CREDAI-MCHI

O/C

Ref. No. MCHI/PRES/18-19/085

December 18, 2018

राज्यकर आयुक्त,
वस्तु व सेवा कर विभाग,
महाराष्ट्र राज्य मुंबई.
आवक क्र. 3913
दिनांक -18 DEC 2018
कर सहाय्यक

To,
Hon'ble Shri Arun Jaitley
Minister for Finance
Government of India
North Block
New Delhi - 110 001

Sub: Urgent need for the Government to clarify that Effective GST incidence on flats and buildings is not revenue neutral to the effective Pre-GST tax incidence.

Ref: CBIC /CBEC Advertisement titled "Effective rate of GST on flats and building" in the Economic Times Mumbai Edition dated 12 Dec 2018. (Copy Attached for ready reference)

Respected Sir,

<u>Background:</u>

CREDAI-MCHI is an apex body consisting of members from 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. We bring together members dealing in Real Estate Development on one common platform to address various issues facing the Industry. With a strong Membership of over 1800 leading Developers in Mumbai, CREDAI-MCHI has expanded across MMR, having its own units in the region of Thane, Kalyan-Dombivli, Mira-Virar, Raigad and Navi Mumbai. CREDAI-MCHI is recognized by Government of Maharashtra and the Central Government and helps in meeting their objectives of providing housing, which is a basic necessity India's biggest tax reform is now a reality. The comprehensive dual Goods and Services Tax (GST) has replaced the complex multiple indirect tax structure since 1 July 2017. Since the inception of the GST regime, the Government is trying to simplify the indirect tax structure through ongoing amendments.

With reference to a recent advertisement from CBIC/CBEC Advertisement titled "Effective rate of GST on flats and building" in the Economic Times Mumbai Edition dated 12 Dec 2018, CREDAI-MCHI would like to strongly put on records its disagreement to the same. As the ground realties are very contrasting to that proclaimed in the aforementioned advertisement, CREDAI-MCHI would sincerely and humbly request the government and relevant authorities to take a better and more learned view of subject matter and issue and immediate clarification, both in the interest of the Real estate industry and consumers perception and sentiments.

In support of our disagreement, we do herby submit certain relevant and pertinent facts and figures for kind perusal.

CREDAI-MCHI
Maker Bhavan II, 4th Floor, 18, V. Thackersey Marg, New Marine Lines, Mumbai - 400 020.
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1. Land Deduction:

Relevant provision

GST Regime	Service tax Regime
The tax rate is stipulated at 18% in case of sale of under construction flats vide notification no 11/2017- Central Tax (Rate) dated 28.06.2017. After allowing presumptive deduction for land cost at 1/3rd of sale value of the flat, the effective tax rate comes to 12% of flat value *[except few notified specified Housing Schemes where the effective tax rate is 8%]*	Abatement of 70% on gross amount charged towards the unit without input tax credit in respect of inputs used towards construction service i.e. the Developer was permitted to avail the credit on input services and Capital goods as defined under Cenvat Credit Rules, 2004 [Notification No. 26/2012 Service tax dated 20.06.2012]

Ground facts and figures:

a. Under Service tax regime, an abatement of approx. 70% on the gross value charged was permitted along with credit of input services and capital goods and only credit of inputs was not permitted which is approx. 1.5 to 2 % of the total input tax cost incurred by the Developer.

b. Under the GST Regime, a presumptive land deduction of 1/3rd of sale value of flat has been permitted. It is important to note that 33% deduction towards land in most cases is not commensurate to the cost of land. The actual land value differs from area to area, city to city. Moreover, in metros, cost of land is major component of the cost of a project and it always exceeds 33%. **This indirectly results into levy of GST on land value which is not in consonance with GST legislation which specifically excludes land from scope of supply and/or levy of GST**.

c. The aforesaid can be easily understood with the help of following example:

		Premium Location (Metro City)	**Medium Location (Metro City)**	**Tier II & III City**
		Rs per sq feet		
Sale price	**A**	70,000	40,000	5,000
Land cost	**B**	50,000	27,500	1,500
Land Cost (as % of Sale Price)	**B/A**	71.4%	68.8	30
Presumptive Deduction for land cost (1/3rd of A)	**C**	23,333	13,333	1,667
Value of land on which GST is paid (B - C)	**D**	26,667	14,167	-
GST on Land @ 18% (D x 18%)	**E**	4,800	2,550	-

d. A presumptive deduction of 1/3rd of the sale value of the flat across the country (being attributed to the cost of land) may not be the appropriate basis. For example, in a metro city like Delhi or Mumbai, the cost of land (on a per square foot basis) is much more than the cost of construction (on a per square foot basis) and in fact in some cases the land cost is more than 10 times that of the construction cost.

