



The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

Thrissur Branch of SIRC of ICAI

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Happy new year



Chairman's Message



Dear professional colleagues

2020 was an average year for many of us in terms of professional and personal achievements and very bad for few others. The number of infected people across the world is 90 million out of which 10 million are Indians. As per official records almost 2 million people lost life out of which 5% are Indians. Going by the records we can proudly say that India could control the death rate compared to many developed countries. The economy was severely affected with growth rate even touching negative in 2nd quarter.

However the New Year started with promising news. There are indicators of positive developments. The December month GST collection and the actual number of income tax filing up to December denote turnaround in the economy. The number of per day Covid cases in the country also has reduced to 20000 ranges. The bench market indices of stock markets are in all time high.

However the biggest positive news is Covid Vaccination. The government has approved two set of vaccination and designed exhaustive plans to distribute the same. Let us hope that the year 2021 would yield positive results for the business community.

Members, we have redesigned our website in tune

with the basic model and design given by our head office. All members are requested to visit the website at thrissuricai.org. We are in the process of adding more features like facilities for online payment etc. Members are requested to give your valuable suggestions for the improvement of website.

We are also in the process of updating our member's directory. We will be giving a link to facilitate members to log in and update their respective profile.

During the month we conducted one CPE online seminar on "GST on real estate & Works contract". The seminar was handled by our own young member CA Antony S Ukkan. The Management Committee met once on 22.12.2020.

I wish all the members a very happy and prosperous new year.

Jai ICAI Jai

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CA Anoop G

GST ON REAL ESTATE

CA. ANTONY S UKKEN

RECENT INCOME TAX

REFORMS

CA. (DR) V. VENUGOPAL

Photo Gallery



CA. ANTONY S UKKEN

BCOM, FCA, DISA (ICAI)

GST ON REAL ESTATE AND WORKS CONTRACT

IMPACT OF GST ON REAL ESTATE SECTOR

Valuation of supply

Sale of land is not taxable under GST

Hence GST law provides the standard abatement of 33% of the total contract/agreement value being provided towards the value of land

Whether the standard abatement will be applicable even when separate agreement is entered for land portion? – a debatable issue

Input Tax Credit restrictions/reversals under development projects

Sale of properties after obtaining Occupancy Certificate (OC)

Goods and services procured for construction of a building which is used for one's own account (self occupation or renting out)

Joint Development Agreement

Joint Development Agreements are those situations where the owner and builder come to an agreement to jointly develop a property. There are two types of Joint Development Agreement

Revenue sharing model - The constructed property will be sold by the land owner and developer in which the landowner is paid the agreed share after the property is sold

Area sharing model - The time of supply for transfer of development rights (by land owner) as well as supply of construction services (by developer) have been specified at the time of transfer of possession of right in the construct-

ed area by entering into conveyance deed or allotment letter. The arrangement is beneficial for the developers as they would be in a position to utilize the ITC on development rights against their output taxes. However, as landowner is concerned, there will be restriction on utilization of ITC by the landowner if his share of properties is sold after obtaining completion certificate which will result in added cost to the project.

Taxability of additional charges and reimbursable components

As a part of sale of house property, various charges are recovered by a developer from a customer in addition to the Basic Sale Price (ie:- preferential location charges for esteemed properties)

These charged are directly linked to the sale of property as such charges will not be payable if the customer has not purchased the property

The charges recovered by the developer will be treated as part of composite supply in which the principal supply is construction of complex.

Taxability of interior construction services offered by developer to customers

The developer additionally charges certain customers towards interior construction or sale of mock up flats.

The services provided by developer includes

works contract service as well as construction services

Valuation and taxability of such supplies shall be required to be ascertained where a single contract is entered with customer of such supplies
1/3rd of land deduction shall also required to be evaluated

Changes in GST on Real Estate Sector w.e.f 01.04.2019

Revised GST rate w.e.f 01-04-2019

GST rate on

Construction of affordable residential apartments – effective rate of 1% without ITC on total consideration

Construction of residential apartments other than affordable residential apartments – effective rate of 5% without ITC on total consideration

In case of ongoing housing projects , the promoter had the option to pay GST at old rates (ie:-effective rate of 8% for affordable housing projects and effective rate of 12% for other than affordable housing projects)

In case of Construction of Commercial apartments, in a Residential Real Estate Project (RREP) (whether new or ongoing), effective rate of 5% without ITC

In case of Construction of Commercial apartments, other than RREP (whether new or ongoing), effective rate of 12% with ITC

Affordable Housing

A residential house/flat of

Carpet area of up to 90 sqm in non-metropolitan cities/towns and 60 sqm in metropolitan cities

