



## NITYA'S INSIGHT | Issue 21 |

Recent Changes in Real Estate Sector under GST

April 12, 2019

## PART A: IMPLEMENTATION OF NEW TAX RATES IN THE REAL ESTATE SECTOR

The Government vide various Notifications dated March 29, 2019, has implemented lower GST rates in the real estate sector for ongoing and new projects. These were decided in 33<sup>rd</sup> and 34<sup>th</sup> GST Council Meetings.

### **1. Rate of tax**

With effect from April 1, 2019, the applicable rate of GST in the real estate sector will be as follows:

| Particulars                                                                                                                                                                                                                                                                                                                                                                                                                                      | Effective rate of GST for taxpayer | Conditions                                                                                                                                                                                                                                                                                            |
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| <ul style="list-style-type: none"> <li>Construction of an apartment in an ongoing project under <b><i>specified affordable housing schemes, where promoter has opted for old rate</i></b><br/><br/>(Specified schemes have been listed in <b>Annexure-1</b>)</li> </ul>                                                                                                                                                                          | 8 percent with ITC                 | Taxpayer shall file the prescribed form, declaring availment of option to pay taxes under old rate scheme by <b>May 10, 2019</b>                                                                                                                                                                      |
| <ul style="list-style-type: none"> <li>Construction of residential apartments (other than affordable houses in specified schemes) in an ongoing project, <u>where promoter has opted for old rate</u></li> </ul>                                                                                                                                                                                                                                 | 12 percent with ITC                |                                                                                                                                                                                                                                                                                                       |
| <ul style="list-style-type: none"> <li>Construction of commercial apartments in a Real Estate Project ('REP'), where area of commercial apartments exceeds 15 percent of total carpet area (<i>whether ongoing or new</i>)</li> </ul>                                                                                                                                                                                                            | 12 percent with ITC                | --                                                                                                                                                                                                                                                                                                    |
| <ul style="list-style-type: none"> <li>Construction of affordable residential apartments in an ongoing Residential Real Estate Project ('RREP') or REP, which were earlier eligible for reduced effective rate of 8 percent and <u>where promoter has not opted for old rate</u></li> <li>Construction of new affordable residential apartments in RREP or REP</li> </ul>                                                                        | 1 percent without ITC              | <ul style="list-style-type: none"> <li>- ITC has not been availed</li> <li>- 80 percent of inputs and input services [other than capital goods, TDR/ JDA, FSI, long term lease (premiums), electricity, high speed diesel, motor spirit, natural gas] are procured from registered persons</li> </ul> |
| <ul style="list-style-type: none"> <li>Construction of residential apartments (other than affordable houses) in an ongoing RREP or REP, <u>where promoter has not opted for old rate</u></li> <li>Construction of new residential apartments (other than affordable houses) in RREP or REP</li> <li>Construction of commercial apartments in RREP where area of commercial apartments does not exceed 15 percent of total carpet area</li> </ul> | 5 percent without ITC              |                                                                                                                                                                                                                                                                                                       |

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| <ul style="list-style-type: none"> <li>Supply of works contract service in relation to affordable residential apartments in a new project or an ongoing project <u>where promoter has not opted for old rate scheme</u></li> </ul> <p><b>NITYA Comments:</b> <i>The purpose is to reduce tax incidence at input stage on sub-contractor's service for affordable housing projects)</i></p> | 12 percent without ITC | 50 percent of total carpet area of the project relates to affordable housing project |
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The definitions of key terms are contained in **Annexure-2**

Notes:

- 1) Concessional rate of tax needs to be paid in cash only.

**NITYA Comments:** *The mandatory requirement of paying concessional GST in cash can be challenged as Section 49 of the Central Goods and Services Tax Act, 2017 ('CGST Act') governing payment of tax read with the rules made thereunder do not contain enabling provision to restrict usage of electronic credit ledger or electronic cash ledger.*

- 2) For new projects, there is no option to pay tax at higher rate and avail ITC. It is mandatory to charge concessional rate of tax and forego ITC.
- 3) For considering a project to be an ongoing project, one important condition is that the consideration equal to at least one instalment should have been credited to the bank account of the supplier prior to April 1, 2019.
- 4) The landowners procuring construction service in exchange of development rights, can avail credit provided that the landowners pay tax at the time of final sale.
- 5) The taxpayers making transition to concessional rate, will have to compute transitional credit basis the detailed formulae given in the Notification considering the following factors:
  - a. Carpet area of residential and commercial apartments in a project,
  - b. Invoicing done (time of supply has occurred) till March 31, 2019, and
  - c. Percentage completion of the project.

