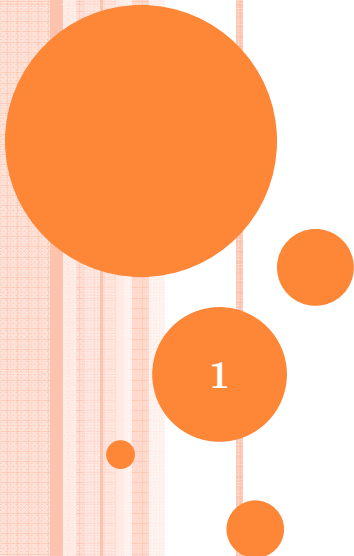


CONSTRUCTION & WORKS CONTRACT SERVICES

**SIRC OF ICAI
31st Oct 2014**



**CA.S.CHANDRASEKAR
TIRUPUR**

COVERAGE OF REAL ESTATE SECTOR- PRIOR TO 1/07/2012

- Consulting Engineer Service
- Architect Service
- Real Estate Agent Service
- Interior Decorator Service
- Commercial & Industrial Construction
Construction of Complex
- Works Contract Service
- Site Formation and Excavation Service
- Supply of Tangible goods Service

SOME FUNDAMENTAL CONCEPTS

- Service Provider / Service Receiver
- Sales Vs. Service
- Transfer of material in the course of rendering service
- Consumed in the course of rendering service
- Service Delivered through an tangible object

POST NEGATIVE LIST BASED TAXATION

- All services other than covered in the negative list, Exempted Service are taxable
- Works Contract service included in the Declared Service
- Constitutional Validity
- More than 12 Units is not relevant
- Entry 14 of Mega Exemption Notification “

POST NEGATIVE LIST BASED TAXATION

- Liability of Row Houses – Relevance of Macro Marvel Decision
- Transfer of Buying Rights
- Amount Forfeited for non payment of installments
- After obtaining the completion certification

POINT OF TAXATION

- Receipt of Money , Rendering of Service , Raising of an invoice
- In case of continuous supply contract
- How about Land Owners Share of Built up Portion – As a consideration for transferring the Land
- Scenario Prior to 2011 and Post

VALUATION

- VAT / ST/Stamp Duty
 - The availability of Credit / Rate of Tax Duty is the factor which decides the option that could be suggested
- Pay only on Service portion – if it is stated in the contract
- Else go by Valuation Rules 2 A
 - If VAT paid on the *actual value of property in goods transferred*
 - Exclude the said value and VAT and pay ST on the balance

VALUATION

- Otherwise pay ST on the deemed value of service as provided in the Rule
 - Original Works - 40 %
 - Including the value of Land :-25 %
 - maintenance or repair or reconditioning or restoration or servicing – 70 %
 - other works contracts- 60 %

ISSUES

- When VAT paid under composition scheme
- When more than one project is executed
- When VAT paid after reducing the deemed value of labor portion
- When VAT paid by adding the margins
- Exclusion of Sub Contractor Turnover under VAT

ISSUES

- ❖ Customer supplied material
- ❖ Security Deposit for getting the statutory Clearances. Excluding the value of Land
- ❖ Advance – Mile Stone Payments Due - Appropriation towards Land – Security Deposit – Balance to be compared with Mile Stone Payment – adjustment for amount offered to tax earlier
- ❖ Stage at which the contract was entered into

ISSUES

- What about Car Parking Charges
- Cancellation of Apartment Booked - Rule 6
- Cant ST be paid on full value and avail Excise Duty Credit
- Whether Land Lord is liable for Service Tax
- If the land lord use one of the unit for his personal use

ISSUES

- Whether the profit/gross amount charged by the developer on land is liable for service tax or eligible for deduction?
- Whether the sub-contractor is liable to pay service tax when main contractor has paid tax/exempted?

Ctnd...

ISSUES

- Whether flooring work, plastering, painting, glazing, ..done during the course of construction can be considered as original works for valuation purposes- tax on 40%?
- Agreement to purchase not registered. Another Party sold at higher price. ST liability?
- Reverse Charge

**Questions ???
Thanks**

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