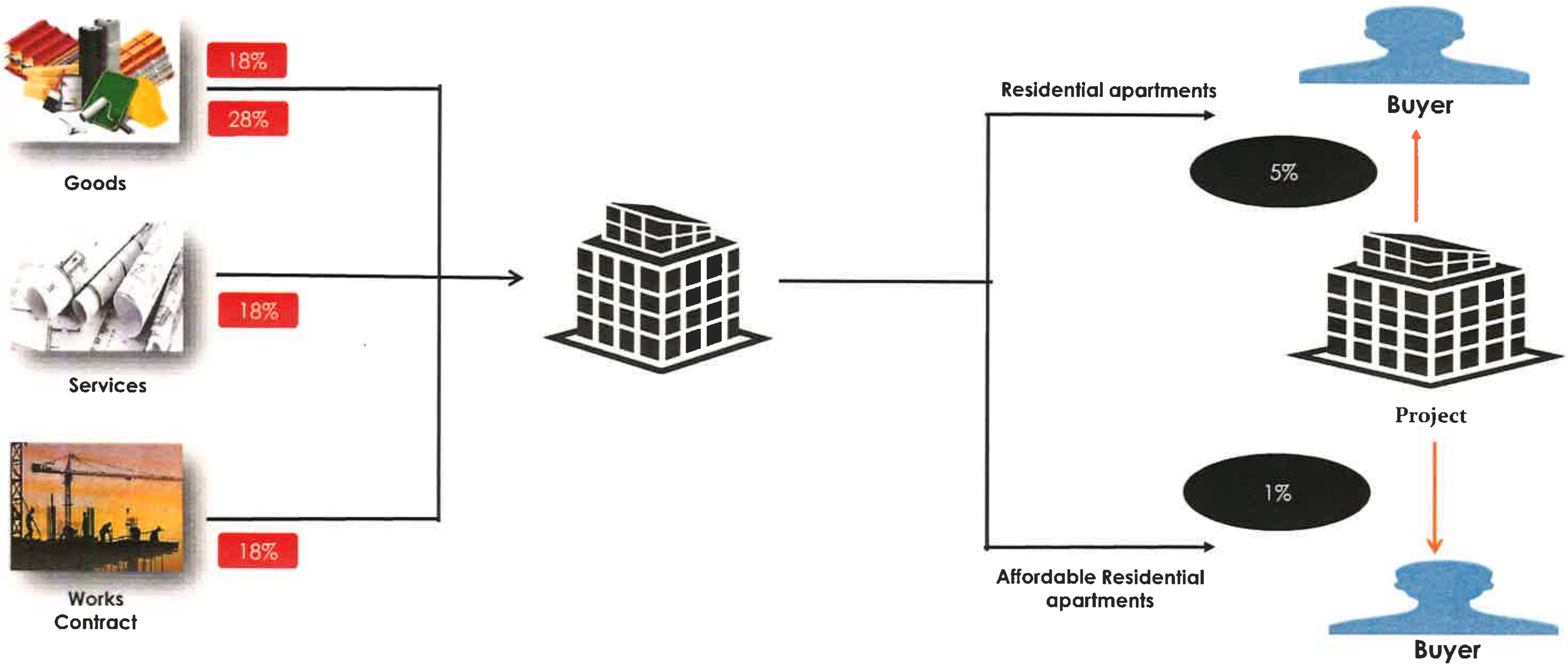
New launches fall by 46%

Commercial leasing reduced by 37% in first half of 2020

Pandemic continues to significantly hamper the Real Estate Sector

***Source: moneycontrol.com***

# SCENARIO POST APRIL 1, 2019




**Restriction on availment of credit post April 1, 2019**

# RESTRICTION ON AVAILMENT OF CREDIT

- Post April 1, 2019 Developer is **not** entitled to GST credit
- Material & Labour are liable to GST @ 18% whereas Cement is liable to 28%

| Particulars | | Amount |
|---|---|---|
| Sale value of Flat | A | 1,00,00,000 |
| Less: Value of Land (as per GST @ 33%) | B= A*33% | 33,00,000 |
| Value of taxable supply | C = A-B | 67,00,000 |
| GST @ 5% | D = A*5% | 5,00,000 |
| Loss of Credit (Cost of Construction*18%) | E = 50% of A*18% | 9,00,000 |
| Total tax | F = D + E | 14,00,000 |
| % of Total Tax | G = F / C | 20.90% |

