



Government of Jammu and Kashmir
Finance Department
Civil Secretariat, Jammu/Srinagar

Notification
Jammu, the 16th of April, 2019

SRO 293- In exercise of the powers conferred by sub-sections (1), (3) and (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Jammu and Kashmir Goods and Services Tax Act, 2017 (Act No. V of 2017), the State Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the SRO notification No. SRO -GST-11 DATED 08.07.2017; namely:-

In the said notification, -

(i) in the opening paragraph,

- (a) after the word, brackets and figures "conferred by sub-section (1),", the word, brackets and figures "sub-section (3) and sub-section (4)" shall respectively be inserted;
- (b) the word "and" after the words and figures "sub-section (5) of section 15" shall be substituted by the symbol ",";
- (c) after the word, brackets and figures "section (16)", the words and figure "and section 148" shall be inserted;

(ii) in the Table, -

- (a) against serial number 3, for item (i), and the entries relating thereto in column (3), (4) and (5), the following items and entries shall be substituted, namely, -

Table

(3)	(4)	(5)
Construction of affordable residential apartments by a promoter in a Residential Real Estate Project (herein after referred to as RREP) which commences on or after 1 st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. Provisions of paragraph 2 of this notification shall apply for valuation of this service)	0.75	Provided that the state tax at the rate specified in column (4) shall be paid in cash, that is, by debiting the electronic cash ledger only; Provided also that credit of input tax charged on goods and services used in supplying the service has not been taken except to the extent as prescribed in Annexure I in the case of REP other than RREP and in Annexure II in the case of RREP.
Construction of residential apartments other than affordable residential apartments by a promoter in an RREP which commences on or after 1 st April, 2019 or	3.75	Provided also that the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equivalent to the input tax credit attributable to construction in a project, time of supply of which is on or after 1 st April, 2019, which shall be calculated in the manner as prescribed in the Annexure I in the

<p>in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>		<p>case of REP other than RREP and in Annexure II in the case of RREP;</p> <p>Provided also that where a registered person (landowner- promoter) who transfers development right or FSI (including additional FSI) to a promoter (developer- promoter) against consideration, wholly or partly, in the form of construction of apartments, -</p>
<p>(b) Construction of commercial apartments (shops, offices, godowns etc.) by a promoter in an RREP which commences on or after 1st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	3.75	<p>(i) the developer- promoter shall pay tax on supply of construction of apartments to the landowner- promoter, and</p> <p>(ii) such landowner – promoter shall be eligible for credit of taxes charged from him by the developer promoter towards the supply of construction of apartments by developer- promoter to him, provided the landowner- promoter further supplies such apartments to his buyers before issuance of completion certificate or first occupation, whichever is earlier, and pays tax on the same which is not less than the amount of tax charged from him on construction of such apartments by the developer- promoter.</p>
<p>(c) Construction of affordable residential apartments by a promoter in a Real Estate Project (herein after referred to as REP) other than RREP, which commences on or after 1st April, 2019 or in an ongoing REP other than RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	0.75	<p>Explanation. -</p> <p>(i) "developer- promoter" is a promoter who constructs or converts a building into apartments or develops a plot for sale,</p> <p>(ii) "landowner- promoter" is a promoter who transfers the land or development rights or FSI to a developer- promoter for construction of apartments and receives constructed apartments against such transferred rights and sells such apartments to his buyers independently.</p>
<p>(d) Construction of residential apartments other than affordable residential apartments by a promoter in a REP other than a RREP which commences on or after 1st April, 2019 or in an ongoing REP other than RREP in respect of which the promoter has not exercised option to pay state tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after</p>	3.75	<p>Provided also that eighty percent of value of input and input services, [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be received from registered supplier only;</p>

issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

(Provisions of paragraph 2 of this notification shall apply for valuation of this service)

Provided also that inputs and input services on which tax is paid on reverse charge basis shall be deemed to have been purchased from registered person;

Provided also that where value of input and input services received from registered suppliers during the financial year (or part of the financial year till the date of issuance of completion certificate or first occupation of the project, whichever is earlier) falls short of the said threshold of 80 per cent., tax shall be paid by the promoter on value of input and input services comprising such shortfall at the rate of eighteen percent on reverse charge basis and all the provisions of the Jammu and Kashmir Goods and Services Tax Act, 2017 (Act No. V of 2017) shall apply to him as if he is the person liable for paying the tax in relation to the supply of such goods or services or both;

Provided also that notwithstanding anything contained herein above, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement at the applicable rates on reverse charge basis and all the provisions of the Jammu and Kashmir Goods and Services Tax Act, 2017 (Act No. V of 2017), shall apply to him as if he is the person liable for paying the tax in relation to such supply of cement;

(Please refer to the illustrations in annexure III)

Explanation. -

1. The promoter shall maintain project wise account of inward supplies from registered and unregistered supplier and calculate tax payments on the shortfall at the end of the financial year and shall submit the same in the prescribed form electronically on the common portal by end of the quarter following the financial year. The tax liability on the shortfall of inward supplies from unregistered person so determined shall be added to his output tax liability in the month not later than the month of June following the end of the financial year.

