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VASAI TALUKA HOUSING SOCIETIES REVIEW

August 2017

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	24	9	39151
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VASAI TALUKA HOUSING SOCIETIES REVIEW

EDITORIAL & PUBLICATION OFFICE

Swagat Bhavan, opp. MS&ED Staff colony,
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Circulate among Friends and other members of the Society

Dear Members,

EDITORIAL



श्री. वि. विश्वनाथन

Hope by this time the societies would have completed its audit and must be on the job of conduct the AGM's. Don't forget to complete the AGM before 30th September 2017. Also ensure that you upload returns, financial statements, appointment of auditors and uploading of all the mandatory returns and auditors appointment.

Now in case any under construction flat is pending for possession one can approach RERA authority with a complaint. It is new law and very pro consumer.

The Honorable CM has announced that the deemed conveyance would be possible even without Occupancy Certificate (OC). A Government Resolution (GR) is expected shortly to that effect. This will help many stalled conveyance work of numerous societies state wide.

Government of Maharashtra is in the process of forming a separate chapter on housing societies in the MCS ACT. Our Chairman Shri. Ramesh S. Prabhu is leading from the front in giving the required suggestions to the government. In case anyone has any suggestions please do send to us at the earliest. You can also email to us.

Take the benefits of FAQ's on whatsapp. The question and answer is published in this issue.

By this time most of the members must be aware that your federation has started with a Whatsapp group. You can send your name, name of the railway station, east of west to 9665774229 / 9890187344 requesting you to add to the group. In such group you can put in your queries and the experts at the federation would answer to your queries.

With Best regards

V. Viswanathan, Secretary

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रेरा आणि तक्रार निवारणाचे मापदंड

लोकसत्ता

२९/०७/२०१७

२४ जुलै २०१७ रोजीच्या परिपत्रक अनु क्र. ६ अन्वये रेरा प्राधिकरणाने तक्रार हाताळण्याची एस.ओ.पी. (स्टॅंडर्ड ऑपरेटिंग प्रोसिजर) जाहीर करून लागूदेखील केलेली आहे. रेरा प्राधिकरणाकडे तक्रार कशी करायची? त्या तक्रारीची हाताळणी कशी होणार? सुनावणी आणि निर्णय कसा होणार? या आणि अशा विविध प्रश्नांची उत्तर या एस.ओ.पी. द्वारे देण्यात आलेली आहेत.



आपल्याकडील व्यवस्थेत दोन प्रकारचे कायदेशीर उपाय अस्तित्वात आहेत. एक म्हणजे प्रतिबंधात्मक आणि दोन उपचारात्मक, साहजिकच प्रतिबंधात्मक उपाय हे संभाव्य नुकसान टाळण्यासाठी, तर उपचारात्मक उपाय हे झालेले नुकसान भरून काढण्यासाठी असतात.

नवीन रेरा कायद्यात देखील या दोन्ही प्रकारच्या उपायांची यथार्थ तरतूद करण्यात आलेली आहे. प्रकल्प नोंदणी, प्रकल्प नोंदणीच्या वेळेस महत्वाची माहिती आणि कागदपत्रांची आवश्यकता आणि मुख्य म्हणजे कोणालाही कोणताही नोंदणीकृत प्रकल्प, त्याची माहिती आणि महत्वाचे कागदपत्र घरबसल्या बघायची सोयही एकप्रकारे प्रतिबंधात्मक उपयायोजना आहे.

प्रतिबंधात्मक उपाययोजना आवश्यक आणि महत्वाच्या आहेतच, पण तरीसुद्धा काही वेळेस प्रतिबंधात्मक उपाययोजना असूनही काही समस्या उद्भवतातच, या अशाच समस्यांकरता उपचारात्मक उपाययोजना असणे आवश्यक असते. रेरा कायद्यात तक्रार निवारण आणि दंडात्मक तरतुदीद्वारे अशाच उपचारात्मक उपाययोजनांची सोय केलेली आहे.

२४ जुलै २०१४ रोजीच्या परिपत्रक अनु क्र. ६ अन्वये रेरा प्राधिकरणाने तक्रार हाताळण्याची एस.ओ.पी. (स्टॅंडर्ड ऑपरेटिंग प्रोसिजर) जाहीर करून लागूदेखील केलेली आहे. रेरा प्राधिकरणाकडे तक्रार कशी करायची? त्या तक्रारीची हाताळणी कशी होणार? सुनावणी आणि निर्णय कसा होणार? या आणि अशा विविध प्रश्नांची उत्तरे एस.ओ.पी. द्वारे देण्यात आलेली आहेत.

या एस.ओ.पी. मधील पहिलाच महत्वाचा मुद्दा म्हणजे तक्रार कोणी आणि कशी करायची याची माहिती या एस.ओ.पी. नुसार एखाद्या

नोंदणीकृत प्रकल्पात हक्काधिकार किंवा हितसंबंध असलेली व्यक्ती महारेराच्या वेबसाइटद्वारे तक्रार दाखल करू शकते. एकदा तक्रार प्राप्त झाली की ती तक्रार संगणकीय प्रणालीद्वारे अध्यक्ष, सदस्य १ किंवा सदस्य २ यांना पाठविण्यात येईल. अध्यक्ष आणि सदस्य यांच्याकरता स्वतंत्र कायदेशीर अधिकाऱ्याची देखील सोय करण्यात आलेली आहे. एखाद्या तक्रारीत रेरा कायदा कलम १२, १४, १८, १९ मधील तरतुदीद्वारे जर नुकसानभरपाई मागणी करण्यात आलेली असेल, तर अशा नुकसानभरपाईच्या रकमेच्या निश्चितीकरता ती तक्रार निवाडा अधिकाऱ्याकडे (एडज्युकेटिंग ऑफिसर) वर्ग केली जाऊ शकते. एकाच विकासकाविरुद्ध, साधारण एकाच प्रकारच्या असंख्य तक्रारी प्राप्त झाल्यास त्यांची एकत्रित सुनावणी घेण्याकरता अशा तक्रारी प्राधिकरणाच्या विशिष्ट खंडपीठाकडे वर्ग करण्यात येतील.

तक्रारदाराच्या तक्रारीची दखल आणि नोंद घेण्यात आल्यावर तक्रारदाराला तक्रारीची नोंद घेतल्याचे आणि तक्रार क्रमांक वगैरे इतर माहिती ईमेलद्वारे कळविण्यात येणार आहे. यापुढील टप्प्यात तक्रारदाराने तक्रारीशी संबंधित कागदपत्रांच्या प्रती रेरा प्राधिकरणाच्या कार्यालयात दाखल करणे आवश्यक आहे. अशी कागदपत्रे दाखल करतानाच त्या तक्रारीची प्रत ऑनलाईन तक्रार दाखल केल्यापासून ४५ दिवसांत समोरील पक्ष किंवा विरोधी पक्षाला नोंदणीकृत टपालाने पाठविल्याचे स्व-घोषणापत्र देखील तक्रारदाराने सादर करण्याचे आहे. सध्या अशी कागदपत्रे रेरा प्राधिकरणाच्या मुंबई, पुणे आणि नागपूर येथील कार्यालयात स्वीकारण्यात येणार आहेत. मुंबई येथे दुसरा मजला, ए विंग, झोपडपट्टी पुनर्वसन प्राधिकरण, प्रो. अनंत काणेकर मार्ग, बांद्रा (पू) मुंबई ४०० ०५१ येथे स्वीकारण्यात येतील. पुणे आणि नागपूर येथील कार्यालयांचा तपशील अजून जाहीर करण्यात आलेला नसून लवकरच जाहीर करण्यात येणार आहे. अशी कागदपत्रे दाखल केल्यापासून साठ दिवसांच्या आत तक्रारीचा निर्णय देण्याचा प्रयत्न प्राधिकरणाने करण्याचा आहे.



