

Date: 19.03.2019

**Real Estate: 34<sup>th</sup> Council Meeting on Tuesday, March 19, 2019 – A Quick Update**

1. The proposed new scheme of payment of composition tax (5% or 1% as the case may be, without any input tax credit benefit (supposed to be composition tax), as decided in the last GST Council meeting held on 24<sup>th</sup> Feb, to be made effective from 01.04.2019. High value projects to be cheaper, and low value projects to be costlier with this new scheme. Builders worried about how to deal with the existing customers of ongoing projects. While customers may insist on the new (lower) tax rate on the same base price, builders may insist on a higher landed price (considering the loss of ITC). Therefore, representations were made to allow the builders an option to continue with the same old rate and benefits, in respect of the ongoing projects.

Accordingly, in case of ongoing projects as on 01.04.19, option is given to either continue with the old scheme, or switchover to the new scheme.

2. No Transition Option for New Construction (Source: Tweets): It seems, for new projects to commence on and after 01.04.2019, there will be no option, but to go by the proposed new scheme of composition tax @ 5% or 1%, as the case may be.

This would eliminate the possibility of litigation between the builders and the customers regarding the benefit of reduced rate. The builders will now be free to decide their sale price, considering non availability of input tax credit benefit, and the new rate of tax.

3. While a builder has been allowed to claim full input tax credit benefit during construction of a project for sale, on completion of the projects, reversal of credit was not required to be proportionate to the unsold area. Similarly, in case of an ongoing project, if they are to pay tax at the new rate of 5% or 1% as the case may be, without any corresponding ITC benefit, reversal of proportionate credit has been an issue. The law did not provide for reversal of proportionate credit.

Now, it seems the Council has decided to amend the law to require proportionate reversal of ITC, in respect of the unsold area either as on the date of switchover from the regular scheme to the new scheme, or as on the date of issue of completion certificate.

4. As it appears from the proposed new scheme of payment of composition tax (5% or 1% as the case may be, without ITC benefit), in case the builder purchases materials from unregistered persons (say claiming to be within the threshold limits), his cost of project will be lower, causing loss to the revenue. Apprehensions of malpractices are not ruled out.

It seems, the Council proposes to make a registered builder mandatorily make a minimum of 80% of their inward supplies from registered persons. In case the procurements from unregistered persons are more than 80%, tax liability under reverse charge may follow.

5. Up to 15% of Commercial Space to be treated as Residential property for GST (Source: Tweets): While the new scheme of composition tax is to be applicable for residential complex only, the same would not be applicable for commercial or industrial complex. In case of mixed projects, having mainly residential complex and some commercial spaces, confusions prevail over the rate of tax, availability of ITC etc.

It seems, in respect of a residential complex, having some commercial space (up to 15% of the total area of the complex), the entire complex shall be treated as a residential property for the purposes of GST. This will help avoid disputes regarding the issues of applicable rates, ITC etc.