2. Notwithstanding anything contained in

		<p>Explanation 1 above, tax on cement received from unregistered person shall be paid in the month in which cement is received.</p> <p>3. Input Tax Credit not availed shall be reported every month by reporting the same as ineligible credit in GSTR-3B [Row No. 4 (D)(2)]</p>
<p>(ie) Construction of an apartment in an ongoing project under any of the schemes specified in sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v), and sub-item (c) of item (vi), against serial number 3 of the Table, in respect of which the promoter has exercised option to pay central tax on construction of apartments at the rates as specified for this item.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	6	
<p>(f) Construction of a complex, building, civil structure or a part thereof, including,-</p> <p>(i) commercial apartments (shops, offices, godowns etc.) by a promoter in a REP other than RREP,</p> <p>(ii) residential apartments in an ongoing project, other than affordable residential apartments, in respect of which the promoter has exercised option to pay state tax on construction of apartments at the rates as specified for this item in the manner prescribed herein,</p> <p>but excluding supply by way of services specified at items (i), (ia), (ib), (ic), (id) and (ie) above intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>Explanation. -For the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id) and (ie) in column (3) shall attract central tax prescribed against them in column (5) and shall not be levied at the rate as specified under this entry.</p> <p>Provisions of paragraph 2 of this notification shall apply for valuation of this service</p>	9	<p>Provided that in case of ongoing project, the registered person shall exercise one time option in the Form at Annexure IV to pay state tax on construction of apartments in a project at the rates as specified for item (ie) or (if), as the case may be, by the 10th of May, 2019;</p> <p>Provided also that where the option is not exercised in Form at annexure IV by the 10th of May, 2019, option to pay tax at the rates as applicable to item (i) or (ia) or (ib) or (ic) or (id) above, as the case may be, shall be deemed to have been exercised;</p> <p>Provided also that invoices for supply of the service can be issued during the period from 1st April 2019 to 10th May 2019 before exercising the option, but such invoices shall be in accordance with the option to be exercised.;</p>

against serial number 3, -

a. item (ii) and the entries relating thereto in columns (3), (4) and (5) shall be omitted.

- b. in item (iv) in column (3), -
 (1) after the figures "2017", the words, brackets, figures and letters "other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above" shall be inserted;
- c. in item (v) in column (3), -
 (1) after the figures "2017", the words, brackets, figures and letters "other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above" shall be inserted;
- d. after item (v) and entries relating thereto in column (3), (4) and (5), the following items and entries shall be inserted, namely, -

(3)	(4)	(5)
<p>(va) Composite supply of works contract as defined in clause (119) of section 2 of the Jammu and Kashmir Goods and Services Tax Act, 2017, other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of affordable residential apartments covered by sub-clause (a) of clause (xvi) of paragraph 4 below, 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 to pay state tax on construction of apartments at the rates as specified for item (ie) or (if), as the case may be, in the manner prescribed therein,</p>	<p>6</p>	<p>Provided that carpet area of the affordable residential apartments as specified in the entry in column (3) relating to this item, is not less than 50 per cent. of the total carpet area of all the apartments in the project.</p> <p>Provided also that for the purpose of determining whether the apartments at the time of supply of the service are affordable residential apartments covered by sub-clause (a) of clause (xvi) of paragraph 4 below or not, value of the apartments shall be the value of similar apartments booked nearest to the date of signing of the contract for supply of the service specified in the entry in column (3) relating to this item.</p> <p>Provided also that in case it finally turns out that the carpet area of the affordable residential apartments booked or sold before or after</p>

	<p>completion, for which gross amount actually charged was forty five lakhs rupees or less and the actual carpet area was within the limits prescribed in sub-clause (a) of clause (xvi) of paragraph 4 below, was less than 50 per cent. of the total carpet area of all the apartments in the project, the recipient of the service, that is, the promoter shall be liable to pay such amount of tax on reverse charge basis as is equal to the difference between the tax payable on the service at the applicable rate but for the rate prescribed herein and the tax actually paid at the rate prescribed herein";</p>
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- e. in item (vi) in column (3), after the figures "2017", the words, brackets, and figures "other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above" shall be inserted';
- f. in item (xii) in column (3), for the entry, the following entry shall be substituted, namely. -
- "(xii) Construction services other than (i), (ia), (ib), (ic), (id), (ie), (if), (iii), (iv), (v), (va), (vi), (vii), (viii), (ix), (x) and (xi) above.

