

**ISSUES IN WORKS CONTRACT TRANSACTION
UNDER GST
AT
SEMINAR ON GST
HELD
BY
WIRC-ICAI
ON
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UNDER MVAT ACT,2002

Means “works contract namely, an agreement (express or implied) for carrying out for cash, deferred payment or other valuable consideration, the building, construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning of any **movable** or **immovable** property”.

Notification No. VAT-1506/CR-134/Taxation-1 dated 30 November 2006:

- **Vide Notification No. VAT-1506/CR-134/Taxation-1 dated 30 November 2006 ('the Notification'), for the purpose of aiding in the interpretation of Section 42(3) of the MVAT Act, the Maharashtra Government has declared certain types or categories of contracts to be the 'Construction Contracts'. As per the Notification, **following works contracts have been declared as construction contracts**, which would attract tax at the rate of 5% under the composition scheme:**
- **Buildings**
- **Roads**
- **Runways**
- **Bridges, Railways Over bridges**
- **Dams**
- **Tunnels**
- **Barrages**
- **Diversions**
- **Rail Tracks**
- **Causeways, Subways, Spillways**
- **Water Supply Schemes**
- **Sewerage Works**
- **Drainage**
- **Swimming pools**
- **Water Purification plants and**
- **Jetties**

NOTIFICATION (CONTD.....)

- **as per clause (B) of the Notification, any works contract incidental or ancillary to the construction contracts mentioned above, would be declared as construction contract, if such works contracts are awarded and executed before the completion of the said contracts.**

WORKS CONTRACT UNDER GST

- Section 2(119) : “WORKS CONTRACT “
- “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of **any immovable property** wherein transfer of property in goods (**whether as goods or in some other form**) is involved in the execution of such contract.

As per the Definition of Works Contract an agreement for carrying out contract for -

Building,
Construction,
Fabrication,
Completion,
Erection,
Installation,
Fitting out,
Improvement,
Modification,
Repair,
Maintenance,
Renovation,
Alteration,
Commissioning.

In relation to **Immovable Property** Would be Covered as Works
Contract

Transfer Of Property

❑ Transfer of property- The definition of works contract given in section 2(119) of the GST Act provides that the contract shall be for any of the categories discussed above and the contract shall involve transfer of property in goods **either in same form or other form** which is used in execution of contract. Thus, the transfer of property is also essential condition for considering the contract as works contract.

➤ For example, say a builder M/S. X appoints a contractor for providing the service of plastering of walls. If the builder provides the entire material namely cement, water, any chemicals, etc. and the contractor does not use any material, the contract is for supplying service by the contractor. **It cannot be considered as a works contract as it does not involve the transfer of property.** The transfer of property of any goods can be either in the same form or in other form.

Works contract considered as service

□ Works contract is specified as **composite supply** in **schedule II** of the Act. Section 7(1)(d) provides that in respect of matters mentioned in Schedule II, **the transaction shall be considered as supply of goods or supply of service.**

Paragraph 6(a) of Schedule II **specifies works contract as composite supply.** Paragraph 6 (a) of Schedule II reads as follows:

6.composite supply

a) Works contract as defined in clause (119) of section 2

Meaning of Immovable Property

➤ **‘Immovable property’ is defined in section 3(26) of General Clauses Act, 1897 as follows:**

“immovable property ‘shall include land, benefit to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;”

Meaning of ‘immovable property’ as per section 3 of the Transfer of Property Act, 1882 does not include standing timber, growing crops or grass. It will thus be seen that the definition of immovable property under both the acts is not exhaustive.

Meaning of Immovable Property (Contd)

□ Turnkey projects like Steel Plants, Cement plants, Power plants, Refrigeration/Air conditioning plants, Lifts and escalators etc.

Meaning of Immovable Property (Contd)

➤ Thus, immovable property would include factories, office buildings, warehouses, theatres, exhibition halls, multiple use buildings. **There is no condition stipulated in the definition that immovable property must be used in the course or furtherance of business or commerce. A transaction in immovable property for charitable purpose would also be included in the preview of definition.**

Meaning of Various Terms

- Since the Various Types of Contracts have not been defined under the GST laws, It is an established principle of law that in absence of specific definitions, definition from various external sources of interpretation of statutes may be relied on.
- The words in a statute must be understood in their natural, ordinary or popular sense and phrases and sentences must be construed according to their grammatical meaning.
- Therefore, the meaning of various types of Contracts must be construed in their natural meaning.

MEANING OF BUILDING

- The word 'building' is defined in various dictionaries as follows:
- 'building' as per the New Oxford Dictionary means 'a structure with roof and walls, such as a house, school, or factory'.
- Thus one can derive the meaning of 'building' as:
- ' a structure defined by walls, not necessarily having a roof but usually constructed for habitation, shelter, storage, trade, manufacture, religion, business, education and the like'.

Example -1 : Construction of commercial buildings such as office buildings , Industrial Building , exhibition and marriage halls, malls, hotels, restaurants, airports, rail or road terminals, parking garages, petrol and service stations, theatres and other non-residential buildings such as educational institutions, hospitals, clinics including veterinary clinics, religious establishments, courts, prisons, museums etc.

