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सी.सं./C.No. IV/16/190/2018 PCCCT (BZ)

दिनांक/Date: 01.11.2018

**MINUTES OF SECTORAL MEETING WITH REAL ESTATE SEGMENT HELD ON
29th AUGUST, 2018.**

A Sectoral Meeting with the Real Estate Segment was held on 29-08-2018 at 15.00 Hours, in the Ground Floor, Conference Hall of the Central Revenue Building, Queen's Road, Bengaluru. Shri. A.K. Jyotishi, Principal Chief Commissioner presided over the meeting. The list of Officers and Members of Trade present in the meeting is listed in the annexure.

The Principal Chief Commissioner opened the session by addressing the gathering and briefing the participants about the intent behind the Sectoral Meeting. He mentioned that the objective was to address sector specific issues which may not get covered in outreach exercises held for taxpayers as a whole, obtaining feedback from taxpayers regarding various clarifications, FAQs etc which are being issued from time to time, and understanding the concerns and issues of the particular sector. Thereafter, the participants were requested to introduce themselves and were invited for discussion on the issues that were of concern, starting with the points that had been communicated in writing in the lead up to this meeting.

Representatives of the sector raised several issues and the same were discussed, which are as noted below.

1. Abatement on value of land: In terms of Para 2 of Notification 11/2017-CT (Rate), in case of supply of services falling under Sl. No. 3 involving transfer of property in land or in undivided share of land, the value of land shall be deemed to be one-third of the total

amount charged for such supply. However, the Trade has opined that in many cases in Bangalore, particularly Residential Projects within the city, the one-third abatement is not sufficient as the value of the land would amount to 50-60% of the project cost. Further, the Guidance Value, Circle Rate etc. is subject to annual revision as well.

Reply: Data available with this office, collected from field formations, suggest that the value of land is about one-third of the total value of supply. However, if the trade feels that this data is not proper, the Principal CC suggested that a broadsheet with authenticated data regarding the Guidance Value, Circle Rate, Registered value, Valuation Report (establishing the value) etc. along with a reference may be provided, so that the matter be further examined.

2. Ambiguities in Notification 4/2018-CT (Rate): Various members of the Trade have expressed doubts regarding the interpretation of the said notification as listed below:

- a. Who is the 'Registered person' referred to in Sl. No. (a)?
- b. Would land owner be required to be registered?
- c. Conveyance deed vs. Area Allocation Agreement
- d. Time of supply: Is it related to possession or allotment? Time of possession vs. time at which agreement is entered into

Reply: The Principal CC informed that the trade may submit a detailed reference which will be examined.

3. Value of Supply:

- a. In case, in terms of Notification 4/2018-CT (Rate), the time of supply arises at the time of area allocation agreement, arriving at the value of supply would be difficult. Before sale of flats, approval from RERA is to be obtained which takes several months. From time of supply till availability of value of comparable supply, there is a time gap during which Returns cannot be filed.

Reply: The Principal CC informed that the valuation of supply is covered under Section 15 of CGST Act, 2017. In case the value cannot be determined under sub-section (1) of Section 15 of CGST Act, the same has to be determined under Section 15(4) of CGST Act, read with Rules 27 to 35 of CGST Rules, 2017.

- b. In case of Commercial properties, which are only rented by the developer and the land owner's share is transferred, whether the Cost-plus mechanism be adopted for valuation.

Reply: In this case also, the Principal CC informed that the value of supply is to be determined under Section 15(4) of CGST Act,2017, read with Rules 27 to 35 of CGST Rules,2017. This includes cost plus method also, but the correct provision needs to be applied based on facts of each case.

4. Non-availability of ITC in respect of construction of immovable property, which is given on rent: The trade represented that the input tax credit on construction of an immovable property is not available as per Section 17(5)(d) of CGST Act. However, since renting is liable to GST, all input tax credit should be permissible, so as to enable seamless flow of input tax credit across the value chain.

Reply:The Principal CC informed that as per provisions of Section 17(5)(d) of CGST Act, input tax credit shall not be available in respect of 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. Since the issue raised pertains to request for amendment in statutory provisions, a detailed representation may be given which could then be examined.


5. Mobilisation Advance: Mobilisation advance given by developer to contractors – In the earlier regime, no VAT was chargeable and it was subjected to Service Tax which was on labour charges only. However, in GST, 18% on the whole contract value is payable.Since the input credit is available after receipt of services, this leads to working capital blockage for industry and additional compliance burden.

Reply: The Principal CC informed that the suppliers of goods who have not opted for composition scheme, are exempted from paying GST on Advances received, as per Notification no.66/2017-CT dtd.15.11.2017. However, this exemption is not provided in respect of suppliers of services. Since the issue raised pertains to request for amendment in statutory provisions, a detailed representation may be given which could then be examined.

6. Extension of due date for Annual Return filing: The trade represented that the time given upto 31.12.2018 for filing Annual Return is not sufficient and requested for extension of due date till 31.03.2019.

Reply: The Principal CC informed that as of now, the due date for filing Annual Return in FORM GSTR-9 is 31.12.2018 for the financial year 2017-18, as per sub-section (1) of Section 44 of CGST Act, 2017.

The meeting ended with the Chief Commissioner thanking all the participants for attending and raising substantive points for discussion.


(अमितेशभरतसिंह / Amitesh Bharat Singh)
अपरआयुक्त / Additional Commissioner (PCCO)

To,

Participants

Copy to :

1. The Principal Commissioner/Commissioner of Central Tax, Bengaluru South / North / East / West / North West / Belgaum / Mangalore / Mysore Commissionerate.
2. The Additional Director General, DGTS, TTMC Building, Above BMTC Bus Stand, Banashankari II Stage, Bangalore 560 070.
3. Web Master, Systems for uploading in the departmental website www.gstkarnataka.gov.in