The formulae for computing transitional input tax credit considers project wise details from July 2017 to March 2019.

**NITYA Comments:** *The scheme of computation of transitional credit is complex and taxpayers will need to undertake detailed workings to compute the ITC reversible by them / eligible to them including project wise bifurcation of ITC. With these workings, one may not practically opt for new rates for old projects.*

*One important point is that the **formulae require reversals of already availed credits till March 31, 2019.** There is no provision under the GST law which permits reversal of credit which was validly availed earlier. Hence, **taxpayers may challenge such reversal being ultra-vires the provisions of the CGST Act.***

6) In addition to the complex formulae, following additional conditions are also imposed on a taxpayer:

- Where percentage invoicing prior to April 1, 2019 is greater than percentage completion and the difference is more than 25 percent, value of percentage invoicing shall be deemed to be percentage completion plus 25 percent
- Where value of invoices issued prior to April 1, 2019 is greater than consideration actually received and the difference is more than 25 percent, value of invoices shall be deemed to be consideration received plus 25 percent
- Where value of procurement of inputs and input services prior to April 1, 2019 is greater than value of actual consumption in percentage completion as on March 31, 2019, and the difference is more than 25 percent, eligible ITC may be computed basis the actual consumption

***NITYA Comments:** These conditions have been imposed to ensure that a taxpayer does not deliberately increase the amount of ITC to be transitioned by raising more invoices vis-à-vis completion or even consideration received. The complex formulae and number of conditions ultimately defeat the overall purpose of reducing rates for existing projects. The taxpayers will be wary that such transition may result in disputes or interpretational issues.*

[Refer: Notification No. 3/2019-Integrated Tax (Rate) dated March 29, 2019]

## **2. Amendment in Rule 42 and 43 (specific to construction services)**

- Several amendments have been made in Rule 42 and 43 of the Central Goods and Services Tax Rules, 2017 ('CGST Rules') for constructions services.
- **Order No.4/2019-Central Tax dated March 29, 2019** has been issued empowering reversal of credit on carpet area basis in case of construction services. Corresponding changes have been introduced in Rule 42 and 42 of the CGST Rules.
- All the calculations shall be made separately for **each project**. Inputs, input services and capital goods that are common for multiple projects, shall be assigned to each project on reasonable basis.

***NITYA Comments:** Determination of project wise credit availed between July 2017 to March 2019 will be a herculean task. The terminology 'reasonable basis' used by the legislature is subjective and is likely to invite dispute from authorities.*

- While making calculations for the tax period, value of exempt supplies will include aggregate carpet area of those apartments which are **identified by the taxpayer** to be sold after issuance of completion certificate.
- The **true up** of all intermediary reversals of a project will be done **at the time of issuance of completion certificate or first occupation of the project**, whichever is earlier. This shall be done before the due date of furnishing of the return for the month of September, following the end of financial year in which such completion certificate is issued, or first occupation takes place.

**NITYA Comments:** The true-up mechanism will also apply to ongoing projects for which completion certificate will be issued post April 1, 2019 considering credits availed from July 1, 2017.

Taxpayers would have finalized credit for Financial Year (FY) 2017-18 and 2018-19 basis the earlier provisions (considering FY wise turnover). The amended provision results in re-determination of such finalized credits as well.

- True up for RREP where credits have been transited as per prescribed formula, shall not be required to be done.
- The '**amount of credit exclusively relatable to taxable supplies**' shall be '**zero**', as the goods and services will be used commonly for construction of apartments which may be booked on or before the issuance of completion certificate or first occupation of the project, whichever is earlier, or booked afterwards.

**NITYA Comments:** Before this amendment, for all the years when completion certificate was not issued, taxpayer would have availed full credit on goods and services considering the same as exclusive to taxable supplies. Further, even under revised mechanism, credits are finalized only in respect of common credits availed for previous years and not exclusive credits. Basis this, the authorities may challenge the credits availed by the taxpayers in past period, under the head 'Exclusive for taxable supplies', and demand that all credits shall be re-determined.