ISSUE - 1 : ABC Ltd. has accepted contract with XYZ Ltd. for construction of Factory Building Which Consist of plinth of Civil and whole structure consists of Steel / Aluminium and also the said contract includes to fix the machinery with the help of Nut bolts etc., to provide electric connection to run the machinery and so on. Whether Covered under the meaning of Building under the definition of Works contract ?

MEANING OF CONSTRUCTION

- The word 'construction' is defined in dictionaries as follows:
- The process of bringing together and correlating a number of independent entities, so as to form a definite entity. Thus the creation of something new, as distinguished from the repair or improvement of something already exists. The act of fitting an object for use or occupation in usual way, and for some distinct purpose (as per *Black's Law Dictionary*)

Issue - 2 : Suppose M/S PQR has Given Contract for Demolition of existing Building and to clear the site for further Construction . Whether would it be covered under the Definition of Works Contract ?

MEANING OF FABRICATION

- Interpretation given by Tribunal in various judgments will be helpful in understanding the meaning of 'Fabrication'. The same is reproduced below:
- **Of steel structures and roofing systems by drilling, welding and fastening was held by CEGAT as not 'manufacture'.** The Supreme Court has admitted the Department's appeal, after condoning delay. – **Dempo Engg. Ser-2001 (129) E.L.T. A189 (SC).**
- **Erection of sheds on site with the help of various articles of iron and steel does not amount to manufacture of excisable goods. Bajaj Tempo Ltd. V. CCE (95) E.L.T. 212 (M.P.) [Partap Steel Rolling Mills v. CCE- 1990 (48) E.L.T. 539 (Tribunal)].**

Issue - 3 : Suppose Contract for fabrication for Bus Shelters and Benches was given by BEST to M/S Sonal Enterprise wherein Materials Required like Iron & Steel, Aluminum sheets etc. was to be supplied by BEST and Welding Rods etc. and Machinery required for Fabrication was to be brought by M/S Sonal Enterprise. Whether the Said Contract would covered under the definition of Works Contract ?

MEANING OF COMPLETION

- **Completion means carrying out incidental or ancillary activity for completion of various activities** referred in the definition. The nature of completion activities different in respect of each of the main activities listed in the definition.

Issue - 4 : M/s Jay Air Cooling P. Ltd. is a company engaged in the business of providing centralized air-conditioning solutions. The contract involves various activities which can be broadly divided as designing, supplying of materials and installation. Prior to GST the Company used to discharge service tax and VAT respectively on the respective value of materials and Service .

It may be important to highlight that in the above contract, the value of material is higher as compared to the value of services provided. One of the major components from the materials required is “Air Handling Unit”. The air handling unit (often abbreviated to AHU), is a device used to regulate and circulate air as part of a heating, ventilating, and air-conditioning (HVAC) system and could constitute nearly 70% value of the entire contract. The AHU Unit as well as major other components of the materials used can be removable and is capable of re-use. With the introduction of GST, most of the materials supplied by M/s Jay Air Cooling P. Ltd. are taxed @ 28% especially the AHU. The Company wants your esteemed views on the following issues:

a) Can the above contract be treated as a works contract especially because of the fact that only contracts in respect of immovable properties are treated as works contract? Would it be Covered under the Term Completion under the definition of Works Contract ?

b) In case, the same may not be treated as works contract, whether it shall constitute a composite supply or a mixed supply or liable @ 18 % GST ?

Issue - 5 : Suppose M/S Ajmera Builders has offered to Supply a Flat with All Types of Amenities like Interior Decoration , Furnitures & fixtures Etc. to the Buyer. Accordingly the said Builder has given Contract to Interior Designer to Provide the said Amenities . Whether Work done by the Interior designer would cover under the term completion as mentioned in the Definition of works Contract in the case of Contractor?

Will the answer differ in the case of Builder ?

Issue - 6 : In the Said Example above Suppose builder has agreed to supply Air Condition unit in each of the Flat and given Contract to M/S Swati Enterprise for Supply and Installation of Air Condition unit in each of the Flat , Whether the Said Contract would cover under the term completion as mentioned in the Definition of works Contract or would it covered under Composite Supply ?

Will the answer differ in the case of Builder ?

MEANING OF 'ERECTION'

- AS per *Webster's Concise Dictionary*, 'erection' means 'The act of erecting or the state of being erected'. As per *Concise Oxford Dictionary*, 'erection' means the act of erecting, and 'erect' means construction (a building, wall, etc.)

Example - 2 : Erection of prefabricated Building or prefabricated structures etc.

MEANING OF 'INSTALLATION'

- The word 'installation' means the bringing of an entire piece of plant on to a site and putting into position on the site. It does not mean that putting together of parts, piece, pipe by pipe, bolt by bolt, weld by weld, until it gradually becomes one whole. (*Law Lexicon's Dictionary*)
- The meaning of the word 'install' simply means putting the item in particular place in a specified manner to facilitate its use on long term basis. (*Webster's Ninth New Collegiate Dictionary*)

Issue - 7 : Whether Supply of fire alarm , burglar alarm system , Security System like Camera Fittings and Installation etc. would Cover under the Definition of Works Contract ?

Issue – 8 : Whether supply and Installation of Fire Fighting System would cover under the definition of Works Contract ?

Would your answer differs in case of Contract of Supply and Installation of Fire Extinguishers in the Building ?

