



354/Es.
19.9.18

DO No. NAA/2018/DO/27 15/18

Dated: 13-09-2018

Dear Dr. K.K. Khandelwal, Sir

13/9/18: Matter to be examined and put up.
M(SK)/Chartered Accountant
12/9

As you are aware that a host of serious issues concerning the Real Estate Sector are pending before the various Courts as well as the RERAs, the major being the issue of charging exorbitant prices from the house buyers by the builders. To lessen the financial burden of the purchasers the Central/State Govts. have prescribed uniform rate of Goods & Services Tax (GST) @ 12 % for all categories of houses w.e.f. 1.7.2017 except under the Affordable Housing Schemes under which the GST is being charged @ 8% w.e.f. 25.1.2018. Before coming into force of the Central/State Goods & Services Tax (CGST/SGST) Acts 2017, Value Added Tax (VAT) was being charged by the States at different rates which was eligible for claiming Input Tax Credit (ITC) although, the Excise Duty (paid on inputs) and the Service Tax (paid on input services) which were being charged by the Central Govt. were not eligible for the benefit of ITC. After implementation of the GST the builders are entitled to claim ITC on both the Goods and the Services and this benefit has to be passed on by them to the buyers as per Section 171 of the CGST/SGST Acts, 2017. However, it has been observed that no such benefit is being passed on in many cases by the builders and hence, there is great resentment amongst the buyers on this account.

I would like to inform you that both the above Acts provide a comprehensive mechanism under Chapter XV of the CGST/SGST Rules, 2017 to curb the practice of profiteering by the builders on account of denial of benefit

of ITC.and the buyers can approach the Screening Committee of the concerned State or the concerned Commissioner of State Taxes as well the Central GST, to lodge their complaints in this regard. The complaints can also be lodged on the website of this Authority at www.naa.gov.in . To ensure that the benefit of ITC is genuinely passed on to the buyers, I would request you to forward any complaint received in this regard to the above authorities or to us (secretary.naa@gov.in) and also to sensitize the buyers as well as the builders who approach your Authority on this issue.

Warm Regards,


(B.N. Sharma)

To
Dr. K.K. Khandelwal,
Chairman, Haryana Real Estate Regularity Authority,
Civil Lines, Gurugram, Haryana- 122001

Copy to:
Finance Secretary, Department of Revenue, Ministry of Finance

CHAPTER XV
ANTI-PROFITEERING

122. Constitution of the Authority.- The Authority shall consist of,-

- (a) a Chairman who holds or has held a post equivalent in rank to a Secretary to the Government of India; and
- (b) four Technical Members who are or have been Commissioners of State tax or central tax or have held an equivalent post under the existing law,

to be nominated by the Council.

123. Constitution of the Standing Committee and Screening Committees.- (1) The Council may constitute a Standing Committee on Anti-profiteering which shall consist of such officers of the State Government and Central Government as may be nominated by it.

(2) A State level Screening Committee shall be constituted in each State by the State Governments which shall consist of-

(a) one officer of the State Government, to be nominated by the Commissioner, and

(b) one officer of the Central Government, to be nominated by the Chief Commissioner.

124. Appointment, salary, allowances and other terms and conditions of service of the Chairman and Members of the Authority:- (1) The Chairman and Members of the Authority shall be appointed by the Central Government on the recommendations of a Selection Committee to be constituted for the purpose by the Council.

(2) The Chairman shall be paid a monthly salary of Rs. 2,25,000 (fixed) and other allowances and benefits as are admissible to a Central Government officer holding posts carrying the same pay:

Provided that where a retired officer is selected as a Chairman, he shall be paid a monthly salary of Rs. 2,25,000 reduced by the amount of pension.

(3) The Technical Member shall be paid a monthly salary of Rs. 2,05,400 (fixed) and shall be entitled to draw allowances as are admissible to a Government of India officer holding Group 'A' post carrying the same pay:

Provided that where a retired officer is selected as a Technical Member, he shall be paid a monthly salary of Rs. 2,05,400 reduced by the amount of pension.

(4) The Chairman shall hold office for a term of two years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment:

Provided that person shall not be selected as the Chairman, if he has attained the age of sixty-two years.

(5) The Technical Member of the Authority shall hold office for a term of two years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment:

benefit of reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, it shall refer the matter to the Director General of Safeguards for a detailed investigation.

(2) The Director General of Safeguards shall conduct investigation and collect evidence necessary to determine whether the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices.

(3) The Director General of Safeguards shall, before initiation of the investigation, issue a notice to the interested parties containing, *inter alia*, information on the following, namely:-

- (a) the description of the goods or services in respect of which the proceedings have been initiated;
- (b) summary of the statement of facts on which the allegations are based; and
- (c) the time limit allowed to the interested parties and other persons who may have information related to the proceedings for furnishing their reply.

(4) The Director General of Safeguards may also issue notices to such other persons as deemed fit for a fair enquiry into the matter.

(5) The Director General of Safeguards shall make available the evidence presented to it by one interested party to the other interested parties, participating in the proceedings.

(6) The Director General of Safeguards shall complete the investigation within a period of three months of the receipt of the reference from the Standing Committee or within such extended period not exceeding a further period of three months for reasons to be recorded in writing as allowed by the Standing Committee and, upon completion of the investigation, furnish to the Authority, a report of its findings along with the relevant records.

130. Confidentiality of information.- (1) Notwithstanding anything contained in sub-rules (3) and (5) of rule 129 and sub-rule (2) of rule 133, the provisions of section 11 of the Right to Information Act, 2005 (22 of 2005), shall apply *mutatis mutandis* to the disclosure of any information which is provided on a confidential basis.

(2) The Director General of Safeguards may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of the party providing such information, the said information cannot be summarised, such party may submit to the Director General of Safeguards a statement of reasons as to why summarisation is not possible.

131. Cooperation with other agencies or statutory authorities.- Where the Director General of Safeguards deems fit, he may seek opinion of any other agency or statutory authorities in the discharge of his duties.

132. Power to summon persons to give evidence and produce documents.- (1) The Director General of Safeguards, or an officer authorised by him in this behalf, shall be deemed to be the proper officer to exercise the power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing under

(a) "Authority" means the National Anti-profiteering Authority constituted under rule 122;

(b) "Committee" means the Standing Committee on Anti-profiteering constituted by the Council in terms of sub-rule (1) of rule 123 of these rules;

(c) "interested party" includes-

- a. suppliers of goods or services under the proceedings; and
- b. recipients of goods or services under the proceedings;

(d) "Screening Committee" means the State level Screening Committee constituted in terms of sub-rule (2) of rule 123 of these rules.