[Refer: Notification No. 16/2019-Central Tax dated March 29, 2019]

### 3. RCM liability

The Government has notified the following category of goods and services, on which **promoter** shall be liable to pay GST on reverse charge basis:

| Goods / Services                                                                                                                                                                                                                                                                                                                                                                    | Condition                                        | Rate of tax                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|-----------------------------------|
| Transfer of development rights (TDR) or Floor Space Index (FSI) (including additional FSI) for construction of a project                                                                                                                                                                                                                                                            | -                                                | Applicable rate of tax            |
| Long term lease of land (30 years or more) against consideration in the form of premium, salami, cost, price, development charges etc. ('upfront amount') and / or periodic rent for construction of a project                                                                                                                                                                      | -                                                | Applicable rate of tax            |
| Goods / services [other than capital goods, TDR/ JDA, FSI, long term lease (premiums), electricity, high speed diesel, motor spirit, natural gas]<br><br><i>Applicable where, and to the extent, procurement of goods and services from a registered person in a financial year or part of financial year (where completion certificate has been issued) falls below 80 percent</i> | When procured from <b>an unregistered person</b> | 18 percent<br>(Other than cement) |
| Cement                                                                                                                                                                                                                                                                                                                                                                              |                                                  | 28 percent                        |

| Capital goods                                                                                                                                                           |                                                                                                                                                                                     | Applicable rate of tax                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|
| Works contract service in relation to affordable residential apartments in a new project or an ongoing project, <u>where promoter has not opted for old rate scheme</u> | Where concessional rate was availed, and it was turned out that actual carpet area of affordable residential apartments is less than 50 percent of the total carpet area of project | Applicable rate on works contract service less Concessional rate paid |

Notes:

- 1) Reverse charge shall be applicable to new projects and ongoing projects wherein new rates are opted.
- 2) Tax liability under reverse charge on inputs and input services (other than cement) will be added in the output tax liability of month of June, following the end of financial year in which the procurements were made. The tax liability under reverse charge on Cement need to be paid in the month in which Cement is received.

***NITYA Comments:** While for inputs and input services (other than Cement), reverse charge liability needs to be discharged by July 20 of the succeeding financial year. However, the language used for discharge of reverse charge liability on Cement is ambiguous. The words used by legislature indicate that tax should be paid in the same month when Cement is received (i.e. last day of such month). For instance, if Cement procured from unregistered supplier is received on April 25, 2019, tax needs to be paid by April 30, 2019. It is pertinent to note that there is no way to pay tax other than through GSTR-3B which is due to be filed by 20<sup>th</sup> of next month.*

*Further, as no time period is specified for discharging tax liability on capital goods, the same needs to be discharged with the output tax liability of the month in which capital goods are procured.*

- 3) Reverse charge is applicable on procurement of cement and capital goods from unregistered person, irrespective of percentage of procurement from unregistered persons.
- 4) For computing value of 80 percent, tax paid under reverse charge on procurement of inputs and input services (including cement) from unregistered persons will be considered.

*[Refer: Notification No. 3/2019-Integrated Tax (Rate) dated March 29, 2019, Notification No. 5/2019-Integrated Tax (Rate) dated March 29, 2019, Notification No. 7/2019-Integrated Tax (Rate) and Notification No. 8/2019-Integrated Tax (Rate), both dated March 29, 2019]*

#### **4. GST Treatment of TDR / FSI and long-term lease for projects commencing after April 1, 2019**

##### **4.1. Exemption**

- GST is not payable on services by way of TDR / FSI and upfront amount on long-term lease for projects commencing after April 1, 2019 where consideration has been received prior to issuance of completion certificate or before date of first occupation, whichever is earlier.

- In case of a project comprising of both residential and commercial apartments, exemption shall be computed pro-rata basis the carpet area of the residential apartments.

#### 4.2. Taxability

- Exemption shall not be available on the apartments which remain un-booked on the date of issuance of completion certificate or before date of first occupation, whichever is earlier. The proportionate value on which tax shall be payable shall be calculated as follows:

$$\frac{\text{GST payable on TDR/ FSI or upfront lease amount X Carpet area of un-booked residential apartments}}{\text{Total carpet area of residential and commercial apartments}}$$

- GST will be payable on reverse-charge basis in such cases (Refer Point 3 above) and time of supply shall be the date of issuance of completion certificate or date of first occupation, whichever is earlier.
- The value of tax in the above case shall be limited to:
  - In case of affordable houses: 1 percent of value
  - In case of other houses: 5 percent of value
- Methodology to compute TDR / FSI and un-booked apartments has also been prescribed.