MEANING OF FITTING OUT

- The definition of works contract provides that agreement for carrying out fitting out will be considered as works contract. Many fit-outs are provided in the premises in order to make the premises habitable. Some of the **example of fitting out are, switches, gas connection, water tap, shower, etc.** The definition does not include the activity of finishing services which was included in the definition of works contract given in CHAPTER V of Finance Act, 1994.

Issue - 9 : M/S Gaurav Construction P. Ltd. is in business of painting contract, door fixing contract, electrical contract & plumbing contract. They undertake respective jobs for various builders. They are Confused whether services of painting, fixing doors, fixing electrical items, fixing plumbing lines provided by them is nothing but providing finishing services, whether the said Finishing services will qualify under works contract ?

MEANING OF IMPROVEMENT

- 'Improvement' is defined in various dictionaries as follows:
- **'As applied to machinery an improvement is where a specified machine already exists, and an addition or alternation is made to produce the same effect in a better manner, or some new combination is added to produce some better results. [The Law Lexicon]**

Issue - 10 : Suppose as per the Requirements of Fire Brigade Contract was given to M/S Deep enterprise to construct Ramp of Steel structure on Each Floors and to provide Complete Fire Fighting system for the Building, Whether the said Contract would be covered under the definition of Works Contract ?

Would it make any difference if Removable Staircase is being put on outside the Building ?

MEANING OF MODIFICATION

- The term modification would include **making addition and omission**. It also means making a change in the existing structure.

Issue - 11 : Whether Contract for removing Portion of wall between Two Rooms for Air Circulation would be Covered under the Definition of works Contract ?

MEANING OF REPAIR

- In short it means removal of defect from items. The meaning of the word 'repair' is different from the meaning of the word 'manufacture'.
- **Repair means to restore in good condition, renovate or mend by replacing or refixing parts. As long as the product does not lose its identity as such, the process shall be one of repairs and not of manufacture.** However, if the product after carrying out the process is commercially different, the process will amount to manufacture. In the case of **East India Transformer & Switch gears (P.) Ltd. V. CCE 1989(43) ELT 561 (CEGAT- New Delhi.**

Issue - 12 : Whether Painting Contract given for the Building already Completed would cover under the definition of works Contract ?

MEANING OF MAINTENANCE

- The word 'maintenance' is defined as follows:
- **The upkeep of a property or equipment.**
(Webster's Ninth New Collegiate Dictionary)
- 'Maintenance' is to keep a machine, building, etc., in a good condition by periodically checking and servicing or repairing, **whereas 'repair' is a one-time activity. Maintenance is a continuous process and repairing is incidental or ancillary thereto.**

Issue - 13 : Whether Plastering work given for the Completed Building would be Covered Under the definition of Works Contract ?

MEANING OF RENOVATION

- One of the meanings of the term 'renovate', which is appropriate in the present context, **is to repair and paint an old building or a piece of furniture etc.**, so that it is in good condition.

MEANING OF ALTERATION

- It is defined in various dictionaries as follows.
- **'alteration' means 'the act or process of making a change to anything without destroying its identity'.**

Example - 3 : Combining Two Rooms by Removing Wall.

MEANING OF COMMISSIONING

- The 'commissioning' means commencement of item which has been installed. It involves the process of testing the installed item by any method.

Rate of GST

Composite supply of Works contract as defined in clause 119 of section 2 of CGST Act,2017

18% With Full ITC

Following Types of Contracts would be normally undertaken during Construction of Building

- Civil Construction like Concreting, Brick Works, Tiling Work etc.
- Plumbing Contract
- Fasad (Glass) Fixing Contract
- Electrification Contract
- Erection of Lifts/ Elevators Contract
- Painting Contract
- Grill Work

NOTIFICATION FOR GOVERNMENT CONTRACT

Notification No and Sr No	Relevant Entry under GST Notification	Rate of Tax (GST)	Effective Date of such Rate
Entry 3 (iii) of Notification No 11/2017 – CT (Rate) dated 28.06.2017	Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to the Central , a local authority or a Governmental authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, - (a) a historical monument, a r c h a e o l o g i c a l site or remains of national importance, archaeological excavation, or antiquity	12%	22-8-2017

Notification No and Sr No	Relevant Entry under GST Notification	Rate of Tax (GST)	Effective Date of such Rate
	<p>specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);</p> <p>(b) canal, dam or other irrigation works;</p> <p>(c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.</p>		
<p>Entry 3 (iv) of Notification No. 11/2017 – CT (Rate) dated 28-6-2017</p>	<p>Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of Construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-</p> <p>(a) a road, bridge, tunnel, or terminal for road transportation for use by general public;</p> <p>(b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;</p>	<p>12%</p>	<p>22-8-2017</p>

Notification No and Sr No	Relevant Entry under GST Notification	Rate of Tax (GST)	Effective Date of such Rate
	<p>(c) a civil structure or any other original works pertaining to the “Insitu rehabilitation of existing slum dwellers using land as a resource through private participation” under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers;</p> <p>(d) a civil structure or any other original works pertaining to the “Beneficiary led individual house construction/ enhancement” under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana;</p> <p>(e) a pollution control or effluent treatment plant, except located as a part of a factory; or</p> <p>(f) a structure meant for funeral, burial or cremation of deceased</p>		

