

THE GST JOURNAL

REAL ESTATE EDITION

Issue 06
February 2021

A fortnightly
journal that explores
the current scenario
of GST in India.

02

Note
from N J JAIN

03

GST in
Conversation

04

GST in
Social Media

05

GST &
GSTN Updates

06

FAQs

07

Judicial Review

08

Understanding
the New Reforms

09

Blogs

Note from NJ Jain



India is facing transition on all fronts, GST is in the middle of it.

-Nitesh Jain

*Managing Partner,
N.J. Jain & Associates*

With the new and developed Union Budget which was introduced on 1st February, the Indian economy is trudging towards recovery and trying to overcome the misfortune outcomes of the pandemic. While news channels are buzzing with latest news on India's fiscal policy and revised economic philosophy, we cannot miss out on the little things on which our economy is sustaining.

And for that, we bring you The GST Journal - a fortnightly journal that charts out the latest happenings in the GST domain and analyses the trajectory of the tax system.

In our 6th edition of The GST Journal, we will concentrate on the dynamic and ever-progressing real estate sector. While experts predict that the real estate market in India will reach US\$ 1 trillion by 2030, it is a very lucrative industry that experiences frequent changes in GST regime. But worry not. We are here to help you stay up to date with all these changes and the future trajectory of the industry.

GST in Conversation

Good news ahead of Budget: After record GST collection, Manufacturing PM improves significantly

Consumers pay Rs 25,000 crore price for high coal tax, keeping power out of GST

GST revenue collection in 2021 hits all-time high of nearly ₹1.2 lakh crores

FDI into India increases 37% to \$43.85 billion during April-Nov 2020

Skipping Notice Period? There May be GST Consequences

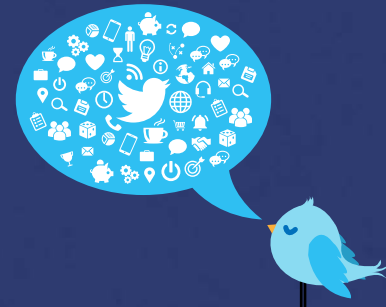
India must focus on improving efficiency of GST collections and divestments: IMF's Gita Gopinath

28% GST on Metal Nuts as it is a part of Motor Vehicle: AAAR (Read Order)

GST applies to flat buyer's maintenance deposit: Gujarat bench of Authority of Advance Rulings

GOODS AND SERVICES TAX

GST in Social Media



Taxscan

@tax_scan

18% GST on Work Contract for Supply, Erection, Testing, commissioning of materials for providing Rural Electricity Infrastructure: AAAR [Read Order]

#GST #WorkContract

#RuralElectricityInfrastructure #AAAR

#TaxNews #Taxscan



Taxsutra.com

@Taxsutra

GSTsutra Litigation Tracker :HC: Gujarat HC hears writ challenging constitutionality of proviso to Section 50 leading to differential treatment

#Read here >>

<https://taxsutra.com/gst/rulings/hc-gujarat-hc-hears-writ-challenging-constitutionality-proviso-section-50-leading>

#Tax #Taxsutra #GST #GSTsutra

#LitigationTracker #GujaratHC



President of India

@rashtrapatibhvn

The latest unprecedented collection of GST and India's emergence as a most favoured destination for the foreign investment are indicative of our faster economic recovery.



Ministry of Finance

@FinMinIndia

White heavy check mark 13th Instalment of Rs.6,000 crore released to the States to meet the GST compensation shortfall (1/2)
Read more

<https://pib.gov.in/PressReleaseFramePage.aspx?PRID=1692107>

@nsitharamanoffc @Anurag_Office

@PIB_India @cbic_india @DDNewsLive

@airnewsalerts @GST_Council



Taxmann

@taxmannindia

#GST Update!

Licensing services provided by State Govt. for right to use minerals to be classifiable under SAC 9973 37, taxable at 18%

Read the Full (Gujarat) AAR Ruling Here:

<https://bit.ly/3sR6aFk> (1/2)



Atul Modani

@atulmodani

Common Representation of Concerns faced by Trade, industry, commerce bodies, professionals under #IncomeTax #GST #MCA Submitted across 200 cities panIndia to respe. Commissioners

#ProtestsForTaxReforms

#GiveUsEaseOfDoingBusiness

#GiveUsGoodGovernance



GST Tech

@Infosys_GSTN

Dear Taxpayers, we have received complaints regarding difficulty in accessing the portal. We are working to resolve the same and will keep you updated.

GST & GSTN Updates

GSTN Updates

- Aadhar Authentication / e-KYC for Existing Taxpayer on GST Portal

[CLICK HERE TO VIEW](#)

- Auto-population of e-invoice details into GSTR-1

[CLICK HERE TO VIEW](#)

- Due dates for filing of Form GSTR-3B for the Tax Period of December, 2020

[CLICK HERE TO VIEW](#)

- Module wise new functionalities deployed on the GST Portal during October - December, 2020

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- Monthly payment for quarterly return payment has started on GST portal

GST Updates

- Notifying amendment to jurisdiction of Central Tax officers

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FAQs

★ What are the latest GST rates on construction of residential apartments?