Such standardized ratio being applied across the board for the deduction in land cost does not provide the true deduction towards land value.

e. Most importantly, all input costs that are incurred by the real estate sector do not suffer GST like, land cost, approval cost, finance cost and employees cost. The Government is under a bona-fide belief that real estate developers will be eligible for input tax credit of material and passing that credit to customers will offset the rise in the tax rate. In reality, impact of additional input tax credit available on materials and contracts in GST regime is very nominal as compared to hike in effective tax rate particularly in cases where the actual land cost is in multiples of the construction cost. The cost of construction (material and services) is usually in the range of Rs. 2,000 - 5,000/- per square feet. Average input tax on such construction cost comes in the range of Rs.400 to 1000/- per square feet. Assuming that the selling rate of flat is Rs. 40,000/- per square feet, additional output tax is 6.50% of Rs. 40,000/- i.e. Rs. 2,600/-. The net tax incidence on customer would Rs. 2,200 to 1,600/- per square feet when developer passes on input tax credit of Rs.400 - 1000/- to customer. The additional tax incidence is in the range of 4 to 5.5% of flat value which is exorbitant from any standard.

f. This incidence (with minimal set off against the input depending on the location of the property) would ultimately be passed on the actual consumers and is thus bound to increase the cost of housing; and the same will not be socio-economically desirable.

Our Prayer

In light of the facts as submitted above CREDAI-MCHI would sincerely and humbly request the government and relevant authorities to take a better and more learned view of subject matter and issue and immediate clarification, both in the interest of the Real estate industry and consumers perception and sentiments.

Thanking you,

Yours Sincerely,
For CREDAI-MCHI

Nayan A. Shah	**Bandish Ajmera**	**Sanjiv S. Chaudhary MRICS**
President	Hon. Secretary	CREDAI-MCHI Secretariat

CC

1. **Hon'ble Shri Narendra Modi,** Prime Minister, Govt. of India
2. **Shri Sushil Kumar Modi,** Dy. Chief Minister, Govt. of Bihar & Chairman for All State Finance Minister, GST Council, Govt. of India
3. **Shri A. B. P. Pandey (I.A.S.),** Secretary, Department of Revenue, Govt. of India
4. **Shri Rajiv Jalota (I.A.S.),** Commissioner State Tax (GST), Maharashtra, Mumbai
5. **Shri Shantilal Kataria, President,** CREDAI – Maharashtra (Mumbai),
6. **Shri Jaxay Shah, President,** CREDAI – National New Delhi – 110 016s

CREDAI, MAHARASHTRA
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Rajgir Chambers,
Opp. Old Custom House,
Fort, Mumbai - 400 001.
Date - 18/12/18

YEARS OF CELEBRATING THE MAHATMA

Effective Rate of GST on Flats & Buildings

NATION TAX MARKET

Cost of Complex/Building/Flat has not gone up due to implementation of GST.

Buyers of constructed property, please note that there is no GST on sale of complex/ building and ready to move-in flats where sale takes place after issue of completion certificate by the competent authority.

GST is applicable on sale of under-construction property or ready to move-in flats where completion certificate has not been issued at the time of sale.

Effective rate of tax and credit available to the builders for payment of tax are summarized in the table below for pre-GST and GST regime.

Period	Output Tax Rate	Input Tax Credit details		Effective Rate of Tax
Pre-GST	Service Tax: 4.5% VAT: 1% to 5% (Composition Scheme)	Central Excise on most of the construction materials: 12.5% VAT: 12.5 to 14.5%	No Input Tax Credit (ITC) of VAT and Central Excise duty paid on inputs was available to the builder for payment of output tax, hence it got embedded in the value of properties. Considering that goods constitute approximately 45% of the value, embedded ITC was approximately 10 – 12%.	Effective pre-GST tax incidence: 15 – 18%
GST	Affordable housing segment: 8%, Other segment: 12% after 1/3rd abatement of value of land	Major construction materials, capital goods and input services used for construction of flats, houses, etc. attract GST of 18% or more.	ITC available and weighted average of ITC incidence is approximately 8 to10%.	Effective GST incidence, for affordable segment and for other segment has not increased as compared to pre-GST regime.

Housing projects in the affordable segment such as Jawaharlal Nehru National Urban Renewal Mission, Rajiv Awas Yojana, Pradhan Mantri Awas Yojana or any other housing scheme of State Government etc., attract GST of 8%. For such projects, after offsetting input tax credit, the builder or developer in most cases will not be required to pay GST in cash as the builder would have enough ITC in his books of account to pay the output GST.

For projects other than affordable segment, it is expected that the cost of the complex/ buildings/ flats would not have gone up due to implementation of GST. Builders are also required to pass on the benefits of lower tax burden to the buyers of property by way of reduced prices/ installments, where effective tax rate has come down.

GST - A Good & Simple Tax

Central Board of Indirect Taxes and Customs &
Commercial Taxes Departments of States/Union Territories
www.cbic.gov.in, www.cbec-gst.gov.in