*[Refer: Notification No. 4/2019-Integrated Tax (Rate) dated March 29, 2019 and Notification No. 6/2019-Integrated Tax (Rate) dated March 29, 2019]*

## PART B: MISCELLANEOUS CHANGES

### Order of setting-off of ITC against output tax liability (effective from March 29, 2019)

The Government has inserted Rule 88A in the CGST Rules prescribing order of setting-off ITC against output tax liability. The Rule provides that the credit of IGST shall first be utilized towards payment of IGST and remaining credit shall be used for payment CGST and SGST, **in any order**.

It is notable that Rule 88A has been prescribed in powers of Section 49B, which overrides Section 49 and Section 49A of the CGST Act. Hence, the order of set-off provided in the Rule will override the procedure given under Section 49A of the CGST Act.

***NITYA Comments:** In our NITYA Insight dated February 14, 2019, we highlighted that with insertion of Section 49A in the CGST Act, there will be instances where credit of CGST will get accumulated and SGST will have to be paid in cash.*

*Insertion of Rule 88A will provide solution to this problem. A taxpayer may choose to switch utilization of IGST for CGST and SGST, month on month, to utilize the accumulated credit. In simple words, in case IGST credit is used for payment of CGST in a month resulting in accumulation of CGST credit, the taxpayer may use IGST credit for payment of SGST in the next month resulting in utilization of accumulated CGST credit for payment of CGST liability.*

### Summary of assessment orders and notices on GST portal (effective from April 1, 2019)

Rule 100 of the CGST Rules has been substituted to incorporate the requirement of uploading the summary of assessment orders and notices issued by the competent authorities over GST portal. Summary of these orders and notices will be uploaded in FORM GST DRC-07 and DRC-01, respectively.

### Other amendments in Rule 42 and 43 of the CGST Rules

- Both the Rules have been amended to provide bifurcation of input tax credits exclusive for taxable supplies, credits exclusive for exempt supplies, credits exclusive to non-business purposes etc. in FORM GSTR-3B.

***NITYA Comments:** No corresponding amendment has been brought in FORM GSTR-3B to insert fields for provision of these details.*

- In pursuance to calculations made under Rule 42 and 43, credits attributable to exempt supplies and non-business purposes need to be reversed in FORM GSTR-3B or through FORM GST DRC-03 instead of adding to output tax liability.

## PART C: ANNEXURES

### Annexure-1 – List of specified schemes

- Scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awas Yojana
- In-situ redevelopment of existing slums using land as a resource, under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban)
- Beneficiary led individual house construction / enhancement, under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana
- 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)
- Houses constructed or acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS)/ Lower Income Group (LIG)/ Middle Income Group-1 (MIG-1)/ Middle Income Group-2 (MIG-2)” under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban)
- A single residential unit otherwise than as a part of a residential complex
- 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
- Low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under-
  - The “Affordable Housing in Partnership” component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;
  - Any housing scheme of a State Government
- Low-cost houses up to a carpet area of 60 square metres per house in an affordable housing project which has been given infrastructure status vide notification of Government of India, in Ministry of Finance, Department of Economic Affairs vide F. No. 13/6/2009- INF, dated March 30, 2017
- 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

## Annexure-2 – Key definitions

| Term                                                                                                                      | Definition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| <b>Affordable residential apartment</b>                                                                                   | <p>(a) a residential apartment in a project which commences on or after 1st April, 2019, or in an ongoing project in respect of which the promoter has not exercised option of old rates, having carpet area not exceeding 60 square meter in metropolitan cities or 90 square meter in cities or towns other than metropolitan cities and for which the gross amount charged is not more than forty five lakhs rupees.</p> <p>For the purpose of this clause-</p> <p>(i) Metropolitan cities are Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR) with their respective geographical limits prescribed by an order issued by the Central or State Government in this regard.</p> <p>(ii) Gross amount shall be the sum total of;</p> <ol style="list-style-type: none"> <li>Consideration charged for the construction services provided in respect of affordable residential apartments in a new or an ongoing REP / RREP, where promoter has not opted for old rate</li> <li>Amount charged for the transfer of land or undivided share of land, as the case may be including by way of lease or sub lease; and</li> <li>Any other amount charged by the promoter from the buyer of the apartment including preferential location charges, development charges, parking charges, common facility charges etc.</li> </ol> <p>(b) an apartment being constructed in an ongoing project under any of the <b>specified schemes</b>, in respect of which the promoter has not exercised option of old rates.</p> |
| <b>Apartment</b>                                                                                                          | Whether called block, chamber, dwelling unit, flat, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or godown or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>An apartment booked on or before the date of issuance of completion certificate or first occupation of the project</b> | <p>It shall mean an apartment which meets all the following three conditions, namely-</p> <ol style="list-style-type: none"> <li>part of supply of construction of the apartment service has time of supply on or before the said date; and</li> <li>consideration equal to at least one instalment has been credited to the bank account of the registered person on or before the said date; and</li> <li>an allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued on or before the said date.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Floor space index (FSI)</b>                                                                                            | It shall mean the ratio of a building's total floor area (gross floor area) to the size of the piece of land upon which it is built.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

