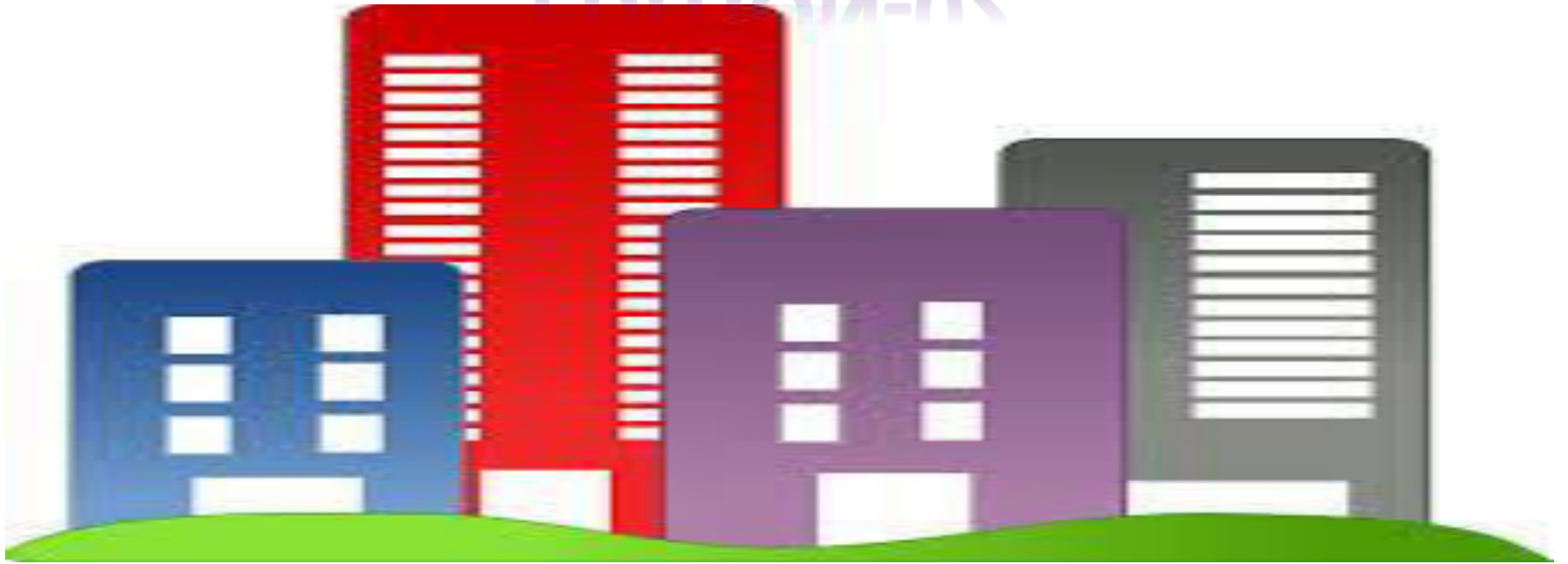


GST ON HOUSING SOCIETY

EDITION-02



CA Nikhil Malaiya

Activity of Housing Society?

Formation of Society on completion of building

Allotment of Share to its member

Contribution from member for maintenance of Building

Now Biggest question is
that whether Exemption is
available on this
contribution from
Member?

Whether any Exemption is allowed to Housing Society?

- Entry No. 77 of **Notification No. 12/2017- Central Tax (Rate)**
- Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of **reimbursement of charges or share of contribution** –
 - (a) as a trade union;
 - (b) for the provision of carrying out any activity which is exempt from the levy of Goods and service Tax; or
 - (c) up to an amount of five thousand rupees **per month per member** for **sourcing of goods or services** from a third person for the common use of its members in a housing society or a residential complex.

