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Naman Shah

PROCUREMENT CONVENOR
Nimish Ajmera

WOMEN'S WING CHAIRPERSON
Sejal Goradia

To,
Smt. Nirmala Sitharaman ji,
Hon'ble Finance Minister,
Government of India.

Sub: GST sought to be charged on flats constructed free of cost for existing Tenants, occupants, slum dwellers in re-development projects impeding progress in achieving the goal of "Housing for All".

Respected Madam,

At the Outset we would like to thank you for the remarkable Job that you, your Ministry and the entire Government of India has done in these uncertain post covid times to launch our country into fast stream towards double digit growth while the rest of the world is languishing towards recessionary times. India has truly become a beacon of hope for the entire world as we forge ahead to take our rightful place as a "World Leader".

Mumbai is the financial capital of our country and attracts some of the best human talent not only from across the Country but from overseas as well. This has led to a habitation problem as Mumbai is a linear city surrounded by water on nearly all sides and presently it is unable to provide accommodation at the pace required to fulfill the requirements of this maximum city.

A: Predominant form of Real Estate Construction in the city is through the medium of redevelopment

- 50-55% of the city's population resides in Slums
- There are _____ dilapidated buildings which need urgent development to safeguard the lives of existing users as well as provide additional housing stock by vertical expansion.
- Existing Housing Societies want to go into redevelopment to construct modern homes with all amenities to move with the times.
- MHADA and public body owned housing societies which are in urgent need of redevelopment.

B: Regulations governing Redevelopment in the city

DCPR 2034 are the regulations which govern redevelopment in the city of Mumbai. Through various incentive based regulations like 30A-regular redevelopment, 33(10)-Slum redevelopment, 33(5) & 33 (7)-Mhada redevelopment, 33(7A&B)-redevelopment of dilapidated buildings, 33(12)- redevelopment of contravening structures, 33(9)-Cluster redevelopment and many more are all schemes floated by the government to entrust the private developers with making new homes for existing slum dwellers/occupants/housing society members/Mhada tenants etc. by incentivizing them with additional FSI with which they can further construct house for their Sale Component which can then be sold in the open market to recoup cost of construction for the Rehab as well as Sale. The DCPR 2034 are designated legislation and have the force of the statute behind them and the Developers are governed by them in terms of their redevelopment projects.

C: How is GST adversely affecting redevelopment in the City of Mumbai.

The GST department is seeking to charge GST on the provision of free houses for the existing slum dwellers/occupants/housing society members/Mhada tenants etc. This is misplaced for the following reasons.

Maharashtra Chamber of Housing Industry

Maker Bhavan II, 4th Floor, 18, V. Thackersey Marg, New Marine Lines, Mumbai - 400 020.
Tel: 42121421, Fax: 4212 1411/407 Email: secretariat@mchi.net Website: www.mchi.net

CREDAI-MCHI CHAPTERS : THANE | KALYAN-DOMBIVLI | MIRA BHAYANDAR | RAIGAD | NAVI MUMBAI

BHIWANDI | PALGHAR BOISAR | SHAHAPUR-MURBAD | URAN-DRONAGIRI |
VASARIKAR | ALIBAG | KARJAT-KHARJAT-KHARJAT-KHARJAT

- a) The Houses are being provided free of cost and hence there is no consideration. The Department is seeking to link the receipt of Sale FSI as consideration for charging GST. The FSI flows through the regulations and not through the existing tenants/slum dwellers/mhada tenants/occupants as the case may be.
- b) Leads to double taxation as the cost of Rehab is already ingrained in the cost of flats being sold in the open market (sale component) on which the developers are already collecting GST and discharging their liability. The settled Judgement of Vasantha Greens in the service tax era makes it abundantly clear that GST cannot be charged for something constructed for internal consumption when the finally end product is offered for GST.
- c) DCPR 2034 being designated legislation have the power of statute and once the statute demands the functioning in a particular manner, GST cannot be charged on such actions governed by the regulations and imposed upon the developers.
- d) The Developers are not in the business of constructing free houses. The imposition of construction of rehab house is effectively shifting the burden of redevelopment of the city from the public to the private domain.
- e) The Department is seeking to value the notional transaction of provision of free houses at full market prices which further aggravates the issue as the Developer is then eventually paying GST @10% in composite scheme and 36% (24% after land abatement) on sale of flats to customers as the cost of bearing the GST on Rehab is factored in the price which is so increased to cover the additional cost. Please find hereinbelow the example to corroborate our point.

Plot of Land Area:	10,000 sq.mtrs.
Land Rate as per RR=	Rs 100,000/sq.mtrs
Residential rate as per RR:	2,15,000/sq.mtrs
Existing construction used by tenants:	10,000 sq.mtrs
FSI available on redevelopment:	2 plus Fungible FSI
Area to existing tenants:	13500 sq.mtrs
Area for Sale:	13500 sq.mtrs
Construction area: (13500 + 13500)*1.6	43200 sq.mtrs
Cost of Construction: (43200* 10.764 * Rs 3000 psf)	Rs.140 crores
GST on Input for both rehab and sale (average 18%)	Rs.25 crores (NO ITC)
Premium FSI cost = (5000 sq.mtrs * 100,000 * 60%)	Rs. 30 crores
TDR Cost (5000 sq.mtrs * 100,000 * 50%)	Rs. 25 crores
Fungible cost (3500* 100,000 * 50%)	Rs. 17.5 crores
MCGM & other costs (assumed at Rs 500 psf)	Rs. 25 crores
Total Cost	Rs. 262.5 crores
Sales	Rs. 290 Crores
Profit before Tax	Rs 27.5 Crores
GST on Sale	Rs. 14.5 crores (paid by customers)
GST on Rehab (sought to be charged by Department)	Rs. 14.5 crores
Profit After GST burden on Developer =	Rs 13 Crores
GST charged on GST on input materials/services:	Rs. 1.25 crores

Therefore, it can be seen from the above example that the Developer is paying 10% GST on sale component (5% by customers and 5% to be borne by him). As can be seen from the above example, the GST sought to be charged on Rehab is making the project and development unviable.

D: Our Humble Submission

We humbly request you consider the spirit of the entirety of the transaction and the fact that the construction of rehab houses is only a means to an end and not the end itself.

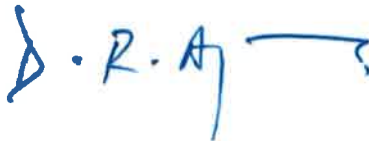
Under the circumstances in order to boost the real estate development of the city and remove uncertainty we request you humbly consider our request to do away from seeking to charge GST on rehab flats given free of costs to existing occupants/members/tenants/slum dwellers etc. We request you to direct your department to issue a clarificatory circular stating that the provision \ of free houses shall not attract GST.

Thanking you in anticipation

Yours sincerely,
For **CREDAI-MCHI**



Domnic Romell
President



Dhaval Ajmera
Hon. Secretary