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प्राधिकरणाने जाहीर केलेल्या एस.ओ.पी. मधील काही तरतुदी सोईस्कर तर काही त्रासदायक ठरण्याची शक्यता आहे. तक्रार ऑनलाईन दाखल करता येणार आहे. तक्रार दाखल झाल्याचे

रेरा प्राधिकरणाने एस. ओ.पी. जाहीर केली हे उत्तमच झाले. आता सर्व नागरिकांनी या एस.ओ.पी. चा अभ्यास करून त्यातील सोयीस्कर आणि त्रासदायक बाबी समजून घेऊन रेरा प्राधिकरणाला सूचना करणे आवश्यक आहे. जनकल्याण हा सर्वोच्च कायदा हे कायद्याचे मुख्य तत्त्व असल्याने, कायदा आणि जनकल्याण यांच्यात वाद निर्माण झाल्यास जनकल्याणाच्या अनुषंगाने कायद्यात सुधारणा होते. मात्र त्याकरता आपापली मते आणि सूचना प्राधिकरणाला कळविणे हे कर्तव्य आपण सर्वांनी पार पाडणे आवश्यक आहे.





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लोकसत्ता

२९/०७/२०१७

जानेवारी ते मार्च २०१५ या कालावधीत ज्येष्ठ विधिज्ञ अॅड. दिनकर भावे यांनी लिहिलेली 'इच्छापत्र' ही लेखमाला 'टाइम्स प्रॉपर्टी' मधून प्रसिध्द करण्यात आली होती. बऱ्याचदा कर्त्या वा प्रमुख व्यक्तीच्या मृत्यूनंतर त्याने केलेल्या इच्छापत्रात त्रुटी, एकापेक्षा अधिक इच्छापत्रं समोर येऊन गोंधळ निर्माण होतो. अशा परिस्थितीत संबंधित सर्वांनी एकत्र येऊन वादावर तोडगा काढला तर कोर्ट-कचेऱ्या आणि वेळेचा अपव्यय, शारीरिक, मानसिक, आर्थिक, भावनिक असं सर्वच प्रकारचं नुकसान टहलं आणि कौटुंबिक सलोखाही कायम राहतो. पण हे कसं साध्य होऊ शकतं ते सांगणारी अॅड. भावे यांची 'कौटुंबिक व्यवस्थापत्र' ही लेखमाला आजपासून.



'इच्छापत्र' लेखमालेचा मुख्य उद्देश मृत्यूपत्राद्वारे संपत्तीची वाटणी आणि विभाजन करण्यासंदर्भातली मूलभूत कार्ये आणि कार्यपद्धती याबाबत जागरूकता निर्माण करणं हा होता. इच्छापत्र केलं नसेल तर संपत्तीची वाटणी प्रस्थापित कायदानुसार कशी होऊ शकते याकडे वाचकांचं लक्ष वेधणं हाही एक हेतू होता. संपत्ती व्यवस्थापन करण्यासंदर्भात योग्य वेळी पावलं टाकली तर व्यक्तीच्या पश्चात कुटुंबाचं जीवन सुरळीत व्यतीत होतं हा संदेशही 'इच्छापत्र' या नऊ लेखांच्या मालिकेतून देण्यात आला होता.

खाजगी आणि गुप्त मानल्या गेलेल्या 'इच्छापत्र' सारख्या दस्तावेजाद्वारे संपत्तीचं सुयोग्य व्यवस्थापन करण्याबाबत मार्गदर्शन करण्यात आलं त्यामुळे सदोष आणि कमतरता असलेल्या इच्छापत्रांमुळे त्यांची अंमलबजावणी करताना उध्दवणाऱ्या वादांचा विषय मुद्दामहून लांबच ठेवला होता, त्यामुळे त्याचा विचार आता करुन ज्यांच्यामुळे हितसंबंधांचा संघर्ष उध्दवू शकतो, अशा खालील समस्यांचा ऊहापोह करायचा आहे.

- १) इच्छापत्रांच्या सदोष मसुद्यामुळे किंवा इच्छापत्रकर्त्याच्या/कर्तीच्या हेतूंमध्ये स्पष्टतेचा अभाव असल्यामुळे निर्माण होणारी निहैतुक क्लिष्टता
- २) वडिलोपार्जित मालमत्तेच्या संबंधातली मालकी आणि हितसंबंधांबाबत चुकीचे ग्रह
- ३) मुलीली कायदेशीर हिस्सा देण्यास नकार

- ४) स्वकष्टार्जित मालमत्तेच्या वाटण्या करताना कायद्यातल्या त्याबाबतच्या तरतुदींच्या अज्ञानामुळे केले जाणारे जास्तीचे हिस्से या सर्वांमुळे कुटुंबातल्या सदस्यांमध्ये निर्माण होणारे अप्रिय वातावरण आणि वाद जवळच्या नातेसंबंधांना सुध्दा कोर्टाच्या पायरीपर्यंत नेतात.

भारतातल्या न्यायालयांचा या संदर्भातला कल पाहता आणि केंद्र शासनाची वादविवादविषयक नीती लक्षात घेता, न्यायालयाबाहेर सामोपचाराने वाद मिटवण्याला अधिक महत्त्व आणि प्रतिष्ठा प्राप्त झाली आहे, म्हणूनच आता अशा प्रकारच्या वादांचं निराकरण 'कौटुंबिक' व्यवस्थापत्रांद्वारे करणं हे अधिक योग्य आणि किफारयतशीर मार्ग असल्याचं मानलं जातं. आपल्या देशातल्या अगदी उच्चतम न्यायालयाने म्हणजेच सर्वोच्च न्यायालयाही याला आपली पसंती दर्शवलेली आहे. त्यामुळे 'कौटुंबिक व्यवस्थापत्र' या विषयाच्या माध्यमातून व्यवस्थापत्राची योजना/करारनामा, त्यासंदर्भातली कागदपत्रं, मुद्रांक शुल्काचा भरणा, नोंदणी, फेरफार नोंदवही, मालमत्तेबाबत शासनदरबारी आणि नगरपालिका म्हणजेच स्थानिक स्वराज्य संस्थांकडे असणाऱ्या नोंदी इत्यादींबाबत समावेशक मांडणी करुन कौटुंबिक वाद निर्णायकरित्या सोडवण्याविषयी सविस्तर चर्चा या लेखमालेत करण्यात येणार आहे.