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| <b>Carpet area</b>                | <p>It means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment.</p> <p><i>Explanation:</i> For the purpose of this clause, the expression "exclusive balcony or verandah area" means the area of the balcony or verandah, as the case may be, which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee; and "exclusive open terrace area" means the area of open terrace which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee.</p> |
| <b>Commencement certificate</b>   | It means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the competent authority to allow or permit the promoter to begin development works on an immovable property, as per the sanctioned plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Commercial apartment</b>       | It shall mean an apartment other than a residential apartment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Competent authority</b>        | As mentioned in definition of "commencement certificate" and "residential apartment", means the local authority or any authority created or established under any law for the time being in force by the Central Government or State Government or Union Territory Government, which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property.                                                                                                                                                                                                                                                                                                                                                     |
| <b>Development works</b>          | Means the external development works and internal development works on immovable property.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>External development works</b> | Includes roads and road systems landscaping, water supply, sewage and drainage systems, electricity supply transformer, sub-station, solid waste management and disposal or any other work which may have to be executed in the periphery of, or outside, a project for its benefit, as may be provided under the local laws.                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Internal development works</b> | Means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, solid waste management and disposal, water conservation, energy management, fire protection and fire safety requirements, social infrastructure such as educational health and other public amenities or any other work in a project for its benefit, as per sanctioned plans.                                                                                                                                                                                                                                                                                                    |
| <b>Project</b>                    | Means the real estate project as defined in forthcoming paragraphs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Promoter</b>                   | <p>Means,</p> <p>(i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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|                                         | <p>(ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or</p> <p>(iii) any development authority or any other public body in respect of allottees of-<br/> (a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or<br/> (b) plots owned by such authority or body or placed at their disposal by the Government, for the purpose of selling all or some of the apartments or plots; or</p> <p>(iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or</p> <p>(v) any other person who acts himself as a builder, colonizer, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or</p> <p>(vi) such other person who constructs any building or apartment for sale to the general public.</p> <p><b>Explanation:</b> For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sells apartments or plots are different persons, both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made thereunder;</p> |
| <b>Residential apartment</b>            | It shall mean an apartment intended for residential use as declared to the Real Estate Regulatory Authority or to competent authority.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Real Estate Regulatory Authority</b> | It shall mean the Authority established under sub- section (1) of section 20 (1) of the Real Estate (Regulation and Development) Act, 2016 (No. 16 of 2016) by the Central Government or State Government.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Real Estate Project (REP)</b>        | It means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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| <b>Residential<br/>Estate<br/>(RREP)</b> | <b>Real<br/>Project</b> | It shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Ongoing project</b>                   |                         | <p>It shall mean a project which meets all the following conditions, namely-</p> <p>(a) commencement certificate in respect of the project, where required to be issued by the competent authority, has been issued on or before March 31, 2019, and it is certified by any of the following that construction of the project has started on or before March 31, 2019:</p> <p>(i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972); or</p> <p>(ii) a chartered engineer registered with the Institution of Engineers (India); or</p> <p>(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority.</p> <p>(b) where commencement certificate in respect of the project, is not required to be issued by the competent authority, it is certified by any of the authorities specified in sub- clause (a) above that construction of the project has started on or before the March 31, 2019;</p> <p>(c) completion certificate has not been issued or first occupation of the project has not taken place on or before the March 31, 2019;</p> <p>(d) apartments being constructed under the project have been, partly or wholly, booked on or before the March 31, 2019.</p> <p>Explanation: For the purpose of sub- clause (a) and (b) above, construction of a project shall be considered to have started on or before the March 31, 2019, if the earthwork for site preparation for the project has been completed and excavation for foundation has started on or before the March 31, 2019.</p> |



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