Having value up to Rs.45 lakhs (both for metropolitan and non-metropolitan cities)

Applicability of GST on reverse charge basis

If the value of purchases from registered supplier is less than 80% of total value of purchases, the promoter has to pay GST on reverse charge basis, (to the extent short of 80% of inward supplies from the promoter)

GST@18% on all inward supplies except cement

GST@28% on Cement

On Capital Goods , GST will be chargeable at applicable rates

In case of TDR, FSI and Long Term lease of Land, GST@18% is to be paid by the promoter on reverse charge basis. The liability will be shifted from landowner to developer from the date of issuance of Completion Certificate.

ITC on ongoing projects

ITC shall be provided on percentage completion, either

Percentage booking of flats, or
Percentage invoicing

For mixed projects, ITC shall be provided on pro-rata basis on carpet area of the commercial project to the total carpet area of the project. The developer shall be allowed to carry forward the ITC subject to prescribed reversal

GST applicability on TDR, FSI and Long Term Lease of Land

Supply of TDR or FSI or Long Term Lease of Land used for construction of residential apartments in a project which is booked before the issue of completion certificate or first occupation is exempt

TDR, FSI or Long Term Lease of Land will attract GST@18%

In case of residential apartments which remains un booked on the date of issue of completion certificate or first occupation, will attract GST@18% but will be limited to 1% or 5% depending on whether the project is affordable or non affordable housing project

The promoter will be liable to pay GST on TDR or FSI or Long Term Lease of Land on reverse charge basis

The liability to pay GST on TDR arises on the date of completion or first occupation of the project, whichever is earlier

In case of FSI received on or after 01-04-2019,

the promoter will discharge tax liability as

In case of supply of FSI wherein monetary consideration is paid by the promoter, liability to pay GST arises on the date of issuance of completion certificate

In case of supply of FSI wherein monetary consideration is paid by promoter, liability to pay GST arises on the date of issuance of completion certificate only if such FSI is related to construction of residential apartments. For commercial apartments, liability to pay tax arises immediately

In case of Long Term Lease of Land on or after 01-04-2019, the promoter will discharge tax liability as

In case of Long Term Lease of Land wherein consideration is in the form of residential or commercial apartments, liability to pay GST arises on the date of issuance of Completion Certificate.

In case of Long Term Lease wherein Upfront fees is paid by the promoter, liability to pay GST arises on the date of issuance of completion certificate, liability to pay tax arises on the date of issuance of Completion Certificate only if such long term lease is related to construction of residential apartments. For commercial apartments, liability to pay tax arises immediately

WORKS CONTRACT

Definition of Works Contract under GST [Section 2(119) of the CGST Act, 2017]

“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.

Treatment of Works Contract under GST

As per Para 6(a) of Schedule II to the CGST Act, 2017, Works Contracts shall be treated as supply of services.

Input Tax Credit on Works Contract

As per Section 17(5)(c) of the CGST Act, 2017, Input Tax Credit shall not be available in respect of the 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 Services.

Rate of GST on Works Contract

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 the issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.	9% CGST + 9% SGST
Composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Service Tax Act, 2017	9% CGST + 9% SGST
Composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Service Tax Act 2017, supplied to the Government, a local authority or a Governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of – A historical monument, archaeological site or remains of national importance, archaeological excavation or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act,1958 (24 of 1958); Canal , dam or other irrigation works; Pipeline, conduit or plant for Water supply, Water treatment, or Sewage treatment or disposal	6% CGST + 6% SGST

<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> <ul style="list-style-type: none"> A road, bridge, tunnel, or terminal for road transportation for use by general public A civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojna A civil structure or any other original works pertaining to the “in-situ rehabilitation of existing slum dwellers using land as a resource through private participation” under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojna, only for existing slum dwellers 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 A pollution control or effluent treatment plant except located as a part of a factory; or A structure meant for funeral, burial or cremation of the deceased 	6% CGST + 6% SGST
<p>Composite supply of works contract as defined in clause(119) of Section 12 of the Central Goods and Services Tax Act, 2017, supplied by way of construction , erection, commissioning or installation of original works pertaining to –</p> <ul style="list-style-type: none"> Railways , excluding monorail or metro: A single residential unit otherwise than as a part of a residential complex Low-cost houses up to a carpet area of 60 square meters 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; Low-cost houses up to a carpet area of 60 square meters per house in a housing project approved by the competent authority Post- harvest storage infrastructure for agricultural produce including a cold storage for such purpose; or Mechanized food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages, Services provided to the Central Government, State Government, Union Territory, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair , maintenance , renovation, or alteration thereof A civil structure or any other original works meant predominantly for use other than commerce, industry or any other business or profession; A structure meant predominantly for use as <ul style="list-style-type: none"> An educational, Clinical,An art or cultural establishment; or 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 	6% CGST +6% SGST
Construction services other than (i),(ii),(iii),(iv),(v) & (vi) above	9% CGST + 9% SGST

