

F.No. 354/52/2018-TRU
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)

Room No. 146 G, North Block
New Delhi, 7th May, 2018

Sub: Request for clarification to enable availing 8% GST on Affordable Housing- Reg.

I am directed to refer to your letter no. CREDAI/MoF/2018/14 dated 19th March, 2018 on above subject and to give our comments on the issues raised therein as under,

Sl. No.	Issues	TRU Comments
1	Authenticated document to be relied upon by the developer to charge concessional rate of GST on CLSS housing.	A civil structure or any other original works pertaining to the "houses constructed or acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS)/ Lower Income Group (LIG)/ Middle Income Group-1 (MIG-1)/ Middle Income Group-2 (MIG-2)" under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban) attracts concessional GST of 8% (provided value of land is included in the price of the house). As per the detailed <u>Operational Guidelines</u> available on Ministry of Housing and Urban Affairs website to avail the CLSS benefit, the interest subsidy will be credited to the loan account of beneficiaries through Primary Lending Institutions (PLIs), such as, banks, etc resulting in reduced effective housing loan and Equated Monthly Installments (EMI). According to the said guidelines, PLIs such as banks, housing finance corporations, NBFCs etc. are required to register with Central Nodal Agencies (CNAs). The CNAs are required to release subsidy under the scheme to the PLIs in respect of loans sanctioned by them to borrower/ beneficiaries. The PLIs are required to provide each borrower/ beneficiary a statement,

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		which will make him/ her understand the amount given as subsidy, how the subsidy has been adjusted and the impact of the subsidy on his/ her monthly installments (EMI). PLIs will also provide the utilization/end use certificate and also a certificate in relation to the physical progress of the construction of the housing unit financed under the scheme to the CNAs on a quarterly basis. Thus PLIs are closely involved in the implementation of the CLSS Scheme. MHUA may prescribe a certificate by PLIs on the basis of which the builder may charge reduced rate of GST on houses constructed/acquired under CLSS. The certificate may be addressed to the beneficiary with a copy to the builder, certifying that the borrower is a beneficiary of the CLSS. The certificate may contain relevant details such as the name, address, account number of the borrower, complete address and other details of the housing unit for which the CLSS benefit has been granted, Aadhar number. The details of CLSS beneficiaries and the housing units for which CLSS benefit has been sanctioned are published quarterly/ monthly on the websites of MHUA/CNAs and the builders charge concessional rate of GST based on the same. The administrative Ministry may be requested to prescribe a certificate by PLIs (which will be based on the interest subsidy they credit to the beneficiaries' account) to the beneficiary & Builder/developer based on which the builder would be eligible to pay concessional GST of 8% for CLSS housing [S No 3(iv)(db) of notification No 11/2017-CTR].
2	Requirement of specific approval/ certificate for residential projects to qualify as 'Infrastructure status'	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 under notification F. No. 13/6/2009-INF, dated the 30th March, 2017 of MOF (DEA), attract concessional GST of 8% (the value of the undivided share of land is included in the price of the house). <i>Whether the housing project qualifies as affordable housing</i>

		<i>project or not</i>, shall be determined by the builder/developer as per the definition of affordable housing given in the above mentioned notification (i.e., affordable housing has been defined as a housing project using at least 50% of FAR/FSI for dwelling units with carpet area of not more than 60 SQM). No certificate from any authority is required. It is also pertinent to point out here that low cost houses up to a carpet area of 60 square metres per house in a housing project approved under the affordable housing in partnership framed by MHUA or any housing scheme of a State Government, also attract concessional GST of 8% (the value of the undivided share of land is included in the price of the house).
3	Mechanism for reversal of already charged GST to a customer who at a later date becomes eligible for CLSS benefit. CREDAI has stated that customers initially book flats from their own fund and later on apply for loan. So, the Developer will initially apply regular rate to the customer and then once customer becomes eligible for CLSS benefit, concessional rate of GST would apply. Therefore, it may be clarified that concessional rate of GST can be given to the customer from the date of booking/ 25th January, 2018 whichever is later irrespective of GST having been already being charged at regular rate.	The view taken by CREDAI in their letter dated 19-03-2018 is found to be correct. Construction of houses is normally a continuous supply of service [section 2(33) of CGST Act, 2017]. In case of continuous supply of service, invoice shall be issued on or before the due date of payment or the date of receipt of payment by the supplier or completion of an event to which payment is linked. [Section 31(5) of CGST Act, 2017]. The time of supply of the service shall be determined accordingly under section 13 of the CGST Act. Portion of continuous supply of service, time of supply of which is on 25th January, 2018 (the date of issue of notification prescribing concessional GST for CLSS) or later shall be eligible for the concessional rate of GST applicable to houses acquired under CLSS irrespective of when the house is booked or approval for CLSS benefit is obtained. Where the builder has collected higher GST from the buyer in earlier months, the excess can be adjusted by the builder against his future GST liability (by issue of credit notes). It is pertinent to point out here that the definition of taxable supply given in GSTR-3B,

		excludes value of credit notes. This means that the GST liability on the date of filing of return by the builder gets proportionate reduced on account of credit note issued. [Credit notes can be issued by the builder/developer, <i>inter alia</i> , when the tax charged in a tax invoice is found to exceed the tax payable in respect of such supply, under section 34 of CGST Act. The same shall contain the particulars prescribed under rule 53 of CGST Rules including name and address of the recipient of the flat.]
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2. This issues with approval of Finance Secretary.

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To:

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(SD) 07/may/2018

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