Notification No and Sr No	Relevant Entry under GST Notification	Rate of Tax (GST)	Effective Date of such Rate
Entry 3 (iv) of Notification No 11/2017 – CT (Rate) dated 28-6-2017	(da) a civil structure or any other original works pertaining to the “Economically Weaker Section (EWS) houses” constructed under the Affordable Housing in partnership by State or Union territory or local authority or urban development authority under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana (Urban);	12%	25-1-2018
	(db) a civil structure or any other original works pertaining to the “houses constructed or acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS)/Lower Income Group (LIG)/Middle Income Group-1 (M1G-1) /Middle Income Group-2 (MIG-2)” under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana (Urban);’		

Notification No and Sr No	Relevant Entry under GST Notification	Rate of Tax (GST)	Effective Date of such Rate
	(g) a building owned by an entity registered under section 12AA of the Income Tax Act, 1961 (43 of 1961), which is used for carrying out the activities of providing, centralised cooking or distribution, for mid-day meals under the mid-day meal scheme sponsored by the Central Government, State Government, Union territory or local authorities		
Entry 3 (v) of Notification No 11/2017 – CT (Rate) dated 28-6-2017	Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, or installation of original works pertaining to,- (a) railways, including monorail and metro; (b) a single residential unit otherwise than as a part of a residential complex;	12%	22-08-2017

Notification No and Sr No	Relevant Entry under GST Notification	Rate of Tax (GST)	Effective Date of such Rate
	<p>(c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the ‘Scheme of Affordable Housing in Partnership’ framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;</p> <p>(d) low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under -</p> <p>(1) the “Affordable Housing in Partnership” component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;</p> <p>(2) any housing scheme of a State Government;</p> <p>(e) post-harvest storage infrastructure for agricultural produce including a cold storage for such purposes: or</p>		

Notification No and Sr No	Relevant Entry under GST Notification	Rate of Tax (GST)	Effective Date of such Rate
	(f) mechanized food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages.		
Entry 3 (vi) of Notification No 11/2017 – CT (Rate) dated 28-6-2017	<p>Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, provided to the Central Government, State Government, Union Territory, a local authority or a governmental authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –</p> <p>(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;</p>	12%	21-09-2017

Notification No and Sr No	Relevant Entry under GST Notification	Rate of Tax (GST)	Effective Date of such Rate
	(b) a structure meant predominantly for use as (i) an educational , (ii) a clinical , or (iii) an art or cultural establishment; or		
	(c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017		
Entry 3 (vii) of Notification No 11/2017 – CT (Rate) dated 28-6-2017	Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, involving predominantly earth work (that is, constituting more than 75 per cent. of the value of the works contract) provided to the Central Government, State Government, Union territory, local authority, a Governmental Authority or a Government Entity ²² .	5%	13-10-2017

Notification No and Sr No	Relevant Entry under GST Notification	Rate of Tax (GST)	Effective Date of such Rate
Entry 3 (viii) of Notification No 11/2017 – CT (Rate) dated 28-6-2017	Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 and associated services, in respect of offshore works contract relating to oil and gas exploration and production (E&P) in the offshore area beyond 12 nautical miles from the nearest point of the appropriate base line	12%	13-10-2017

Exemptions under GST for Works Contract Services

Notification No and Sr No	Relevant Entry under GST Notification	Understanding
Entry 10 of Notification No 12/2017 – CT (Rate) dated 28-6-2017 effective from 1-7-2017	Services provided by way of pure labour contracts of construction , erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana .	This particular exemption is specific only to pure labour contract for mentioned activities carried out under the Housing for All (Urban) Mission ¹⁵ or Pradhan Mantri Awas Yojana
Entry 11 of Notification No. 12/2017 – CT (Rate) dated 28-6-2017 effective from 01.07.2017	Services by way of pure labour contracts of construction , erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex.	The services which are in nature of pure labour contracts for a single residential unit shall be exempted. For e.g. a construction of bungalow awarded to a contractor on a pure labour basis shall be exempted from payment o GST

Issue – 14 : In relation with Government Contract , suppose Sub Contractor is Liable for GST @ 18 % and Main Contractor is Liable for GST @ 12 % , than the question of Inverted Duty Structure would arise. Now the issue is whether Main Contractor would be entitled to get Refund due to aforesaid Inverted Duty Structure ?

Notification No and Sr No	Relevant Entry under GST Notification	Rate of Tax (GST)	Effective Date of such Rate
Entry 3 (ix) of Notification No 11/2017 – CT (Rate) dated 28-6-2017	Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the main contractor providing services specified in item (iii) or item (vi) above to the Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity	12%	25-01-2018
Entry 3 (x) of Notification No 11/2017 – CT (Rate) dated 28-6-2017	Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the main contractor providing services specified in item (vii) above to the Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity	5%	25-01-2018

Issue 15: BMC has given contract to M/S Deep Contractor for Repairs and Maintenance of Garden which includes replacement of Parts of Benches, Paver Blocks as well as of Children Games. In addition to that M/s Deep Contractor is also supposed to provide Security Person , Sweeper, Gardener etc.

Whether the said Contracts are being Exempted from GST Liability ?

