

Applicability of GST on housing societies

GST is applicable to the societies as the society is offering services to its members in respect of collection of common charges and payment to contractors/ different agencies. The service it was offering was earlier falling in the category of club or association service. As per GST act GST is applicable on supply of goods and services. The definition of supply as per the act is given below:-

All forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business

Society is already included in definition of person and therefore falls within the ambit of GST. Now the question arises which are the types of charges levied which are taxable and which are not covered under GST and also which are the societies which will come in ambit of GST and which will be exempt.

First condition to fall in ambit of GST is the aggregate turnover should be more than 20 lacs in previous year. What would be included in aggregate turnover:

1. Taxable Sales
2. Exempt Sales
3. Export Sales
4. Interstate Sales
5. Sales by Agent of Principal (Amount of taxes not to be included)

In case of society the taxable sales would include all contribution from members i.e. Service charges, Water charges, NOC, Interest charged to members , property taxes. Etc. Exempt sales in case of co-operative society would include interest received from banks and fixed deposits.

Now we come to the question what would be the value for the purpose of aggregate turnover. It has been specifically provided that "transaction value is the price actually paid or payable for supply of goods and services." Transaction value will include all taxes other

than GST related taxes. Considering this property taxes will fall in the ambit of transaction value. However it has been specifically provided that Expenditure or costs incurred by the supplier as a pure agent of the recipient of supply of services shall be excluded from the value of supply subject to certain conditions.

Since property taxes comply with the conditions specified in relation to pure agent the Property taxes are to be excluded from value of supply. Thus it is not to be considered for the purpose of limit of 20 lacs aggregate turnover.

In addition in the FAQ of GST website they have specified that GST is not attracted on Water charges, Electricity charges and NA tax collection . To sum up the aggregate turnover includes the following :-

1. Maintenance charges by whatever name called i.e. service charges, water charges, electricity chargers etc.
2. Sinking Fund
3. Repairs and Maintenance fund
4. Major Repairs fund.
5. NOC
6. Parking charges
7. Interest charged to members
8. Interest on FD's (though it is exempt supply on which GST is not be levied)
9. Rental income from towers, hall rentals etc.
10. Other miscellaneous collection from members
11. Transfer fees and share transfer premium
12. Any other sum levied by the society to its members by whatever name called.

Also if the sum total of 1 to 12 exceeds 20 lacs the first condition is satisfied and society will fall in the ambit of GST. However the co-operative societies take the benefit from one more notification which is applicable to all clubs, resident welfare association which is notification no 12/77 dated 28th June 2017. The entry no 77 of the said notification reads as under:

"Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution - (a) as a trade union; (b) for the provision of carrying out any activity which is exempt from the levy of Goods and service Tax; or (c) **up to an amount of five**

thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex."

This limit of Rs 5000/- per month is now enhanced to Rs 7500 per month w.e.f February 2018. The clause C which is specifically applicable to housing societies clearly states sourcing of goods and services from a third person for the common use of its members in housing society. If this is the activity / business carried on by the society than those members who are contributing less than Rs 7500/- per member per month will be out of GST.

The first sentence of the said notification reads it should be service by a non profit entity. (Housing society satisfies this condition) **to its own members by way of reimbursement of charges (say property taxes) or share of contribution (say all other maintenance charges).**

Considering this definition it will be very difficult for following types of income to fall within the ambit **of share of contribution for sourcing of goods or service from third person for the common use of its members:**

- 1) Share transfer premium
- 2) Non occupancy charges
- 3) Charges towards rental of any Ground or hall for events.

Thus above amounts are not to be included for counting the limit of Rs 7500/- per month per member. In other words if the first condition of 20 lacs aggregate turnover is satisfied but all the members are paying less than 7500 per month (excluding municipal tax) than also on the above types of receipts the society will have to levy GST.

Also the point to be noted is the benefit of this notification is only for residential societies. In other words in case of commercial societies; if the first condition of aggregate turnover of 20 lacs is satisfied GST is applicable irrespective of whether the collection from members is less than 7500 per month. The same would apply to shops in a residential society. Thus in case a residential society has 100 members and only 2 shops and the collection from all residential members is less than 7500 per month the society may have to do the GST compliances only for the two shops if its turnover is more than 20 lacs.

Once the registration will come it will be required to start charging GST on applicable services @ 18 % in case of members and rental of property like tower income etc. It can in turn claim input set off of GST on the purchases and input services it will consume.

The GST payable will be the net amount after setting off . Also to claim input set off there are certain conditions to be complied with including the fact that the tax invoice cannot remain outstanding for more than 6 months.

Periodic compliances by society in respect of GST:

1) The society will have to file the three monthly returns of GST;

a) Return in respect of sales called GSTR-1

b) Return in respect of purchases called GSTR2-A (which will auto populated but will need a reconciliation of input tax credit)

c) GST return for net liability payable i.e. GSTR -3B which needs to be filed with liability for payment if any.

In addition the society will have to file an annual return called GSTR-9 which needs to be filed by the end of 31st December of next yr. i.e. for 2017-18 by 31st December 2018. Which has now been extended to 31st March 2019. The above monthly returns have to be filed between 10th and 20th of the following months.

The societies do not have the option to go under composition scheme under GST as the composition levy option has not been provided to the service providers.

Source courtesy: caclubindia.com