या लेखमालेमध्ये कौटुंबिक व्यवस्थापत्र, त्याची योजना आणि त्याची भारतीय कायदाव्यवस्थेमध्ये प्रत्यक्ष अंमलबजावणी या विषयांचीही हाताळणी करण्यात येणार आहे. या विषयात काही तांत्रिक आणि कायदेशीर क्लिष्टता अंतर्भूत आहे, यात शंका नाही तरीही

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त्याबाबत सुलभता आणि सहजता ठेवण्याचा प्रयत्न लेखांमध्ये करण्यात येणार आहे मात्र असं करताना कायदेशीर आणि तांत्रिक बाबींच्या स्वीकृत व्याख्यांचा तसंच कायद्याच्या सुस्थापित तत्वांचा संदर्भ देणं हे विषयाच्या आकलनाच्या दृष्टीने अनिवार्य आहे हेही लक्षात घेतलं पाहिजे. कारण या विषयालाच मुळात त्याच्या व्यावहारिक वापराच्या दृष्टीने अनेक कंगोरे आणि गुतांगुतीच्या बाजू आहेत.

मृत्युपत्रकर्ता/कर्तीने आपल्या मालमत्तेचं न्याय्य समतोल आणि वाजवी पध्दतीने वाटप केलं नसेल तर इच्छापत्रदानग्राही (इच्छापत्रान्वये प्राप्त होणाऱ्या चल/अचल, मूढेबल/इम्मूढेबल मालमत्तांचे लाभार्थी) आणि उत्तरदानग्राही (वारसा कायद्यानुसार मालमत्तांचे वाटेकरी/लाभार्थी) यांच्यामध्ये हितसंबंधांचा संघर्ष उध्दवू शकतो. तो विकोपाला जाऊन कोर्टाच्या पायरीपर्यंत पोहोचू शकतो. वास्तविक पाहता अगदी सर्वशक्तिमान परमेश्वरालाही कधीतरी कोणाला तरी नाराज करणं टाळता येत नाही, मग मालमत्तेच्या वाटणीत ते कसं शक्य होईल? तथापि प्रत्येक कायदेशीर वारसाला मोठा, नव्हे 'सिंहाचा वाटा' हवा असतो.

सिंहाचा वाटा'चा नक्की अर्थ काय?

ख्रिस्तपूर्व सन ६२० ते ५६० मध्ये इसाप नावाच्या सुपरिचित अशा ग्रीक लेखकाने लिहिलेल्या नीतीकथांपैकी एक 'सिंहाचा वाटा' या नीतीकथेच्या माध्यमातून या सिध्दांताचं अगदी सुबोध आकलन होऊ शकतं. ही नीतीकथा अशी आहे की, एकदा एक सिंह, एक गाढव आणि एक कोल्हा एकत्र शिकारीला गेले आणि त्यांनी एक मोठी शिकार केली. त्यानंतर त्यांनी असं ठरवलं की गाढवाने या शिकारीची वाटणी करावी. गाढवाने अगदी योग्यपणे म्हणजे प्रत्येकाला एकसमान हिस्सा देऊन वाटणी केली. कोल्ह्याला ही वाटणी पटली पण सिंहाचा राग अनावर झाला आणि त्याने पंजाच्या एकाच फटक्यात गाढवाचीही शिकार करून टाकली. मग कोल्ह्याकडे वळून सिंह म्हणतो कसा की, 'आता तू वाटणी कर' कोल्ह्याने अजिबात वेळ न दवडता दोन्ही शिकारींचा एक ढीग केला आणि त्यापैकी अगदी लहानसा वाटा, तोही शिंगे, खूर वगैरेंचा, स्वतःसाठी घेतला सिंहाची स्वारी खूपच खुश झाली आणि त्याने मधाळपणे कोल्ह्याला विचारलं, 'कोणी शिकवलं रे तुला इतकी छान वाटणी करायला? हे शहाणपण तुला कोणी शिकवलं?'

तिथून काढता पाय घेत कोल्हा उत्तरला, 'मी हा धडा या मेलेल्या गाढवाकडून शिकलोय'

इसापच्या या कथेतून 'समान' आणि 'समतोल' किंवा 'न्याय्य' वाटणी यामधला फरक स्पष्ट होतो. मालमत्तेच्या वाटणीबाबतदेखील प्रत्येक लाभार्थ्याला असं वाटत असतं की आपल्याला 'न्याय्य हिस्सा' मिळाला पाहिजे आणि असं झालं नाही की, म्यानांतून तलवारी निघाल्याच समजा, मग परिणामांची फिकीर न करता एका

न्यायालयातून दुसऱ्या न्यायालयात, अशी भांडणं सुरुच राहतात, पण या वादविवादांमुळे सर्वांचा वेळ आणि ऊर्जेचा अपव्यय होतो. कळत-नकळत हे एकमेकांचे नातेवाईक, आपल्याच संपत्तीचा एक भाग कायद्याशी संबंधित वकील-वर्गाच्या खिशात नियमितपणे घालतात, ज्यामुळे वकिलांच्या संपत्तीची प्रगती जास्त वेगाने होते, पण खटला मात्र मंदगतीनेच पुढे सरकतो. हे निर्विवाद सत्य आहे.

आता एक गोष्ट तर सर्वपरिचित आहे की, देशाच्या एकूण संपत्तीची त्याच्या हितसंबंधीयांमध्ये होणारी वाटणी, हा जगभरातले तत्त्ववेत्ते आणि अर्थशास्त्रीचं लक्ष वेधून घेणारा विषय होता आणि अजूनही आहे. जगरहाटीच्या ओघात देश-संपत्तीच्या वाटपाबाबत मांडणी करताना भांडवलवाद. समाजवाद आणि साम्यवाद असे अनेक विचारप्रवाह विकसित झालेत विविध देशांनी या तत्त्वज्ञानांच्या आधारे प्रयोग करून संपत्तीचं समतोल व न्याय्य पध्दतीने वाटप करण्याचा प्रयत्न करून पाहिलेत. परंतु याबाबत सर्वमान्य आणि रामबाण असं कोणतंही सूत्र राबवता आलेलं नाही, एकेकाळी, 'प्रत्येकासाठी त्याच्या क्षमतेनुसार योगदान आणि गरजेनुसार संपत्ती' हे सर्वांचं आवडतं स्वप्न होतं लुई ब्लांकेने १८५१ मध्ये हे घोषवाक्य जर्मन भाषेत वापरलं होतं (श्रमकमत दंबी मपदम पिपहामपजमदए रमकमउ दंबी मपदमद ठमकनपतदिपेमद). नंतर कार्ल मार्क्सने त्याला १८७५ मध्ये लोकप्रिय केलं. मार्क्सवादाच्या दृष्टीने अशा प्रकारची व्यवस्था समाजवादाच्या पूर्ण विकासाने साध्य होऊ शकेल, असं कार्ल मार्क्सने प्रतिपादित केलं १९१७ च्या क्रांतीनंतर आणि प्रामुख्याने १९२२ नंतर स्थापन झालेल्या सोव्हिएट युनियन (यूएसएसआर) या महासत्तेचा आर्थिक कारभार, संपत्तीवाटप मार्क्सवादाच्या आधारे आखलं गेलं. पण १९६१ मध्ये सोव्हिएट रशियाच्या समाजवादी सिध्दांतावर भिस्त ठेवली होती तोच अयशस्वी ठरला. आता रशिया आणि चीन हे दोन्ही देश भांडवलदारी अर्थव्यवस्थेच्या सर्व उणिवा स्वीकारून तिच्याकडे झुकू लागले आहेत.

