

Ref. No. MCHI/GEN/12-13/051

July 26, 2012

To,
SHRI SUSHIL SOLANKI
Commissioner, Service Tax I, Mumbai
5th Floor, New Central Excise Building,
115, M. K. Road, Churchgate,
Mumbai – 400 020.

Dear Sir,

Sub: Required some clarification regarding Service Tax on Construction Industry.

With reference to the subject matter we require clarification on the following issued;

(1) Service Tax on Redevelopment :

- Builder may or may not provide extra area to current members of the society.
- Builder will complete work by employing labour by himself i.e. no contract work will be given.
- He will purchase extra T.D.R. (may be in his name or society's name?) and develop extra area which he will sell to prospective buyers.
- He will receive no consideration from current members for redevelopment.
- The prospective members will be admitted to the existing society as members.
- Builder will enter into "Agreement for Sale" with the prospective buyers.
- Builder give extra area to existing members against some charge or without any charge.
- Arrange rental accommodation for tenants.

- Pay an additional amount to original buyers.
- Reconstruction by Society itself by engaging a builder/developer and extra flats sold by the society to new buyers not by the builder/developer.

(2) Service Tax on SRA projects:

- Is service tax applicable on SRA Projects prior to Finance budget 2012. Now what's status, if amount received or not received from slum dwellers who are allotted the flats in rehabilitation building?

(3) Service Tax on Preferential Locations:

Normally developers are charging floor rise charges, which are covered under the preferential location charges.

Since these charges are in the nature of service provided by the builder to the buyer of the property over and above the Construction Service, but in fact the Construction Cost increases as per floor rise, that's why the builder is charging normally 50/- to 100/- Rs. per sq.ft., per floor rise extra other than the normal flat rate.

Therefore this floor rise charges should not be clubbed in preferential location charges and service tax should not be levied at higher rate i.e. 12.36% on such amount but should be as 3.09% only.

We therefore request to your goodself, kindly clarify in details in regards to above three points.

Thanking you,

Yours truly,
For MCHI-CREDAI

C. P. Goyal
Chief Manager, Finance

March 13, 2012

To,
SHRI SUSHIL SOLANKI
Commissioner, Service Tax I, Mumbai
5th Floor, New Central Excise Building,
115, M. K. Road, Churchgate,
Mumbai – 400 020.

Dear Sir,

Sub: Required Some clarification regarding Service Tax on Construction Industry.

The Service Tax imposed by the Central Government from 1st July 2010 on Construction Industry. We are having some queries related to this as below. It will be highly appreciated if you could clarify our queries.

1. If we have collected the Service Tax amount from the Flat buyer for the Flat sold after getting Completion Certificate and the same have been deposited with the Service Tax Department also. How we can get it refund.
2. If the buyer has cancelled the Flat at any stage and whatever Service Tax collected has been deposited with the department and the same flat has not been resold so far then how we can get refund from the department.
3. If the developer has collected some money from the open market against the allotment letter of flat, with the condition that if the developer will repay the Loan amount within stipulated time, then the person will return the allotment letter, then, on such type of deals should developer has to pay Service Tax at the time of taking the Loan amount.
4. If the developer constructs its own up to 40% construction and thereafter if any buyer comes then should developer charge the service tax on this 40%, construction also.
5. Sir, our matter was with the High Court from July 2010 to 20th January 2012, during this tenure.