Article 243W in The Constitution of India 1949

The functions entrusted to a municipality under the Twelfth Schedule to Article 243W of the Constitution are as under:

- (a) Urban planning including town planning.
- (b) Regulation of land-use and construction of buildings.
- (c) Planning for economic and social development.
- (d) Roads and bridges.
- (e) Water supply for domestic, industrial and commercial purposes.
- (f) Public health, sanitation conservancy and solid waste management.
- (g) Fire services.
- (h) Urban forestry, protection of the environment and promotion of ecological aspects.
- (i) Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
- (j) Slum improvement and upgradation.
- (k) Urban poverty alleviation.
- (l) Provision of urban amenities and facilities such as parks, gardens, playgrounds.
- (m) Promotion of cultural, educational and aesthetic aspects.
- (n) Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.
- (o) Cattle pounds; prevention of cruelty to animals.
- (p) Vital statistics including registration of births and deaths.
- (q) Public amenities including street lighting, parking lots, bus stops and public conveniences.
- (r) Regulation of slaughter houses and tanneries.

EXEMPTION NOTIFICATION

Notification No and Sr No	Relevant Entry under GST Notification	Understanding
Entry 3A of Notification No 12/2017 – CT (Rate) dated 28-6-2017-Inserted w.e.f. 25-1-2018 vide Notification No 02/2018 – CT (Rate) dated 25-1-2018	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	The primary focus of such exemption is the services which are in the nature of activities to be carried in relation of entrusted functions on the Panchayat or the Municipality.

EXEMPTION NOTIFICATION (Contd...)

Notification No and Sr No	Relevant Entry under GST Notification	Understanding
<p>Entry 3 of Notification No 12/2017 – CT (Rate) dated 28-6-2017 effective from 1-7-2017</p>	<p>Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.</p>	<p>This entry specifically exempts any service which are pure labour services and do not include involvement of materials in execution of the above mentioned contracts.</p> <p>This entry shall not be relevant for a contractor providing works contract services.</p>

SUPPLY – SECTION-7

□ The terms “supply” has been provided with a meaning in section 7 of CGST Act, 2017, to include the following:

- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;*
- (b) import of services for a consideration whether or not in the course or furtherance of business;*
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration; and*
- (d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.*

Composite Supply

Section 2(30) :

“composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Naturally bundled means two or more activities supplied to the customer are so closely linked that they form objectively and from economic point of view a single whole transaction. Any attempt to split such naturally bundled activities would be an apparent artificial attempt

Composite Supply (Contd...)

❖ Section 2(90) :

“Principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary

- ❑ One of the supplies is the principal supply which gives the predominant / essential character to the entire composite supply and the other supplies are ancillary supplies. Even if all the supplies are bundled together to form one composite supply, it does not alter the essential character of the principal supply. The principle supply overshadows all ancillary supplies

Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

Issue – 16 : Suppose a person goes to the Workshop to service his car and while servicing certain parts are to be replaced. The parts replaced are liable to GST Rate @ 28 %. Now Workshop person is confused how and at what rate GST is to be levied and seeks our advice ?

Issue – 17 : A car manufacturing company contracts a design firm for designing a new car as well as manufacturing a prototype. The contract involves both supply of service of designing a car and supply of goods in the form of prototype car. Both the supplies are naturally bundled and are under one composite contract.

The mute question is what would be treated as principal supply and what rate of GST would be levied whether rate for designing of car as service or rate of supply of goods?

Issue - 18 : Suppose M/S Parekh Enterprise has given contract to M/s Global Contractor to supply and Installation of 10 Window A.C. for their Office . What would be the GST Implication on Global Contractor and at what Rate GST liability to be discharged ?

Continuous supply of service

□ **Section 2(33) “continuous supply of services” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;**

ISSUE 19 : Central Government has awarded a Contract to Kush Construction for Construction of Roads. As per the Contract there would not be any periodic payment but Total Consideration would be payable after Completion of Road. The Consideration would be payable in the form of TDR.

Kush Construction is of the view that since there are no Periodic payment to be received but payment in the form of TDR would be received at the end of the contract and hence they would be liable for GST at the end of the Contract.

Do you agree with his Contention ?

Time of Supply of service

The liability to pay CGST / SGST on the goods/ services shall arise at the time of supply. As per section 13 sub section (2):

13. (1) The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.

(2) The time of supply of services shall be the earliest of the following dates, namely:—

(a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment , whichever is earlier; or

(b) the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or

(c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply:

Place of Supply

- **Place of Provision of service is very important as it will decide under whose jurisdiction particular service will come also to know whether particular supply is inter-state supply or intra-state supply.**
- **Place of supply of service in relation to Immovable Property**
- **Section 12(3) of IGST Act deals with the place of provision of service in relation works contract of construction of immovable property which provides:**
 - **Place of provision of service in relation to immovable property will be the place of provision where the immovable property is situated which includes services of:**
 - **- Architects**
 - **- interior decorators**
 - **- surveyors**
 - **- engineers and**
 - **- other related experts or estate agents**
 - **- for carrying out or co-ordination of construction work**

Input Tax Credit

- **16. (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.**

Condition for Eligibility of Input Tax Credit

- *a)* he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;
 - *(b)* he has received the goods or services or both.
 - *(c)* subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and
 - *(d)* he has furnished the return under section 39:
- **Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.**

Negative Input Tax Credit- Similar to Rule 54g and 54h of MVAT ACT

- Section 17(5)
- *c)* works contract services when supplied for construction of an immovable property (**other than plant and machinery**) except where it is an input service for further supply of works contract service;
- *(d)* goods or services or both received by a taxable person for construction of an immovable property (**other than plant or machinery**) on his own account including when such goods or services or both are used in the course or furtherance of business.
- *Explanation.*—For the purposes of clauses *(c)* and *(d)*, the expression “construction” **includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation , to the said immovable property;**

Example – 4 : If Manufacturer of Computer has given Contract for Construction of factory Building.