Place of Supply in relation to Works Contract

Where both the supplier and recipient are located in India, the place of supply would be where the immovable property is located (Section 12 (3) of the IGST Act, 2017)

In the case the immovable property is located outside India, and the supplier and recipient both are located in India, the place of supply will be the location of recipient (Section 12(3) of the IGST Act, 2017)

In case where either the supplier or the recipient are located outside India, the place of supply shall be the place where the immovable prop-

erty is located or intended to be located (Section 13(4) of the IGST Act, 2017)

Decentralized GST Registration

Every developer has to take GST Registration in every states where construction projects have been undertaken

Taxability of stock transfers

Transfer of input goods, capital goods, consumables, etc. from one location to another is treated as supply. Hence it is liable to GST



Recent Income Tax Reforms- Shift from Tax Terrorism to Tax Transparency

According to our Prime Minister Sri. Narandra Modi, India has shifted from Tax Terrorism to Tax Transparency. He said that the Government is following the approach of 'reform, perform and transform'. Reforms are brought out in rules, procedures and by using technology to a big extent. According to the Prime Minister, today taxpayers are witnessing a big change and transparency is happening in tax system. According to him wealth creators should be honored and easing their problems will help in aiding the growth of the economy. Prime Minister has stated that he felt aggrieved over the low number of taxpayers in India and urged the Citizens who owe taxes to take bold steps to contribute to nation building.

He added that the new reforms have been launched as part of the government's resolve to provide "maximum governance with minimum government". The major Income Tax Reforms implemented recently by the Government are explained below:

1. Tax rebate for income upto Rs. 5 lakh

Now income up to Rs 5 lakh is exempted from

taxes and the benefit of this is mainly available to the youth. Individuals with a net taxable income up to Rs. 5 lakh in a financial year will be able to avail tax rebate of Rs. 12,500/-, thereby not paying any income tax for income up to Rs.5 lakh.

2. Scrutiny Assessments

About 99.75% of income tax returns are now accepted without any hassles. The Government is basically reposing trust in the taxpayer, and scrutiny is done only in 0.25% cases.

The central computer selects tax returns for scrutiny or inspection based on risk or mismatch considerations. These cases will be allocated to a team at a different location who will study, and if they agree, a notice will be sent by the centralized computer system.

3 Faceless Assessments

Faceless assessment and appeals were launched on September 25th, 2020, to reduce the scope for corruption and overreach by officials, signalling major reforms in the Income Tax system in the country. Under the system, appeals to be randomly allocated to any officer in the Country and the identity of the officials deciding the appeal will remain unknown. There is no need to visit the officer and the appeal decision will be team based and reviewed. Territorial jurisdiction is abolished, and assessments will happen electronically. According to our Prime Minister, the new platform, apart

from being faceless, is also aimed at boosting the confidence of the taxpayer and making him/her fearless.

There are a few exceptions to faceless appeals that include cases relating to serious fraud, tax evasion of big accounts, search cases, benami properties and black money cases.

4. Tax Dispute Settlement Scheme (Vivad Se Viswas Bill 2020)

Vivad Se Viswas Scheme announced in the Budget 2020 has now been extended till 31st March 2021 due to the Covid-19 pandemic. This provision will help to resolve a large number of pending tax cases. Currently, an amount of Rs.9.32 trillion is blocked in approximately 483,000 appeals pending at various appellate forums.

The scheme will be applicable to taxpayers who have filed appeals for resolving tax, interest or penalty matters with the Income tax Appellate Tribunal, the Commissioner (Appeal), High Court or Supreme Court as of 31st January 2020. It does not matter whether the tax demand in such cases is pending or has been paid. The amount payable under the act, if made on or before 31st March 2021, is 100% of Disputed Tax and 25% of Disputed Interest and Penalty. If appeal is filed by Income tax Department, the amount payable shall be 50%.

