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March 02, 2019

To,
Shri Ajay Bhushan Pandey (IAS)
Secretary
Department of Revenue
Government of India
North Block, New Delhi - 110 001

Sub: Representation on proposed GST amendments for Real Estate Sector

Respected Sir,

Real Estate agreements are long term contracts and a continuous supply. In GST regime the developers are allowed full credit of GST, accordingly the benefits of GST credit has already been factored in the sale prices of residential units.

Now as per the council recommendations, it is proposed that GST rates of 1% for affordable housing and 5% for normal housing shall be applicable without any GST credits. There are various transitional issues in respect of ongoing contracts some of which are discussed as follow:

1. Transition of the existing contracts/transactions which has been entered prior to 1st April 2019:

Since the existing contracts are fixed price contracts, developers will suffer substantial losses due to increase in construction cost on account of the loss of GST input credit. Hence it is recommended that:

Option 1: New GST rates be made applicable only to new sales done after 1.4.2019.

Rationale: The pricing for all sales in the existing regime has been done on basis of GST (or earlier, ST) having ITC and hence, the same is allowed to be continued for such partly implemented contracts till such time that the contract is completed.

2. Unutilised GST credit with Developers

There is significant unutilized GST input credit with developers which is available for offset against future sales / GST liability. However, now that GST is being proposed without ITC, it is recommended that the developers should be allowed to offset such input credit against the GST liability after 1.4.19.

The accumulated credit is readily available in the GST returns of the developers. Alternatively the transition provisions may be introduced for developers to declare available input credit as on 31.3.2019.

Rationale

The credit accumulation is mainly on account of unsold inventory and the taxes on construction cost for which has already been recovered by the Government. Hence, the developers should be allowed to offset the same credit against GST liability after 1.4.19. The same will ensure that consumers gets full benefits of the reduced GST rates and maintain the prices.

3. GST rates on Construction Contractors/ Sub Contractors :

Currently the Works contract services for houses for upto 60 Sqmt carpet area in an affordable housing project is chargeable @ 12% (irrespective of the value of houses). Now definition of affordable housing has been changed for the purposes of levy of GST to customer. It is recommended that:

Option 1: The GST rates on all sub contracts shall also be reduced @ 12%.

Option 2: Definition of affordable housing for the purposes of determining the rate chargeable for inward supplies should be kept the same as before and the new rates are made applicable only on contract between the developers and consumers.

Option 3 : For the purposes of ongoing contracts as on 24.2.2019 or 31.03.2019, the definition of affordable housing be kept the same as before.

Rationale

If the GST rates on construction contracts are not reduced the cost of construction will increase substantially. Also by reduction in the rates without any input tax credit to developers will not have any major impact on the Govt revenue.

4. GST Rates on work Contract Services for Slums and redevelopment buildings

In Mumbai city due to lack of open / virgin land, the redevelopment mainly happens under following schemes:

- a. Slum Rehabilitation Schemes
- b. Redevelopment of old cessed and tenanted buildings
- c. Redevelopment of old buildings of society.

These constitutes pre-dominant segment of real estate sector impacting housing for lower income group, middle income group and higher middle income group.

The work carried out by developer for SRA, MMRDA and old societies, being a works contract services, will continue to be taxed at 12/18% even after 01.04.2019. The tax incidence in respect rehab flats allotted to SRA, old tenants and society members are borne by the builder / developer. It is a huge cost to him. He is getting development potentials for providing such rehab construction services under Development Control Rules ('DCR') of

Maharashtra state. In substance, the rehab construction cost incurred by developer is nothing but cost of acquiring land rights / development rights. The government has made policy decision to exempt development rights, TDR, FSI, etc. Such exemption should also be granted in respect of projects done under this schemes. In the current scenarios GST cost for redevelopment project is more than vacant land project which is making such redevelopment projects unviable.

Rehab constructions is in nature of socio-economic services. It is recommended that rehab construction services should be taxed at nominal rate of 1% of construction cost and all ITC against it should be allowed to be used against saleable flats. This will make development under such schemes feasible for the developers.

5. Affordable Housing cost in MMR

The cost of house of 60 sq. mt. in MMR area will always be above Rs. 45 lakhs due to high land prices. None of such house in MMR area will qualify for concession rate of 1% for affordable house. This makes the relief illusionary for citizens of this area.

It is therefore represented that the proposed limit of Rs. 45 lakhs to qualify for affordable house be raised to Rs. 1.5 crores for Mumbai City and Mumbai Suburbs (MCGM Limits) and to Rs. 1 crore for Thane and the rest of MMR.

We do hereby sincerely request for an immediate appointment for our delegation to sit and discuss the above critical issues in person with you. Should the above issues not get addressed at the earliest possible, the negative impact of the same on the entire MMR Real Estate Market would be catastrophic.

We look forward to your confirmation of a convenient date and time for a meeting.

Thanking you,

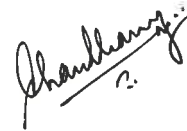
Your sincerely,
For CREDAI-MCHI



Nayan A. Shah
President



Bandish Ajmera
Hon. Secretary



Sanjiv S. Chaudhary MRICS
Chief Operating Officer