Example - 5 : If a Company has Purchased Materials and given Labour Contract for Construction of factory Building.

ISSUE 20 : Suppose M/s Falguni Enterprise has booked a Office in an Under Construction of Building. Builder has charged GST for the said Construction of Building. After taking Possession M/S Falguni Enterprise has also get it done some Interior Work and GST has also been paid on the same . After that They let out the said office on Rent and charged GST on the same.

Whether ITC of GST paid for Building Construction as well as Interior Decoration can be adjusted against output GST of Rent Income ?

Whether GST Charged by Society for the said Office can be adjusted against Output Liability on Rent Charged ?

Plant And Machinery

- the expression “plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—
 - (i) land, building or any other civil structures;
 - (ii) telecommunication towers; and
 - (iii) pipelines laid outside the factory premises

Registration

22. (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:

Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

AGGREGATE TURNOVER

Section 2(6) “aggregate turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and Inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes Central tax, State tax, Union territory tax, integrated tax and cess;

Issue - 21 : Suppose A Works Contractor Registered in Maharashtra has undertaken Works Contract in Gujarat and has transferred certain Materials to the Site of Gujarat Contractee and also purchased certain goods below Rs. 20 lacs in Gujarat what would be GST Implication regarding Registration and Tax Liability?

Issue - 22 : In case of Works contract say for Construction of Building wherein say Total contract value is Rs. 1 Crore. Contractee has agreed to supply free issue of materials say Cement and Iron & Steel worth Rs. 30 Lacs ? What would be the taxability under GST if the said value is part of the Contract ?

Will the answer Differs if the said value is not part of the Contract ?

What would be the Input Tax Credit Implications under both the Situations ?

ISSUE 23 : Normally, it has been provided in the Contract that in case the Project is not completed within a specific Timeframe, some money in the form of Liquidated Damages shall be recovered for each day of Completion of Project .

Whether said recovery of liquidated damages is taxable under GST ?

Issue - 24 : Suppose in a Construction Contract Major materials purchased are of 28% whereas output GST is 18% than what would be the Final Tax Implication ?

Can They claim refund because of inverted duty structure?

Since in Section 54 of CGST ACT it refers to 'Tax Periods , does it mean that the dealer has to carry over Refund/Payment process to be done Tax Period wise ?

Issue – 25 : In case of construction contract awarded by XYZ Ltd. to PQR Ltd. Worth Rs.100 Crores. It includes Margin Portion worth Rs. 20 crores . As per the terms and conditions of the Contract Margin would be payable upon achievements of Milestones say it would be achieved after one year. Whether Liability of GST on Margin would arise when there is Transfer Of Property in Goods or when Milestones achieved i.e. after one year ? Can it be said that it is deferment of GST liability ?

Transitional Provisions

□ **Section 140(3)** - A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services , or who was providing works contract service and was availing of the benefit of notification No. 26/2012—Service Tax, dated the 20th June, 2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said registered person is eligible for input tax credit on such inputs under this Act;

Transitional Provisions (contd...)

(iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;

(iv) such invoices or other prescribed documents were issued **not earlier than twelve months immediately preceding the appointed day**; and

(v) the supplier of services is not eligible for any abatement under this Act:

Provided that where a registered person, **other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents** evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

Issue - 26 : How to claim transitional credit u/s 140(3) whether the WIP will also be included or only Raw Material lying at site in case of Contractor ?

Whether answer would defer in the case of Builder / Developers ?

Issue – 27 : Considering the Proviso of section 140(3) what would be the position of Input Tax Credit may be of Excise/CVD lying in Stock for the Items for which Duty paid Documents are not available for Works Contractor?

Section 142(11)

a) notwithstanding anything contained in section 12, no tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State;

(b) notwithstanding anything contained in section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994;

(c) where tax was paid on any supply both under the Value Added Tax Act and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act and the taxable person shall be entitled to take credit of value added tax or service tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed

Issue - 28 : Suppose a Construction Contract entered in March, 2017 for Rs. 1,00,00,000/-. Advance received till 30th June, 2017 amounts to Rs. 10,00,000/-. Service Tax of Rs. 60,000/- have been paid on the said advance But No Value Added Tax have been paid. In the month of July-17 bill has been raised of say Rs. 40,00,000.

What would be the GST Liability for the supply made in July-17 ?

Whether Transitional Provision as referred to in Section 142(11) (a),(b) and (c) would be applicable or only (c) would be applicable ?

Issue - 29 : Suppose M/S XYZ LTD has entered into Contract with M/S Falguni & Co. P. Ltd. for Supply and Installation of Elevators worth Rs. 100 crores. For the same M/S XYZ LTD has instructed M/S Falguni & Co. P. Ltd to Import the same from M/S Kone Elevators Ltd. Korea . M/S Falguni & Co. P .Ltd has imported the Elevators in Kit form and while the goods are in transit M/S Falguni & Co. P. Ltd. has supplied the said lift kit before crossing the custom frontiers of India and transfer the documents in the name of M/S XYZ LTD. In Turn After clearing the goods M/S XYZ LTD. has free supplied to M/S Falguni & Co. P. Ltd. for Installation. Whether the said High Seas sales transaction is permissible ?