Clarification as Circular No.175/01/2014 - Service Tax

Query

(i) In a residential complex, monthly contribution collected from members is used by the RWA for the purpose of making payments to the third parties, in respect of commonly used services or goods [Example: for providing security service for the residential complex, maintenance or upkeep of common area and common facilities like lift, water sump, health and fitness centre, swimming pool, payment of electricity Bill for the common area and lift, etc.]. Is service tax leviable?

(ii) If the contribution of a member/s of a RWA exceeds five thousand rupees per month, how should the service tax liability be calculated?

Clarification

Exemption at Sl. No. 28 (c) in notification No. 25/2012-ST is provided specifically with reference to service provided by an unincorporated body or a non-profit entity registered under any law for the time being in force such as RWAs, to its own members.

However, a monetary ceiling has been prescribed for this exemption, calculated in the form of five thousand rupees per month per member contribution to the RWA, for sourcing of goods or services from third person for the common use of its members.

If per month per member contribution of any or some members of a RWA exceeds five thousand rupees, the entire contribution of such members whose per month contribution exceeds five thousand rupees would be ineligible for the exemption under the said notification. Service tax would then be leviable on the aggregate amount of monthly contribution of such members.

Taxability of Housing Society

CASE	Contribution from Member				Other Receipt		Total Receipt during the FY	Whether Liable to Register	Tax Payable On
	Up-to Rs.5000		5000 above		Exempted Receipt	Taxable Receipt			
	Contribution	Total Receipt	Contribution	Total Receipt	(eg. Interest Income)	(Eg. Renting of Tower)			
CASE I	3000	2100000	0	0	0	0	2100000	No	0
CASE II	3000	1500000	0	0	600000	0	2100000	No	0
CASE III	3000	1500000	0	0	0	600000	2100000	Yes	600000
CASE IV	3000	1500000	5001	250000	0	0	1750000	No	0
CASE V	3000	1500000	5001	1000000	0	0	2500000	Yes	1000000
CASE VI	0	0	5001	1750000	0	0	1750000	No	0
CASE VII	0	0	5001	1750000	400000	0	2150000	Yes	1750000
CASE VIII	0	0	5001	1750000	0	400000	2150000	Yes	2150000
CASE IX	0	0	0	0	2500000	0	2500000	No	0
CASE X	0	0	0	0	0	2500000	2500000	Yes	2500000
CASE XI	3000	900000	5001	500000	400000	400000	2200000	Yes	900000



Transaction of Housing Society

1. Property Tax

What is Property Tax?

- Collection of property tax is statutory levy by a municipal corporation or a local authority under the Constitution of India.

On what basis it is charge?

- The property tax is levied on sq. ft. basis and the owner of the property is liable to pay the same.

What is role of Society in This?

- A society is a mere collecting agent and pays the same to the authority.

Whether it is Taxable?

- As Society act merely as Pure Agent, no service portion is involved. Therefore not Liable to tax. However it is advisable to have separate invoice for this.

1. Property Tax cont..

What About Property tax on common area?

- This is taxable subject to limit of exemption of 5000.

What about property tax on parking which is sold to member?

- As it is separately identifiable for each member, this is pure agent service.

2. Sinking Fund/ Building

What is Sinking Fund/building fund?

- Fund collected for development of building in future

Whether it is Taxable?

- It is used by society in future for its member for development. Therefore it will be treated as service and will be taxable on receipt basis.

Whether it is covered for calculating exemption limit?

- Yes, as it is contribution from member for common purpose it will be counted for 5000 limit.

3. Maintenance and Repair charges

What is Maintenance and Repair charges?

- 'Maintenance' as the name suggest is the amount collectively reimbursed to the society to upkeep and maintain the building and premises on regular basis.

What type of Charges are include in this?

- Electricity charges for common areas, watchman or security charges and other miscellaneous expenses incurred by the society including accounting, audit etc. is part of maintenance charges.

Whether it is Taxable?

- Yes, subject to to limit of exemption of 5000.

4. Share Transfer Fees

What is Share and Transfer Fees?

