**Service tax is payable on flats allotted to the landowner, clarifies Finance Ministry**

When the landowner is given flats in lieu of cash, such flats become liable to service tax, says the Finance Ministry's clarification of February 10, among other things.

Suppose, the landowner invites a builder to demolish his bungalow and construct 10 flats thereon, with two flats being allotted to him as sale consideration, the two flats, though for non-cash consideration, would attract service tax immediately on signing of the building agreement.

The taxable value would the amount for which similar flats have been booked by the other buyers on the date of such agreement.

It boils down to this: if on the date of the agreement with the builder, there are two buyers who have booked their flats that are similar to those allotted to the landowner at Rs 40 lakh each, the allotment of the two flats to the landowner would be a taxable event, liable to service tax.

With abatement allowed being 75 per cent towards the goods used in the construction, which obviously cannot be subjected to service tax, Rs 10 lakh would be liable to service tax, which currently is 10.3 per cent.

**BASIS FOR VALUATION**

If the flats are not comparable on account of difference in the area, the rate per square foot charged from buyers must be taken into account.

And, if on the date of the agreement, other buyers paying cash have not stepped into the scene, the basis for valuation of flats allotted to the landowner would be the earliest such booking.

While the remaining eight flats may escape service tax if the buyers pay for them after the ‘completion of construction' certificate is obtained, in view of the fact that no payment was made while the work was in progress or before the commencement of the work, the two flats allotted to the landowner will necessarily suffer service tax because, on the date of signing of the building agreement the non-cash consideration would be deemed to have been paid.

***Source: The Hindubusiness Line***