Issue - 30 : Suppose Bill for Works Contract for the Month of July-18 has been issued for say Rs.20 lacs and charged GST @ 18% . However payment would be released upon Final Certification by the Contractee . The Final Certification was done by the Contractee in the month of August-18 worth Rs. 15 lacs. What would be the GST Implication ?

Issue - 31 : The Contract for Construction of Building is Cost Plus markup. As per the Contract Terms All the Cost including Disallowance of input Tax Credit would be Reimbursed. Whether GST would be applicable on reimbursement of Disallowance of Input Tax Credit ?

Issue - 32 : As per the Supreme Court Judgement in the case the Larsen & Toubro Ltd. 17 VST 1 , in case of Back to Back Contract wherein whole Contract was sub contracted by the main contractor to sub contractor by keeping his Margin. As per the said Judgement since there was no Transfer of Property in Goods by the main contractor there was no liability of Tax under Old Law on margin of main contractor. Whether the said analogy would be applicable under GST ?

Issue – 33 : In case of Composite Works Contract , whether the said contract has been given to sub contractor back to back , can it be equated with Job work and Provisions related to Job Work would be applicable ?

Whether answer would differ if certain part of the Labour work has been given to Sub Contractor ?

Issue - 34 : Whether the activity of supply and installation of 'Car Parking System' like Stacker Type/Puzzle type/Multi Level Parking would qualify as Immovable property and thereby 'Works Contract' as defined in Section 2(119) of the CGST Act ?

BUILDERS AND DEVELOPERS

RATE OF TAX

Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier

18% (Without Considering 1/3rd value of Deduction of Land)

Construction of Complex Building , Civil Structure or Part thereof, intended for Sale to a Buyer (the value of Land is deemed to be One-Third of the Total amount charged for such supplies)

12% **with No Refund of Accumulated ITC**
(EFFECTIVE RATE)

SCHEDULE II – ENTRY-5

ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

.....
5. Supply of services

The following shall be treated as supply of services, namely:—.....

*(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, **except where the entire consideration has been received after issuance of completion certificate**, where required, by the competent authority **or after its first occupation, whichever is earlier**. Explanation. — For the purposes of this clause —*

(1) the expression “competent authority” means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely :—

(i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972); or

(ii) a chartered engineer registered with the Institution of Engineers (India); or

(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority; 86

*(2) the expression “**construction**” includes **additions, alterations, replacements or remodelling of any existing civil structure;***

ISSUE - 35 : Ajmera Builder has given Possession to some of the Flat Owners after applying for Completion Certificate. Till Now they have not got Completion Certificate. One of the Customer came and ready to Book 3 Flats but he denied to pay GST based on the fact that Possession has been given to some of the Flat Owners.

Whether Builder should accept the Proposal considering the legal position of GST Liability ?

HOW TO MAKE INVOICE AFTER DEDUCTION OF LAND

Total Agreement Value	1,20,00,000
Less : 1/3 rd Land Deduction	40,00,000
Balance	80,00,000
Add : CGST 9 %	7,20,000
Add : SGST 9%	7,20,000
Total Value	94,40,000

ISSUE - 36 : A Land Owner has approached the Developer to develop his property and Transfer the Rights in the said land in favour of Developer. On the said Land, Developer is going to Construct 50 Flats. Against the Transfer of Development Rights Developer has agreed to Pay Rs 1 Crore as well as agreed to Transfer 20 Flats in Favour of Land Owner and Rest 30 Flats Developer will Sell to Other Buyers.

A) Whether Land Owner as well as Developer Liable for GST for the aforesaid Transactions ?

i) If Yes, than what would be the Value on which Landlord would pay GST on Transfer of Rights in Land ?

ii) Similarly what would be the value on which Developer's would pay GST on Money Consideration as well as Transfer of 20 Flats In favour of Land Owner ?

B) Whether ITC would be Available to the Land Lord as well as Developer for GST Charged by each other ?

C) Whether Land Lord can Offset ITC against Sale of 20 Flats allotted by Developer ?

Notification No. 04/2018 dated 25-01-2018

- **In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the following classes of registered persons, namely :-**
- **(a) registered persons who supply development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure; and**
- **(b) registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights,**
- **as the registered persons in whose case the liability to pay central tax on supply of the said services, on the consideration received in the form of construction service referred to in clause (a) above and in the form of development rights referred to in clause (b) above, shall arise at the time when the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter).**

ISSUE- 37 : Kailash Vihar Co-Op. Hsg. Society Registered under GST having 25 Flat Owners holding 2 BHK Flat each approached Prithvi Builders to Develop his Society and agreed to Transfer Development Rights of Land in their Favour. In Turn, Prithvi Builders has agreed to Construct 60 Flats of 3 BHK and ready to allot 3BHK Flat to each of the 25 Flat Owners. In addition to that Prithvi Builder has agreed to give Rent as well as Corpus to the Society.

a) What would be the liability of GST on Society as well as of Builder in aforesaid Transaction and on what Value ?

b) What if the Society is Unregistered ?

ISSUE - 38 : A Land Lord having Tenanted Property containing 20 Tenants has approached Developer to develop his land and Transfer Development right in Land to the Developer. In turn, Developer has agreed to allot 30 Flats of which 20 Flats would be given to the Tenant against Surrender of Tenancy Rights to the Land Lord.