5. Simplified Tax Regime

This year's budget has provided the optional tax regime, which is simpler and saves the taxpayer from unnecessary hassle and cost. The simplified tax regime with revised slabs and reduced rates comes with a rider that a taxpayer can opt for the regime only when he forgoes the tax benefits currently available in

relation to housing loan, interest paid on self-occupied property, house rent allowance, contributions to PF, LIC, Medical insurance premium and other deductions. The taxpayer has to make a decision before opting between the existing regime and the proposed scheme. This option once exercised becomes irreversible in the case of individuals with business income. The tax rate under the new regime is given below-

Income Slab	Rate of Tax	
	New	Existing
Income up to Rs.2.5L	NIL	NIL
Rs. 2.5 L- Rs.5L	5%	5%
Rs.5.0 L to Rs.7.5L	10%	20%
Rs.7.5 L to Rs.10L	15%	
Rs.10L to Rs.12.5L	20%	30%
Rs.12.5 L to Rs.15L	25%	
Above Rs.15L	30%	

6. Reduction in Corporate Tax Rate

In September 2019, the Government announced a massive tax rate cut, lowering the base corporate tax rate to 22% (from 30%) for domestic companies and to 15% (from 25%) for new manufacturing companies set up after 1st October. The new tax rate is subject to the condition that the company will not avail any incentives or exemptions. The new tax rate is made applicable from the current fiscal which began from 1st April 2020. According to Prime Minister the historic step of cutting corporate tax will give a great stimulus to attract private investment from across the globe, improve competitiveness of our private sector, and cre-

ate new jobs. This historic rate cut meant a reduction of about Rs 1.45 lakh crore in direct tax collection.

The new tax rate would be comparable with the lowest tax regimes in the South Asian Region.

7. Removal of Dividend Distribution Tax

Dividend distribution tax has been removed to increase investment in India's equity market. With the proposed change, a company would no longer be liable to pay Dividend Distribution Tax on dividend declared, distributed or paid on or after 1st April 2020, but the same would now be taxable in the hands of shareholders.

8. Monetary limits for filing Appeals.

Central Board of Direct Taxes vide circular dated 8th August 2019 has revised the monetary limits for filing Income Tax Appeals by Revenue Department as a measure to reduce litigation. The Revenue Department would not be able to file appeal before Income Tax Appellate Tribunal (ITAT) if the amount (tax effect) does not exceed Rs.50 lakhs, and before High Court if the tax effect does not exceed Rs.1 crore. Similarly, department appeals before Supreme Court cannot be filed if the tax effect does not exceed Rs 2 crore. The earlier monetary limits were Rs.20 lakh, Rs.50 lakh and Rs.1 crore before ITAT, High Court and Supreme Court respectively.

9. Tax Refunds

Nowadays for tax refunds the taxpayers need not wait for long and it happens within a few months, which reflects the transparency. Between 1st April 2020 and 8th December 2020,

the Income Tax Department has given more than Rs 1.45 lakh crore of refunds to 89 lakh assesses. Generally, the refunds are automatic and are received within 3 to 4 months of filing IT Returns.

10. Taxpayers' Charter

India is among a select few nations which have codified rights and responsibilities of taxpayers. The Taxpayers Charter, which was unveiled on 13th August 2020, clearly defines the taxpayers as well as tax official's rights and duties. The charter will help taxpayers to get tax related issues resolved within a time bound manner and set accountability on tax officials. Under the Charter, taxpayers are treated as honest by respecting the privacy of taxpayers and by maintaining confidentiality.

11. Honouring the Honest

Prime Minister has recently launched a transparent platform for honouring the "Honest Taxpayer" that is meant for better compliance, and to meet the requirements of 21st century taxation system. He elaborated that the platform has major reforms like faceless assessment, faceless appeal and Taxpayers' charter. He added that when the life of an honest taxpayer becomes easy, he progresses and moves forward, and then the country also develops and leaps forward.

Conclusion

The new tax reforms introduced by the government are going to benefit honest taxpayers, ensure their fair and polite treatment, and ease their compliance burden. Faceless assessment, faceless appeals and taxpayers' charter are the main components of these tax reforms to promote transparency.