याबाबत लक्षणीय बाब ही की, संपूर्ण जगाचं सकल उत्पन्न (ग्रॉस प्रॉडक्शन) ६२ अब्ज रुपयांच्या वर गेलं असूनही जगाच्या अर्ध्या लोकसंख्येला एकवेळचा चौरस आहार मिळत नाही. काहीना तर अर्धा महिनाभर खायलाच मिळत नाही. त्यामुळे सध्याची संपत्तीवाटपाची असंतुलित, एका बाजूला अधिक कललेली, टोकाची विषमता जोपासणारी व्यवस्था, देशादेशांमध्ये एकवाक्यता नसल्याने अनियंत्रितपणे कुठलीही सुधारणा न होता वर्षानुवर्ष चालूच आहे हे आपण दुदैवाने पाहत आहोत. जागतिक संपत्तीवाटपाची असंतुलित, एका बाजूला अधिक कललेली, टोकाची विषमता जोपासणारी व्यवस्था, देशादेशांमध्ये एकवाक्यता नसल्याने अनियंत्रितपणे कुठलीही सुधारणा न होता वर्षानुवर्ष चालूच आहे, हे आपण दुदैवाने पाहत आहोत. जागतिक संपत्ती-वाटपाची सर्वकष योजना सर्वमान्य स्वरूपात उदयाला येऊन अंत्योदय साध्य होईल, अशी बाळगणं हे दिवास्वप्नच म्हणावं लागेल.



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परिस्थितीचा आढावा घेणारा लेख....

निश्चलनीकरणाच्या ऐतिहासिक निर्णयानंतर दोन मोठे बदल केंद्र सरकारने केले, ते म्हणजे रेरा व जीएसटी. जीएसटीचा परिणाम तर सर्वच वस्तूवर व सेवांवर झाला व होत आहे. मात्र, रेरामुळे कायद्यातून पळवाटा काढणाऱ्या काही विकासकांची मुस्कटदाबी झाली आहे. अर्थात ही बाब ग्राहकांसाठी हिताचीच आहे. रेरामुळे गृहनिर्माणमधील परिस्थिती सुधारेल अशी अशा असतानाच सरकारने आणखी एक शस्त्र काढले, ते म्हणजे जीएसटी. जीएसटीबाबत अजूनही ग्राहकच नव्हे, तर काही विकासकांमध्येही संभ्रम आहे. यासाठी विकासकांनी योग्य वेळी जीएसटीतील गृहनिर्माणासाठीच्या तरतुदीची माहिती घेऊन ग्राहकांनाही जागरूक करणे गरजेचे आहे.

रेरा व जीएसटी याचा परिणाम चांगला आहे की वाईट याबद्दल सर्वच चर्चासत्र सुरू आहे. रेरा कायद्यानुसार नोंदणी करून, जीएसटी करप्रणालीप्रमाणे घरांच्या किमती याची आणखी केल्यास याचा फायदा विकासकांसोबत ग्राहकांनाही होईल यात शंका नाही. रेरानुसार विकासकांनी कोणत्या गोष्टी पाळल्या पाहिजेत? विकासकांनी एखादा प्रकल्प दिलेल्या वेळेत पूर्ण केला पाहिजे. ज्याप्रमाणे एसआरएचे प्रकल्प उभारले जातात, त्याप्रमाणे जेव्ही (जॉइंट व्हेचर) किंवा जेडीए (जॉइंट डेव्हलपमेंट अॅग्रीमेंट) यानुसार प्रकल्प उभारणी करणे, हे पर्यायदेखील असू शकतात. व्यावहारिकपणे विकासकांना बांधकामासाठीचा निधी योग्य प्रकारे वापरून प्रकल्प नियोजित वेळेतच पूर्ण केल्यास विकासक व ग्राहक यांच्यामधील गैरसमज दूर होण्यास मदत होऊ शकते.

जीएसटीमध्ये अजूनही काही तरतुदीचा उलगाडा होत आहे. त्याप्रमाणे यात विकासकांसाठी काही अडचणीही आहेत. बांधकाम

व्यावसायिकाला ईआरपी (एंटरप्राइज रिसोर्स प्लॅनिंग) अर्थात व्यवसाय प्रक्रिया व्यवस्थापनाचे आधुनिकीकरण करणे ही एक अडचण वाटत आहे. व्यवसाय प्रक्रिया व्यवस्थापन हे एक सॉफ्टवेअर आहे, जे संस्थेला व्यवसाय व्यवस्थापित करण्यासाठी एकीकृत तंत्रज्ञानाची प्रणाली वापरण्यास आणि तंत्रज्ञान, सेवा आणि मानवी संसाधनांसह संबंधित अनेक बँकांची कामे स्वयंचलित करण्याची परवानगी देते, ईआरपी सिस्टीम ही फायनान्स, अकाउंटिंग, इनव्हेंटरी याच्याशी निगडित असते. दुसरीकडे, विक्रेते व पुरवठादार जीएसटी नोंदणीकृत असल्यास विकासकावरील कराचा भार हलका होण्यास मदत होते. असे न झाल्यास विकासकाच्या अडचणीत वाढ होऊ शकते. ग्राहकांच्या अपेक्षा व माहितीचा प्रसार हेही विकासकांसाठी मोठे आव्हान असल्याचे मत पोद्दार यांनी सांगितले आहे. याव्यतिरिक्त जीएसटीमध्ये सध्या तरी जमिनीच्या किमती कमी करण्यासाठीची काहीही तरतूद नाही, त्यामुळे प्रॉपर्टीच्या किमती ६.५ टक्क्यांपेक्षा जास्त वाढतील असे निरीक्षण त्यांनी नोंदवले.

गेल्या काही दिवसांत बांधकाम क्षेत्रात अनेक बदल व नवे ग्राहकहिताय निर्णय घेतले जात आहेत. मुंबईतील ५०० चौरस फुटांपर्यंतच्या घरांवरील मालमत्ता कर पूर्णपणे माफ तसेच ५०० ते ७०० चौरस फुटांपर्यंतच्या घरांना मालमत्ता करात ६० टक्क्यांपर्यंत सूट देण्याचा निर्णय मुंबई पालिका सभागृहाने दिला.