Rates from 1/04/2019 on different types of real estate:

Type of Project	New or Ongoing Project	Option of Low Rate exercised	Rate of GST
Affordable Housing Project	Ongoing Project	No	8%
	Ongoing Project	Yes	1%
	New Project	Not Required	1%
Normal Residential Project (Non-Affordable)	Ongoing Project	No	12%
	Ongoing Project	Yes	5%
	New Project	Not Required	5%
Mix Residential Project • Affordable Flat • Normal Flat	Ongoing Project	No	8% 12%
	Ongoing Project	Yes	1% 5%
	New Project	Not Required	1% 5%

★ Who is exempted from the levy of GST on TDR, FSI, or Long-term Lease of Land?

According to Notification. 4/2019 CTR issued by Central Board of Indirect Taxes and Customs, following are exempt from levy of GST:

- Sale of TDR and FSI on or after 1.04.2019 for construction of residential apartments by a promoter in a project which is intended to sell to a buyer
- Long term lease of Land: The upfront amount payable in respect of service by way of granting of a long-term lease of 30 years, or more, on or after 1.04.2019, for construction of residential apartments by a promoter in project, intended for sale to a buyer.

★ Have the Input Tax Credit Reversal norms changed for the real estate industry?

Norms for reversal of credit for real estate industry has been completely restructured. Earlier, one was required to reverse ITC based on taxable and exempt turnovers achieved in a particular financial year. Accordingly, ITC in the year when the builder received the completion certificate was only considered for ITC reversal calculation and not the entire project ITC.

Effective from 1.04.2019, the criteria for ITC reversal for builders is being shifted from turnover based to area based. ITC availed (starting 1.07.2017) during the entire project would have to be considered while calculating ITC reversal.

★ What are the criteria for an apartment to be eligible for an affordable residential apartment?

An apartment can be deemed as an affordable residential property if:

- The carpet area is up to 60 square meters for metropolitan cities.
- The carpet area is up to 90 square meters for cities and towns other than metropolitan cities, and
- The gross amount charged by the builder is not more than Rs.45 lacs



Judicial Review

Authority of Advance Ruling, Gujarat

★ SHREE DIPESH ANILKUMAR NAIK 2020 (6) TMI 448

- Levy of GST - sale of plot of land for which, as per the requirement of approved by the respective authority (i.e. Jilla Panchayat), Primary amenities such as, Drainage line, Water line, Electricity line, Land levelling etc. - HELD THAT:- The applicant is the owner of the land, who develops the land with an infrastructure such as Drainage line, Water line, Electricity line, Land levelling etc. as per the requirement of the approved Plan Passing Authority (i.e. Jilla Panchayat). After this development of the land, he sales developed land as plots. His sales price includes the cost of the land as well as the cost of common amenities, Drainage line, Water line, Electricity line, Land levelling charges, etc. on a proportionate basis - Schedule II of the CGST Act, 2017 pertains to activities or transactions to be treated as "Supply of goods or supply of services". As per clause 5(b) of the Schedule-II of the CGST Act, 2017, construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer is a "Supply of service" and, hence, is liable to the Goods and Services Tax (GST).
- The activity of the sale of developed plots would be covered under the clause 'construction of a complex intended for sale to a buyer'. Thus, the said activity is covered under 'construction services' and GST is payable on the sale of developed plots in terms of CGST Act / Rules and relevant Notification issued time to time.

Authority of Advance Ruling, Haryana

★ INFORMAGE REALTY PVT. LTD.2018 (10) TMI 1868

- Levy of GST - booking/selling of plots to be done by The Applicants and Land owners during the development (before completion of the development work of the township) of the township - share of licensed plotted area agreed to be provided by the land Owners to the Applicant (developer) - Taxable value - rate of tax.
- Booking/sale of developed plots by the Applicant and the land owners - HELD THAT:- It amounts to sale of land and the understanding of the Applicant of the law regarding this aspect of the transaction is correct. From the conjoint reading of Section 7 and Paragraph 5 of Schedule III of SGST/CGST Act, any activity/transaction in the nature of "Sale of Land" is not covered with in the preview of GST, hence no GST is payable on the transaction resulting in the sale of lands.
- Transaction of transferring 20% share of their plots by the landowners to the Applicant - HELD THAT:- The question is itself answered in the query of the Applicant that it is consideration for the works contract services rendered by the Applicant and therefore, we do not agree with the understanding of law by the Applicant on this part of the transaction. The transfer value of the plots will be considered as consideration paid by the land owners for the services rendered by the Applicant for development of their land and will be regarded as 'works contract, services attracting 18% GST.