**GST @ 20+ % and Stamp duty @ 5-6%, makes buying a home unaffordable**

# RELIEF SOUGHT

**01 | Reduction in GST Rate**

Normal rate of GST on sale of flat be reduced to 12% [effective rate of 8% after land deduction]

**02 | Option to Developer**

Pay GST @ 8% and avail ITC;

OR

Pay GST @ 5% without ITC

# SALE OF COMMERCIAL PROPERTY

Pre-April 2019 - GST treatment was aligned for commercial property and residential property

Post-April 2019 – Differential treatment under GST Law for residential property vis-à-vis commercial property

**RELIEF SOUGHT**

As existed pre-April 2019, residential and commercial property should have same treatment under GST

# DEFINITION OF AFFORDABLE HOUSING

Pre-April 2019 – The criteria for affordable housing was based on the area of the unit i.e. 60 sq. mtrs carpet area

Post-April 2019 – Additional condition based on value of the unit was introduced

## RELIEF SOUGHT

As existed pre-April 2019, Affordable Housing should continue to be determined based on area only

- Metro – 60 sq. mtrs
- Non-Metro–90 sq. mtrs.

# APPLICABILITY OF GST ON TDR / LONG TERM LEASE (LTL)

TDR and LTL are rights arising out of land but not excluded from levy of GST

Schedule III of GST Law does not treat sale of land as supply of goods or services

**Legislations that treat TDR / LDL as transaction in Immovable Property**

- The General Clause Act, 1897
- The Transfer of Property Act, 1882
- The Maharashtra Regional and Town Planning Act, 1966

# RELIEF SOUGHT

01

## Amendment to Schedule III

Schedule III to be amended to exclude benefits arising from Land such as TDR, FSI etc.

02

## Exemption to LTL

Exemption to LTL as the same is akin to sale of land

# REDEVELOPMENT / SRA

March 2019 Notifications provide that area handed over to Slum Dwellers/ Society Members / Authorities / Landowner liable to GST on a value equivalent to market value of similar flats

Applicable GST on rehab and Landowner area borne by Developer

## Multiplicity of taxation

- ❑ Cost of rehab building / Landowner area already included in value of flat sold to independent buyer
- ❑ No ITC available to Developer for GST paid on such area
- ❑ No ITC available on cost of construction of the entire project

# RELIEF SOUGHT

**Units handed over to Slum Dwellers / Society Members / Authorities / Landowner should not be subject to GST**

# Credit restriction on Commercial Development for Lease

- Section 17(5) blocks ITC of GST paid on construction of Immovable property
- Same immovable property is given on lease and GST paid @ 18%
- Non credit leads to cascading effect of GST

# RELIEF SOUGHT

## Option I

Construction of building is inward supply for renting services and hence ITC should be allowed

## Option II

If ITC is not allowed, the rate of GST on renting should be reduced to 5%

# ANTI-PROFITEERING

- Real Estate Sector echoes the introduction of Anti-Profiteering provisions under the GST Law
- All Developers have passed on the benefit to the buyers
- Unfortunately, no methodology is prescribed for determination of profiteering for the Sector
- NAA has not considered the nuances / peculiarities of the Sector
- Profiteering determined based on a normal supplier who supplies goods such as FMCG, electronics etc.

NAA approach has resulted in large demands and protracted litigation between the Developer and Buyer and also between Developer and Tax Authorities

# RELIEF SOUGHT

Formation of a Special Committee to prescribe a mechanism to determine profiteering for Real Estate Sector

- Project continues for more than 3 years and hence profiteered amount to be computed at end of project and not intervening period
- Benefit only to the extent of ITC benefit not available in earlier regime but now available
- It needs to be considered that Developer offers various milestone based payments to different buyers
- Comparison of % of ITC pre and post GST not possible

**STAY ON ANY ACTION BY NAA TILL SUCH MECHANISM**

# THANK YOU