दुसरीकडे, नाइट फ्रॅक या संस्थेने सादर केलेल्या अहवालात घर खरेदी-विक्रीत घट झाल्याचे निदर्शनास आले आहे. विकासकांसाठी अजूनही स्टॅम्प ड्युटी व जमिनीवरील १२ टक्के कर या दोन गोष्टी गृहनिर्माणासाठी जाचक आहेत. मुख्यत्वेकरून ज्या ठिकाणी जमिनीच्या किमती जास्त आहेत. यामुळे ग्राहकांवर पडणारा कराचा भार सरकारच्या परवडणाऱ्या घरांच्या योजनेमुळे काहीसा हलका होऊ शकतो. जीएसटीनंतर ग्राहक तसेच विकासक दोघांनाही आपल्या आर्थिक नियोजनावर पुन्हा काम करावे लागेल.

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रेरा व जीएसटी हे अजूनही विकासकांच्या अंगवळणी पडलेले नाही. कारण आतापर्यंत रेरा अंतर्गत केवळ ३५० विकासकांनी नोंदणी केली आहे. सामान्यतः आपल्याला सहज कुठेही विकासकांच्या जाहिराती किंवा ऑनलाईन जाहिराती दिसतात. मग ३१ जुलैची डेडलाइन असतानाही नोंदणी करण्यासाठी विकासक का सरसावत नाहीत? याचे कारण म्हणजे कित्येकांना रेरांनंतर लागू झालेल्या जीएसटी करप्रणालीची व्याख्या, त्यातील तरतुदी, त्याची व्यवसायासाठीची अंमलबजावणी याची पुरेपूर माहितीच नाही. दरम्यान, काही विकासक नव्या नियमांनुसार प्रॉपर्टीची विक्री करत आहेत, जी विकासक व ग्राहक यांच्यासाठी फायदेशीर असेल असे एमसीएचआयचे अध्यक्ष व निर्मल लाइफस्टाइलचे धर्मेश जैन यांनी सांगितले.

एकामागोमाग आलेल्या या निर्णयांमुळे एकूणच विकासकांना आपला कामगारवर्ग, आपली अर्थव्यवस्था, तसेच कराशी संबंधित सर्व बाबी यावर बारीक लक्ष ठेवून नव्या नियमांनुसार बदल करणे गरजेचे आहे, रेरा व जीएसटीसाठी तयार राहून ग्राहकांच्या हितासाठी योग्य प्रकारे अंमलबजावणी करणे सध्या विकासकांसाठी फायदेशीर ठरू

शकते, असे गृहनिर्माण मॅनेजमेंट इन्स्टिट्यूटच्या शुभिका बिल्खा यांचे म्हणणे आहे.

एकंदरच रेरा व जीएसटी याचा परिणाम हा घर खरेदी-विक्रीवर झाल्याचे स्पष्टपणे दिसत आहे. त्यातच नव्या प्रकल्पांची नोंदणी करण्यासाठी विकासक हवा तसा प्रतिसाद देत नसल्याचेही स्पष्ट होते. निश्चलनीकरण, रेरा व जीएसटीनंतर गृहनिर्माण क्षेत्रात काही महिने मंदी राहिल असे तज्ज्ञांचे मत आहे. प्रकल्प किती वेळात पूर्ण होणार..... प्रकल्प वेळेत पूर्ण नाही केला तर दंडात्मक कारवाई अशा अनेक गोष्टींचा धसका विकासकांनी घेतला आहे. पूर्वी ज्याप्रमाणे बांधणीसोबतच विक्री होत असल्याने विकासकांच्या हातात खेळते भांडवल असायचे मात्र, आता सर्व परवानग्या मिळाल्यानंतर रेरा नोंदणी, मग बांधणी यामुळे घरबांधणीचा वेग मंदावत असल्याची चिन्हे आहेत. दुसरा प्रमुख मुद्दा म्हणजे जमिनीचे दर. शहरी भागांत जमिनीचे दर खाली येणे हे केवळ अशक्य आहे. एकूणच निश्चलनीकरणानंतर रोख व्यवहारावर बंदी, रेरांनंतर नोंदणी मगच बांधकाम व जीएसटीनंतर जमिनीच्या व्यवहारावर १२ टक्के कर यामुळे गृहनिर्माण क्षेत्रातील उलाढाल मंदावली असल्याचे चित्र सध्या आहे. हे तिन्ही निर्णय दिलेल्या सरकारने वेळेवेळी नियम, अंमलबजावणी, हेल्पलाइन, कार्यशाळा यांच्या माध्यमातून विकासक व ग्राहक यांना जास्तीत जास्त माहिती देण्याचा प्रयत्न केला आहे. मात्र काही विकासकांमध्ये अद्याप याबाबत उदासीनता दिसत आहे. त्यामुळे यासाठी थांबा, बघा मग पुढे जा अशी भूमिका व्यावसायिक घेत आहेत.

सोसायट्या व सभासद जीएसटीच्या कक्षेत

सहकारी गृहनिर्माण संस्थांसाठी वस्तू व सेवा करप्रणाली नोंदणी व अटीबाबत महाराष्ट्र शासनाच्या प्रसिद्धी पत्रकाप्रमाणे राज्यातील सर्व सहकारी गृहनिर्माण संस्था व त्यांच्या सभासदांना वस्तू व सेवा कराच्या (जीएसटी) च्या कक्षेत आणले आहे.



देशाच्या स्वातंत्र्यानंतरची सर्वात मोठी कर सुधारणा मानली जाणारी, तसेच देशातील असंख्य कर एकत्रित करणारी ऐतिहासिक वस्तू व सेवा करप्रणाली १ जुलै २०१७ पासून लागू झाली. जीएसटी म्हणून ओळखली जाणारी ही करप्रणाली आपल्यासाठी नवी असली तरी

जगातील जवळपास १६० देशांत ती कार्यरत आहे. देशाच्या अर्थ व्यवस्थेला होणारे फायदे, व्यापार व उद्योग क्षेत्राला त्यापासून होणारा लाभ आणि गरीब व सामान्य माणसांना सर्वात जास्त लाभ मिळण्यासाठी जीएसटी ही सर्वांसाठी लाभदायक व सुलभ करप्रणाली आहे, असे वर्णन करण्यात येत आहे. देशाच्या आर्थिक सुधारणांमध्ये वित्तिय बदल आणण्यात योगदान देणारी करप्रणाली अशीही

पुस्ती जोडण्यात येत आहे. जीएसटीच्या पहिल्याच तडाख्यात उपाहारगृह व चित्रपटगृह मालकांमध्ये कमालीचे गोंधळाचे वातावरण आहे, तर घाऊक व्यापारी



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'के अॅन्ड के' चा विश्वास जपती नात्यां पलिकडची नाती,
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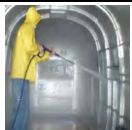
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व ग्राहकांमध्ये अजूनही संभ्रमाचे वातावरण आहे. मोठा गाजावाजा करून सुरु करण्यात आलेल्या जीएसटीला आता एक महिना पूर्ण होत आहे आणि जीएसटीचे कवित्व आता सर्वांच्या समोर येत आहे. त्याचा सर्वात मोठा फटका राज्यातील सहकारी गृहनिर्माण संस्था व त्यांचे सभासद यांना बसणार आहे. सहकारी गृहनिर्माण संस्थांसाठी वस्तू व सेवा करप्रणाली नोंदणी व अटीबाबत महाराष्ट्र शासनाच्या प्रसिध्दी पत्रकाप्रमाणे राज्यातील सर्व सहकारी गृहनिर्माण संस्था व त्यांच्या सभासदांना वस्तू व सेवा कराच्या (जीएसटी) च्या कक्षेत आणले आहे.