Only 1.46 crore Indians pay income tax, and

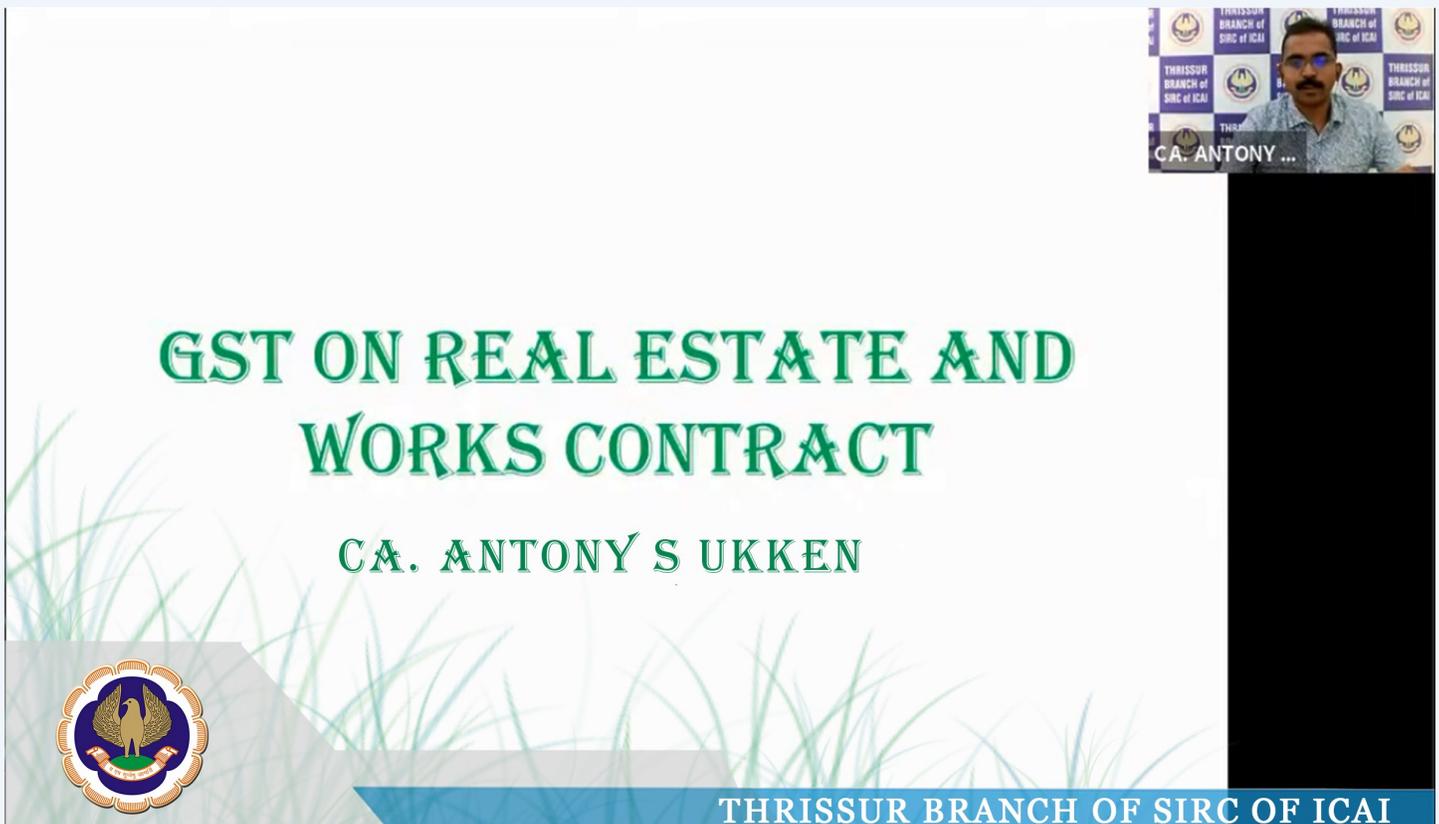
this is just a little over 1% of India's population. There is a need to widen the tax base as many non-salaried individuals conceal their income. Around 1 crore individuals disclosed income between Rs.5 to 10 lakh and only 46 lakh individual taxpayers have disclosed income above Rs.10 lakh.

The income tax officials have been given stringent revenue targets year after year. This, in turn, leads to harassment of taxpayers. The penal provisions for non-compliance are heavy and even failure to file tax returns attracts severe punishment, including prison sentences from 6 months to 7 years plus fine if the tax arrears exceed Rs.25 lakh. Unlike developed countries, taxpayers in India do not

have the privilege of approaching a Tax Ombudsman, an independent authority who examines and resolves tax related complaints.

The initiatives taken by the Government to bring transparency and simplification of tax procedure is worthy of appreciation. The simplified optional tax regime with reduced tax rate will help middle income taxpayers. Faceless assessment and faceless appeal are a bold initiative. Considerable reduction in company tax rate especially for new manufacturing units and removal of divided distribution tax will attract private investment and increase Foreign Direct Investment. We may now hope that a new era of tax transparency will begin.

PHOTO GALLERY



**GST ON REAL ESTATE AND
WORKS CONTRACT**

CA. ANTONY S UKKEN

THRISSUR BRANCH OF SIRC OF ICAI