What would be Liability of GST of Tenant, Land Lord and Developer in aforesaid Transaction and on what Value ?

ISSUE – 39 : Government has approached Lodha Builders to develop a particular Land and to construct Flats for the persons covered under Slum Rehabilitation Scheme. In Turn, SRA Authority would give FSI to the Developer.

What would be the Liability of GST on Flats Constructed for Slum Dwellers ?

Circular No. 44/2018-Issue related to taxability of 'tenancy rights' under GST

- ❑ (i) Whether transfer of tenancy rights to an incoming tenant, consideration for which is in form of tenancy premium, shall attract GST when stamp duty and registration charges is levied on the said premium, if yes what would be the applicable rate?**
- ❑ (ii) Further, in case of transfer of tenancy rights, a part of the consideration for such transfer accrues to the outgoing tenant, whether such supplies will also attract GST?**
- The activity of transfer of 'tenancy rights' is squarely covered under the scope of supply and taxable per-se. Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. However, renting of residential dwelling for use as a residence is exempt[Sl. No. 12 of notification No. 12/2017-Central Tax(Rate)]. Hence, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. As regards services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST.**

ISSUE - 40 : In Under Construction Project Mr. A has normal Buyer as well as Mr. B a Investor who has Booked the Flat. Before Completion of the Project Mr. A as well as Mr. B has Sold the Flat.

What would be GST Liability of both of them ?

ISSUE – 41 : Vaibhav Builder has started Constructing a Property and entered into an agreement for sale of Flats with the Prospective Buyers. In addition to the value decided for Flat , Vaibhav Builder has also Collected Development Charges for Garden and Health Club, Legal Charges, Society Formation Charges as well as Share Money, Refundable Deposit of Electric meters etc. and Advance Maintenance Charges for Two Years.

What would be the GST Liability of Vaibhav Builders on aforesaid Collections?

Anti-Profiteering Provisions

□ Section 171(1) casts responsibility to pass on the benefit of GST to the recipient for following two aspects:

- Reduction in tax rates
- Benefit of Input Tax Credit

ISSUE – 42 : How Anti Profiteering Provision would be applicable to the Builder/Developer ? What Precaution would be taken by Builder/Developer to safeguard themselves against Anti Profiteering Provision ?

ISSUE - 43 : In Construction Industries there is always a practice to keep Retention Money from Payment made to the Contractor etc. The Said Retention Money Would be payable to the Contractor after say One or Two Years.

Whether Provisions for Disallowance of ITC would apply since Retention Money would be payable after 180 days ?

TDS PROVISIONS – SECTION 51

Following would be the deductors of tax in GST under section 51 of the CGST Act, 2017 read with notification No. 33/2017-Central Tax dated 15.09.2017:

- (a) a department or establishment of the Central Government or State Government; or
- (b) local authority; or
- (c) Governmental agencies;
- (d) an authority or a board or any other body,-

- (i) set up by an Act of Parliament or a State Legislature; or
- (ii) established by any Government,

with fifty-one per cent. or more participation by way of equity or control, to carry out any function; or

(e) a society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860); or

(f) public sector undertakings.

- ❑ **EFFECTIVE DATE - 01-10-2018**

- ❑ **Deductor is required to take registration [Sec 24(vi)]**

- ❑ **Registration to be done through the common portal www.gst.gov.in by using PAN/TAN**

- ❑ **Enters into Contract for purchase of taxable goods/ services or both with any supplier**

- **Total Value of taxable supply under a contract (excluding GST) >Rs.2.5L**
 - ❖ **Deduct tax from payment**

- **Total Value of taxable supply under a contract (excluding GST) < Rs.2.5 L**
 - ❖ **Don't deduct tax from payment**

- ❑ **Deduct tax while making/crediting payment to the supplier**

- **For Inter-State supply:**
IGST: @2%
- **For Intra-State supply:**
SGST: @1%
CGST: @ 1%

- Make payment of deducted tax to the Government
- **within 10 days after the end of the month in which deduction was made**
- Submit return in **Form GSTR-7 within 10 days after the end of the month in which deduction was made**
- Furnish system generated TDS certificate in **Form GSTR-7A** to the deductee **within 5 days of crediting payment of TDS to the Government i.e. furnishing FORM GSTR-7**

Late fee, Interest, Penalty (payable by the deductor) & Refund

Fails to make payment of deducted tax:

- ✓ Both deducted tax and interest to be paid [Sec 50(1) read with Sec 51(6)]

Fails to furnish FORM GSTR-7 within due date:

- ✓ Late fee payable (Section 47(1)): Rs. 100/- + Rs. 100/- per day (Maximum Rs. 5000/-) under CGST Act & SGST /UTGST Act separately

Fails to furnish FORM GSTR-7A within due date:

- ✓ Late fee payable [Section 51(4)]: Rs.100/- + Rs.100/- per day (Maximum Rs.5000/-) under CGST Act & SGST/UTGST Act separately

- In such cases recovery may be initiated u/s 73 or 74

If excess amount deducted:

- ✓ Refund may be claimed by the deductor / deductee as the case may be (if excess tax gets credited to the deductee then no refund shall be granted to the deductor)

THANKS

PRESENTER'S DETAILS:

CA MAYUR R. PAREKH