राज्यातील सहकारी गृहनिर्माण संस्थांची वार्षिक उलाढाल २० लाखापेक्षा अधिक असल्यास वस्तू व सेवा कर खात्याच्या (जीएसटीच्या) अंतर्गत नोंदणी करणे बंधनकारक करण्यात आले आहे. वार्षिक उलाढालीत स्थानिक स्वराज्य संस्थांचे कर व निक्षेप निधीचा/कर्ज निवारण निधीचा (सिकिंग फंडचा) समावेश केला जाणार नाही. परंतु बँका व सभासदांकडून मिळणाऱ्या व्याजाचा समावेश असेल. अशा संस्थांमध्ये पाच हजारापेक्षा अधिक मासिक देखभाल शुल्क भरणाऱ्या सभासदांना जीएसटी भरावा लागणार आहे. संस्थेच्या सभासदांना आकारण्यात येणारे मासिक देखभाल शुल्क जर रुपये ५००० पेक्षा कमी असेल तर सदरहू सभासदाला जीएसटी आकारण्यात येणार नाही. परंतु अशा सभासदांना वाहनतह सुविधा शुल्क, बिनभोगवटा शुल्क, सुविधा नोंदणी शुल्क व भाग हस्तांतरण अधिमूल्य यावर जीएसटी आकारण्यात येईल. कारण उपरोक्त रक्कम ही कोणत्याही प्रकारची वर्गणी वा परतावा नाही. मासिक देखभाल शुल्क रक्कम ही दरमहा संस्थेची कोणत्याही प्रकारची वर्गणी वा परतावाची रक्कम रुपये ५०००/- पेक्षा अधिक असल्यास जीएसटीची आकारणी करण्यात येईल (जर वार्षिक उलाढाल रुपये २० लाखापेक्षा अधिक असेल तर) सहकारी गृहनिर्माण संस्थांनी वकील किंवा विधी सेवा संस्था त्याचप्रमाणे नोंदणीकृत नसलेल्या पुरवठादाराकडून सेवा किंवा वस्तू घेतल्यास संस्थेची जीएसटी अंतर्गत नोंदणी व जीएसटी भरणे बंधनकारक आहे.

यावरून असे दिसून येते की, सहकारी गृहनिर्माण संस्था व त्यांचे सभासद यांच्यावर जीएसटीचा अतिरिक्त बोजा लादण्यात आला आहे. यासाठी राज्यातील सर्व सहकारी गृहनिर्माण संस्थांनी व संलग्न महासंघांनी (फेडरेशननी) पावले उचलणे गरजेचे आहे.

सभासदांना देण्यात येणाऱ्या मासिक देखभाल शुल्कावर कर आकारणी

१) **स्थानिक स्वराज्य संस्था कर:** सभासदांना पुरविण्यात येणाऱ्या सेवेसाठी संस्था ही प्रतिनिधी म्हणून समजण्यात येत असल्याने जीएसटीची तरतुद लागू पडत नाही. परंतु स्थानिक स्वराज्य संस्थेच्या करापोटी द्यावयाची अचूक रक्कम सभासदांकडून वसूल करावयाची आहे.

२) **निक्षेप निधी/कर्ज निवारण निधी:** हा ठेव या प्रकारात मोडत असल्याने व सेवा या तरतुदीत नसल्याने (सिकिंग फंड) त्यावर जीएसटी आकारण्यात येणार नाही. परंतु त्याचा वापर/विनियोग करताना कर आकारणी करण्यात येईल.

३) **पाणीपट्टी:** सहकारी गृहनिर्माण संस्था स्थानिक स्वराज्य संस्थांकडून पाणी संपादन करून ते सभासदांना पुरवितात. पाणी हे 'वस्तू' या सदरात येत असल्याने त्यासाठी कर 'शून्य' आहे.

४) **सामाईक वीज आकार, दुरुस्ती निधी, मासिक देखभाल शुल्क, सेवा आकार, वाहनतह वापर शुल्क, बिनभोगवटा शुल्क, भाग हस्तांतरण अधिमूल्य, सभासद प्रवेश शुल्क व अन्य कोणत्याही प्रकारची वसुली ही अन्य सभासद संस्थांनी सेवा पुरविण्याच्या सदरात मोडत असल्याने त्यावर कर आकारणी करण्यात येईल.**

५) **संस्थेच्या मासिक देखभाल शुल्काच्या विलंबापोटी घेण्यात येणारे व्याज व दंड यावर जीएसटी आकारण्यात येईल. संस्थेच्या मासिक देखभाल शुल्कापोटी सभासदांनी भरलेले जादा/ आगाऊ शुल्क यावर देखील जीएसटी आकारण्यात येईल. मात्र संस्थेच्या मासिक/त्रैमासिक शुल्काशी जीएसटीची तडजोड करण्याची सुविधा उपलब्ध असेल.**

६) **सभासद व बिगर सभासद यांचे इतर उत्पन्न व त्यावरील कर:**
(अ) बँकांचे व्याज हे जीएसटी करमुक्त असेल.
(ब) संस्थेच्या जागेत जाहिरात फलक/मोबाईल मनोरा यापोटी मिळणाऱ्या भाड्यावरही जीएसटी भरावा लागेल.
(क) संस्थेच्या इमारतीत/आवारात भरविलेले प्रदर्शन व त्यापासून मिळालेले उत्पन्न यावर जीएसटी भरावा लागेल.

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Rush and fear as **RERA** deadline nears



With Just Three days left for completion of RERA Registration for ongoing construction projects, the state government has made it clear that no extension will be given to developers or Real Estate Agents

registration with the MahaRERA Website. Housing Guru Ramesh Prabhu explains the concerns and consequences.

We can find the builders in Maharashtra are in a great rush to register their ongoing projects with Maharashtra Real Estate Regulatory Authority (MahaRERA). The last date for RERA registration is July 31. The illegal activities, cheating and fraudulent activities, taking consumer for ride prevailing in the real estate sector, forced the government of India to bring out a legislation to regulate the real estate sector: Real Estate (Regulation and Development) Act, 2016 (RERA) has become effective from 1st May, 2017 across India except Jammu and Kashmir. Every state government has to formulate its own rules and also establish the Real Estate Regulatory Authority, Real Estate Appellate Tribunal and Adjudicating officer to administer and regulate the sector. MahaRERA is the authority set up by the government of Maharashtra to register the real estate projects, monitor, administer, supervise and penalise the builders, land owners, agents or consumers who contravene any of the provisions of RERA.