- Share transfer fees are the amount charged by the society for transfer of shares by member

Whether it is Taxable?

- Yes, it is taxable.

Whether it is covered for calculating exemption limit?

- No, it is not cover in exemption as it is not contribution for sourcing of service from third person

5. Non Occupancy Charges

What is Non occupancy Charges?

- Non occupancy charges are charges levied by a housing society only when a flat or unit is let out by its members

Whether it is Taxable?

- Yes, it is taxable.

Whether it is covered for calculating exemption limit?

- No, it is not cover in exemption as it is not contribution for sourcing of service from third person

6. Parking Charges

What is Parking Charges?

- Charges to regulate the parking place between the members and providing of space by use of vacant land belonging to the society for a consideration.

Whether it is Taxable?

- Yes it is purely service and thus it is taxable in Nature.

Whether it is covered for calculating exemption limit?

- No as there is no 3rd person is involved in this service.

7. Water Charges

What is Water Charges?

- the society is not selling the water to its members. It is just providing the pipeline to deliver water in the members' premises

What is role of Society in This?

- Billing by Municipal corporation in the name of society and then on some basis society collect charges from member.

Whether it is Taxable?

- Yes, as it is again contribution from member for common use of its member. This is taxable subject to limit of exemption of 5000.

What about common Water used like Swimming Pool?

- It is also taxable subject to limit of exemption of 5000.

What if different meter is provided for each member?

- It will fall under pure agent service, so not taxable.

8. Charges for use of club house, swimming Pool, etc

What is
Water
Charges?

- These are specific services by the society to the member opting for such facilities.

Whether
it is
Taxable?

- Yes, subject to exemption limit of Rs. 5000.