Understanding the New Reforms

Changes made in
GST Law for Real
Estate Sector

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Input Tax Credit on
expenses relating to
Construction and
Plant & Machinery

[CLICK HERE TO VIEW](#)

Recent Changes in
GST for Infrastructure
& Real Estate
Construction Sector

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She definitely
played out
for a draw.

GST

₹

**BUDGET
2021**





www.njjain.com

ITC

on

PURCHASING

MOTOR

VEHICLES & THEIR REPAIRS

A lot of car dealers get this question from their customers, what is the GST provision on the credit admissibility on purchase of a motor vehicle and the repairs done on it?

From the customer's point of view, section 17 (5) of CGST Act clearly states, if a motor vehicle has a capacity of fewer than 14 people, then you cannot claim Input Tax Credit of the purchase. Unless you are a motor vehicle dealer, a motor vehicle driving school or a transporter of passengers. Only these 3 class of buyers can claim ITC on purchase of motor vehicle.

[READ MORE](#)



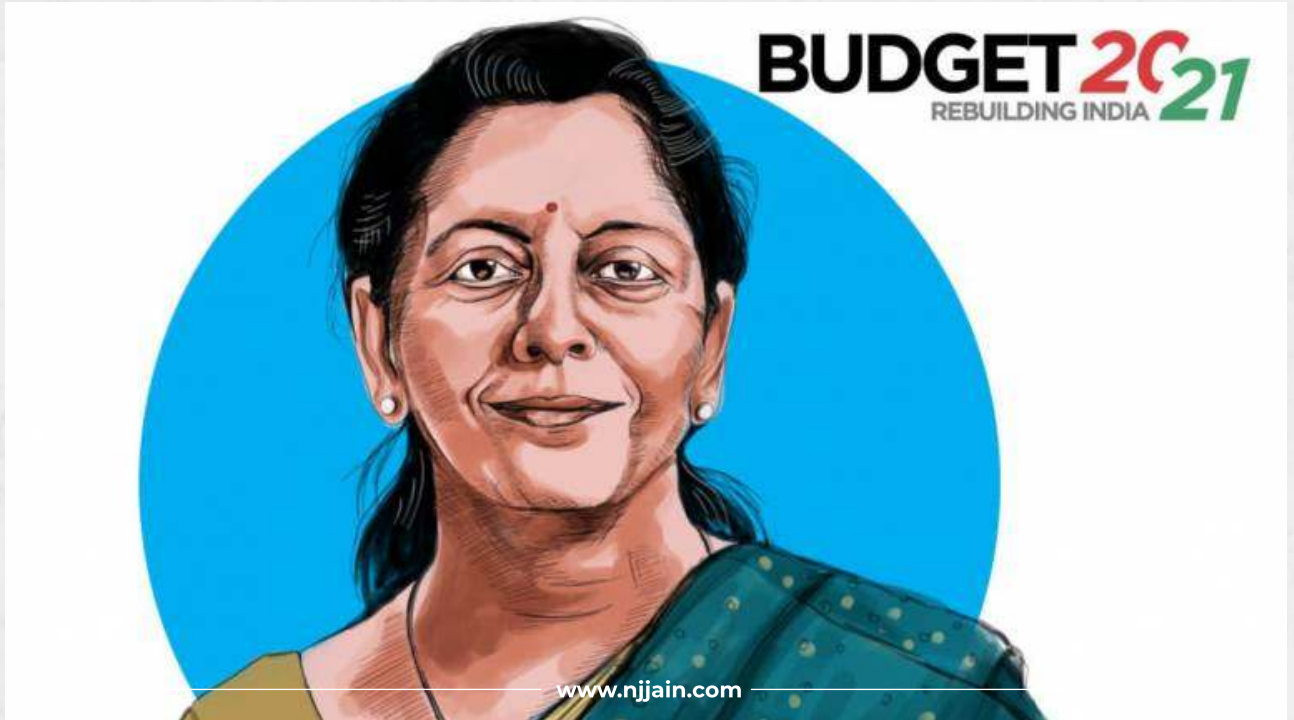
ITC

on

PERSONAL EFFECTS

A question that often arises in a common buyer's mind is whether or not they will get ITC on purchases like phones, watches, I-pads, etc. which was purchased for business use. They find it hard to distinguish whether it is used for office purposes or personal consumption, owing to the thin line between the two.

[READ MORE](#)



ANALYSIS OF PROPOSED AMENDMENTS IN GST LAW IN BUDGET 2 0 2 1

Honourable FM, Madam Nirmla Sithraman delivered her 3rd Budget speech on Monday, February 1st. Even though she didn't announce any change in GST in her speech, there are some very important and far reaching amendments proposed in the budget. All these amendments will take time to see the light of the day, may take even a year or more to implement these. Gist of these changes and our views on them is as under.

[READ MORE](#)

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