Registration details

As per section 3 of RERA, every promoter (Builder or developer) who is developing plots, building or apartment is legally required to register such projects with MahaRERA before carrying out any advertisement, marketing, sale or book. As far as on going projects are concerned where there is no occupation certificates, such projects are required to be registered within 3 months of the commencement of the Act which expires on 31st Jul, 2017.

Source : Afternoon Dispatch & Courier | 28 July 2017



MahaRERA has launched the online registration of the projects from 1st May 2017 itself and is regularly issuing necessary guidelines to clarify the registration process. As per the information, there are more than 10,000 ongoing projects in Maharashtra of which nearly 1500 applications have been received by MahaRERA.

The promoter is required to give all the information of the projects and also the projects which have been completed in the last 5 years. In order to get the projects registered with MahaRERA, proper approval has to be submitted with the draft copies of allotment letter, agreement for sale, conveyance deed, sale deed including the date by which the projects shall be completed.

Some of concerns of the developers who are avoiding the registration of the ongoing projects are

- Flats have been sold of which there are no approvals
- Additional construction over and above the approved plans have been done
- The projects are delayed for a period exceeding 3 to 5 years
- Same flats have been sold to multiple investors/consumers
- Projects are stalled due to litigation or changes in the policies of the government
- Lack of required funds or slow sales which makes it difficult to declare the date of completion of the projects

Once the project is registered, the developer will have to comply with the following provisions which some of the developers want to avoid

- (a) 70% of the receipts from the customers will have to be kept in a separate account which compulsory required to be used for the purpose of land and construction cost. For withdrawal three professionals like Architect, Engineer and CAs certificate has to be obtained.
- (b) Audit has to be done by another CA within 6 months and same has to be uploaded on the website.
- (c) On quarterly basis, the project details, money spent for the project with progress done need to be updated.
- (d) All the details of the flats, their booking status, approval received need to be submitted.
- (e) Payment of interest as per SBI maximum Marginal lending plus 2% need to be paid to the customers for any delay including any compensation which may be decided by the adjudicating officers.
- (f) For any illegal activities or unfair trade practices, the registration may be cancelled by the authority which means the projects shall be handed over to the association of the allottees or any other persons but the developer will lose the project
- (g) Any addition or alternation or use of additional future FSI which is not disclosed require the permission of 2/3rd allottees consent.
- (h) Sale or Transfer of the projects require consent of 2/3rd allottees as well as the authority.

No way out for builders

The developer or builders also cannot avoid the registration of the projects. They are caught in crossroads not knowing the next course of action against such stringent provisions. Already few developers have filed a case before the Nagpur Bench of Mumbai High Court and builders and developers welfare association have filed PIL before Madhya Pradesh High court challenging the registration of on going projects and restriction on use of money collected from the customers.

The quantum of penalty and the penal actions that follows certainly means it makes sense for the genuine builders to get their projects registered with MahaRERA. Any business which is done within a regulatory frame work shall help them

to grow and prosper. If the projects which required to be registered do not get registered, the following will be the consequences on such erring developers.

- (a) If the ongoing projects are not registered on or before 31st July, 2017, the MahaRERA on the basis of sourced information may initiate penalty proceedings and the penalty may go up to 10% of the estimated cost of the project as determined by the authority.
- (b) MahaRERA has already issued a standard operating procedure to hear the complaints vide SOP dated 24th July, 2017 through a dedicated email : sourcedetails@maharera.mahaonline.gov.in It has been made clear that the details of the complaint will be kept secret.
- (c) MahaRERA has already started collecting information from the local authorities about the projects which have been sanctioned of which Occupation certificates have not been issued.
- (d) Going forward, the MahaRERA shall issue necessary directions to the local authorities not to provide with any further Commencement certificate, unless & until the registration with MahaRERA is done or provide an undertaking that no sales or marketing has been done.
- (e) Even after, the order for registration is granted and the developer fails to register the project, a provision for further penalty of 10% of the cost of the project or three years imprisonment or both.
- (f) To compound the imprisonment terms, a compounding fees ranging between 5% to 10% of the cost of the project is provided.
- (g) Any false information or any violation of any of the legal provisions attract penalty up to 5% of the cost of the project.
- (h) Any appeal before the appellate tribunal requires the developer to deposit at least 30% of the amount decided as penalty by the authority or any higher amount as may be decided.
- (i) All the complaints are heard within 60 days by the authority or the appellate tribunal and thus decisions are also going to be very quick.

(Ramesh S. Prabhu is Chairman, Maharashtra Societies Welfare Association)

HAVING REGISTERED UNDER RERA – WHAT NEXT

Having registered their project under RERA, a lot many promoters would have this question on what they would be required to do post registration. In the current write up, we intend to examine and discuss one important aspect of this question which is covered under Section 11 of Chapter III.

Chapter III of The Real Estate (Regulation and Development) Act, 2016 – deals with the functions and duties of the promoter.

Web Page- Related Information: -Section 11 subsection 1, mandates the promoter to create his web page on the website of the RERA authority. The obvious intention of the law in making this mandatory for the promoter is to facilitate those interested stake holder /party access to the updated information on the project.

Section 11 (1) mandates the promoter to give on the webpage details of registration granted by the authority.

In addition, the Section 11 (1) also requires the promoter to give a quarterly update on the following information relating to the project.

1. List of bookings done in respect of:-
 - a. Number and types of apartments or plots, as the case may be; and
 - b. Number of garages.
2. list of approvals taken and the approvals which are pending subsequent to commencement certificate;
3. Status of the project.
4. Such other information and documents as may be specified by the regulations made by the Authority.

Advertisement:-

This than now brings us then to look into the next part of the requirement which is covered by Section 11(2). The Act now requires that any advertisement, or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto.

Understanding of what comprises of the word 'advertisement' under the act is important before we proceed further as the word 'advertisement' under the Act has a wider meaning than as may generally be construed in the common parlance..

Under Section 2 (b) of the act "advertisement" means any document described or issued as advertisement through any medium and includes any notice, circular or other documents or publicity in any form, informing persons about a real estate project, or offering for sale of a plot, building or apartment or inviting persons to purchase in any manner such plot, building or apartment or to make advances or deposits for such purposes;

Booking:- Section 11 (3) - calls on the promoter at the time of the booking and issue of allotment letter to makes available to the allottee, the following information, namely:—

- (a) sanctioned plans, layout plans, along with specifications, approved by the competent authority, by display at the site or such other place as may be specified by the regulations made by the Authority;
- (b) The stage wise time schedule of completion of the project, including the provisions for civic infrastructure like water, sanitation and electricity.

The provisions relating to Promoters responsibility are governed by Section 11 (4) of the Act.

(a) Agreement for Sale:-

The promoter shall be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be:.