9. Other Transaction

Rental for Mobile tower

- Renting Service Liabe to tax at

Hording charges

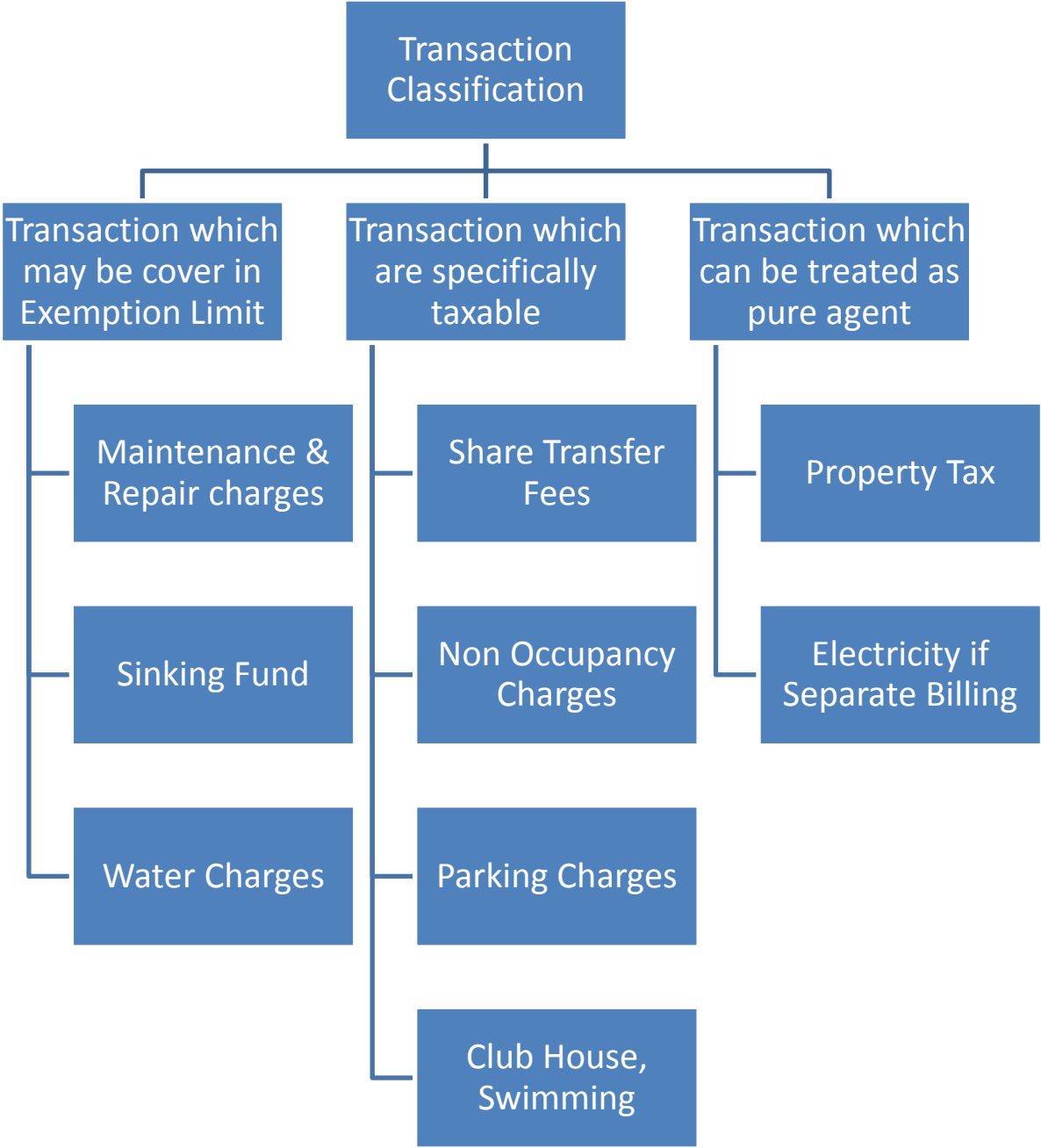
- Advertisement Charges Liabe to Tax

Use of terrace for
function of non member
or member

- Renting Service Liabe to tax

Interest on default
charges

- Not covered in exemption as it is not interest on advances. Therefore liabe to tax



Taxability example

Particulars	Whether count for 5000 Limit	Case I	Case II	Case III	Case IV	Case V
Maintenance and repair charges	Yes	4500	4500	4000	4000	4000
Property tax (Considering Pure agent)	No	0	1000	0	0	1000
Sinking Fund	Yes	0	0	1000	0	1000
Share transfer fees	No	0	0	0	0	200
Non-occupancy charges	No	0	0	0	200	300
Parking Charges	No	0	0	500	300	500
Water charges	Yes	0	0	500	0	500
Club house, swimming charges	No	0	0	0	0	0
Total Receipt		4500	5500	6000	4500	7500
Receipt eligible for exemption		4500	4500	5500	4000	5500
Exemption Allowed?		Yes	Yes	No	Yes	No
Exempted portion		4500	4500	0	4000	0
Non Taxable portion		0	1000	0	0	1000
Taxable portion		0	0	6000	500	6500

FAQ

Whether contribution for 2 month received together above 5000 is eligible for exemption?

- Yes, Exemption is per month per member, so cover in exemption

Example

- Maintenance charges is Rs. 3000 p. m. but one of the member has paid for two month at a time. Not cover in exemption.

FAQ

In the 1st month Members contribution is 6000 and from next month it is 4500. whether exemption is allowed in 2nd month.

- Yes, we can claim exemption in 2nd month.

FAQ

What if Service is provided to specific member and not for common use of Its Member???

- Not cover under Notification and therefore liable to tax?

Example

- Charges for use of terrace for marriage of one of the member.

FAQ

What If to a particular member specific charge + AMC, how taxable?

- Specific charge= Taxable
- AMC= subject to exemption

Example

- Charges for use of terrace for marriage of one of the member=10000
- Charge for AMC=4500
- Total bill=14500
- Eligible to exemption of 4500

*Thank
you*



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