Explanation. - For the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id), (ie) and (if) in column (3) shall attract state tax prescribed against them in column (4) subject to conditions specified against them in column (5) and shall not be levied at the rate as specified under this entry";

- (c) against serial number 16, in item (ii) in column (3), for the word, brackets and letters "sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi)", the word, brackets figures and letters " (i) (ia), (ib), (ic), (id), (ie) and (if) " shall be substituted;
- (d) after serial number 38 in column (1) and the entries relating thereto in column (2), (3), (4) and (5) the following serial number and entries shall be inserted, namely. -

(1)	(2)	(3)	(4)	(5)
39.	Chapter 99	<p>Supply of services other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI) by an unregistered person to a promoter for construction of a project on which tax is payable by the recipient of the services under sub-section 4 of section 9 of the Jammu and Kashmir Goods and Services Tax Act, 2017 (12 of 2017), as prescribed in notification No. _____ dated _____ March, 2019, issued by Finance Department, Government of Jammu and Kashmir</p> <p>Explanation. -</p> <p>This entry is to be taken to apply to all services which satisfy the conditions prescribed herein, even though they may be covered by a more specific chapter, section or heading elsewhere in this notification.</p>	9	-

in paragraph 2,-

(a) for the words, brackets, letters and figures "sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi)," the word, brackets, letters and figures " (i) (ia), (ib), (ic), (id), (ie) and (if)" shall be substituted;

(b) in the *Explanation*, after the words "this paragraph" the words "and paragraph 2A below" shall be inserted,

after paragraph 2, the following paragraph shall be inserted, namely, -

2A. Where a registered person transfers development right or FSI (including additional FSI) to a promoter against consideration, wholly or partly, in the form of construction of apartments, the value of construction service in respect of such apartments shall be deemed to be equal to the Total Amount charged for similar apartments in the project from the independent buyers, other than the person transferring the development right or FSI (including additional FSI), nearest to the date on which such development right or FSI (including additional FSI) is transferred to the promoter, less the value of transfer of land, if any, as prescribed in paragraph 2 above."

in paragraph 4 relating to *Explanation*, after clause (xii), the following clauses shall be inserted, namely: -

(iii) an apartment booked on or before the 31st March, 2019 shall mean an apartment which meets all the following three conditions, namely- (a) part of supply of construction of which has time of supply on or before the 31st March, 2019 and (b) at least one instalment has been credited to the bank account of the registered person on or before the 31st March, 2019 and (c) an allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued on or before the 31st March, 2019;

(xiv) the term "apartment" shall have the same meaning as assigned to it in clause (e) of section 2 of the Real Estate (Regulation and Development) Act 2016 (16 of 2016);

(xv) the term "project" shall mean a Real Estate Project or a Residential Real Estate Project;

(xvi) the term "affordable residential apartment" shall mean, -

(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 in the prescribed form to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be, 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.

For the purpose of this clause, -

(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;

(ii) Gross amount shall be the sum total of; -

A. Consideration charged for the services specified at item (i) and (ic) in column (3) against sl. No. 3 in the Table;

B. 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

C. 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.

(b) an apartment being constructed in an ongoing project under any of the schemes specified in sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv), sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v), and sub-item (c) of item (vi), against serial number 3 of the Table above, in respect of which the promoter has not exercised option to pay state tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be.

(xvii) the term "promoter" shall have the same meaning as assigned to it in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act 2016 (16 of 2016).

(xviii) the term "Real Estate Project (REP)" shall have the same meaning as assigned to it in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(xix) the term "Residential Real Estate Project (RREP)" 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.

(xx) the term "ongoing project" shall mean a project which meets all the following conditions, namely-

- (a) commencement certificate in respect of the project, where required to be issued by the competent authority, has been issued on or before 31st March, 2019, and it is certified by any of the following that construction of the project has started on or before 31st March, 2019:-
- (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972), or
 - (ii) a chartered engineer registered with the Institution of Engineers (India); or
 - (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority.
- (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 31st March, 2019;
- (c) completion certificate has not been issued or first occupation of the project has not taken place on or before the 31st March, 2019;
- (d) apartments being constructed under the project have been, partly or wholly, booked on or before the 31st March, 2019

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 31st March, 2019, if the earthwork for site preparation for the project has been completed and excavation for foundation has started on or before the 31st March, 2019.

(xx) "commencement certificate" 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,

(xxi) "development works" means the external development works and internal development works on immovable property;

(xxii) "external development works" 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;

(xxiii) "internal development works" 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;

(xxiv) the term "competent authority" 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;

(xxv) The term "carpet area" shall have the same meaning assigned to it in in clause (k) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016)

(xxvii) the term "RealEstate Regulatory Authority" 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;

(xxviii) "project which commences on or after 1st April, 2019" shall mean a project other than an ongoing project;

(xxix) "Residential apartment" shall mean an apartment intended for residential use as declared to the Real Estate Regulatory Authority or to competent authority;

(xxx) "Commercial apartment" shall mean an apartment other than a residential apartment;

(xxxi) "floor space index (FSI)" 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."

This notification shall be deemed to have come into force w.e.f. 1st day of April, 2019.

By Order of the Government of Jammu & Kashmir

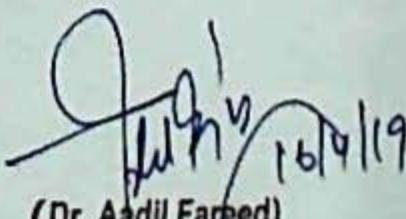
Sd/-
(Dr. Arun Kumar Mehta) IAS,
Principal Secretary to the Government

Dated: 16.04.2019

No: ET/Estt/GST/119/noti-III

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(Dr. Aadil Faried)
Deputy Secretary to the Government