CA. Ashwin Raje
M - 70455 99709

Exception – Structural Defects : - Even after giving the conveyance , under section 14 (3) the promoter will continue to be liable for structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is brought to the notice of the promoter within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the promoter to rectify such defects without further charge, within thirty days, and in the event of promoter's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act.

(b) Completion / Occupancy Certificate:-

Be responsible to obtain the completion certificate or the occupancy certificate, or both, as applicable, from the relevant competent authority as per local laws or other laws for the time being in force and to make it available to the allottees individually or to the association of allottees, as the case may be;

(c) In case of Lease :-

Be responsible to obtain the lease certificate, where the real estate project is developed on a leasehold land, specifying the period of lease, and certifying that all dues and charges in regard to the leasehold land has been paid, and to make the lease certificate available to the association of allottees;

(d) Maintenance of Essential Services :-

Be responsible for providing and maintaining the essential services, on reasonable charges, till the taking over of the maintenance of the project by the association of the allottees;

(e) Formulate CHS / Association as applicable :
- Enable the formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same, under the laws applicable:

Provided that in the absence of local laws, the association of allottees, by whatever name called, shall be formed within a period of three months of the majority of allottees having booked their plot or apartment or building, as the case may be, in the project;

(f) Conveyance:-

Execute a registered conveyance deed of the apartment, plot or building, as the case may be, in

favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under section 17 of this Act;

(g) Payment of all outgoings :-

Pay all outgoings until he transfers the physical possession of the real estate project to the allottee or the associations of allottees, as the case may be, which he has collected from the allottees, for the payment of outgoings (including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions, which are related to the project):

Provided that where any promoter fails to pay all or any of the outgoings collected by him from the allottees or any liability, mortgage loan and interest thereon before transferring the real estate project to such allottees, or the association of the allottees, as the case may be, the promoter shall continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be liable for the cost of any legal proceedings which may be taken therefor by such authority or person;

(h) Encumbrances :-

After he executes an agreement for sale for any apartment, plot or building, as the case may be, not mortgage or create a charge on such apartment, plot or building, as the case may be, and if any such mortgage or charge is made or created then notwithstanding anything contained in any other law for the time being in force, it shall not affect the right and interest of the allottee who has taken or agreed to take such apartment, plot or building, as the case may be;

(5) Cancellation of Allotment :-

The promoter may cancel the allotment only in terms of the agreement for sale: Provided that the allottee may approach the Authority for relief, if he is aggrieved by such cancellation and such cancellation is not in accordance with the terms of the agreement for sale, unilateral and without any sufficient cause.

(6) The promoter shall prepare and maintain all such other details as may be specified, from time to time, by regulations made by the Authority.

REVERSE CHARGE UNDER GST

Meaning of RCM under GST: As per 2 (98) "Reverse charge" means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017.

Applicability and Registration for Taxpayers who Pay Reverse Charge : All persons who are required to pay tax under reverse charge have to register for GST irrespective of the threshold. Threshold:- turnover in a financial year exceeds Rs 20 lakhs (Rs 10 lakhs for North eastern states).

Situations under where reverse charge applied:

1. Unregistered dealer selling to a registered dealer (In such cases, the registered dealer is required to pay GST on RCM basis for such supply.)
2. Services through an e-commerce operator
3. CBEC has notified a list of 12 services on which GST paid by the recipient on 100% reverse charge basis: the Services are
 - (a) Non-resident service provide.
 - (b) Goods Transport Agencies
 - (c) Legal service by an Advocate/ Firm of Advocates
 - (d) Arbitral Tribunal
 - (e) Sponsorship Services
 - (f) Specified Services provided by Govt. or Local Authority to Business entity
 - (g) Services of a director to a company
 - (h) Insurance agent
 - (i) Recovery Agent of Bank/ FI/ NBFC
 - (j) Transportation Services on Import
 - (k) Permitting use of Copyright
 - (l) Radio Taxi services to E-commerce aggregator (eg: Ola, Uber, etc.)

Time of Supply for Goods Under Reverse Charge: In case of reverse charge, the time of supply shall be the earliest of the following dates:-

- (a) The date of receipt of goods or
- (b) The date of payment or

(c) The date immediately after 30 days from the date of issue of invoice by the supplier (60 days for services)

If it is not possible to determine the time of supply under (a), (b) or (c), the time of supply will be the date of entry in the books of account of the recipient Eg:

- Date of receipt of goods 2nd July 2017
- Date of payment 7th July 2017
- Date of invoice 1st August 2017
- Date of entry in books of receiver 18th July 2017
- Time of supply of goods 2nd July 2017

Invoicing rules: Every service recipient, who is paying tax on the basis of reverse charge, has to mention fact in his GST invoice that is being issued. A registered person who is liable to pay tax under reverse charge respect of goods or services received by him from the supplier who is not registered.

Input Tax Credit under RCM:

- (a) The service recipient can avail Input Tax credit on the Tax amount that is paid under reverse charge on goods and services.
- (b) The condition is that the goods and services are used or will be used for business.
- (c) ITC in RCM cannot be used to pay output tax, it means payment mode only in cash.

Composition Scheme under GST : Taxpayers with the aggregate turnover of Rs. 75 lakhs (for special category states turnover upto Rs.50 Lakhs) in a financial year are eligible to pay tax under composition scheme. But, taxpayers paying tax on the basis of reverse charge under GST are not eligible for composition scheme.

GST Compensation Cess : GST Compensation Cess will also be applicable on reverse charge. GST Compensation Cess will be levied and collected at a rate which will be notified later. This will apply on all supplies of goods and services, including imports and reverse charge supplies.



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NOW DEEMED CONVEYANCE ON FAST TRACK



The question of the dilapidated buildings came once again on anvil. All of you are aware that last week Sai Darshan Building at Ghatkopar came down as a bungalow of a pack of cards and took life of 17 residents in the building and ruin the life of the residents in the building within a minute. Fortunately the Maharashtra Assembly was in session and therefore this issue came on priority in the House. Members of the assembly raised the question of the dilapidated buildings in the Assembly. Chief Minister Shri Devendra Fadnis assured the house that no culprit will be spare and if found guilty culpable homicide crime would be registered against those whoever is guilty.

In this case it is found that money and muscle power and a chain of corrupt authority took the life of innocents. On the other hand while taking into consideration the dilapidated condition of near about 19000 buildings in Mumbai and Mumbai Suburban, the Government of Maharashtra took initiative of the maintenance of these buildings and formed Mumbai Building Repair Board under MHADA. Government has taken this initiative because the owner of the buildings gets very meager monthly rent in which the owner could not make maintenance of the buildings. Resultantly buildings came down due to lack of maintenance and in above case we saw because of human error.

It seems that Mumbai Building Repair Board could not cope with such a large number of dilapidated buildings. Municipal Corporation is also neglecting the issue of old buildings.



Adv. Anisha Shastri
022 - 4255 1414

Now the Chief Minister has announced in the assembly that structural audit of 30 years old building is compulsory. Some buildings do not go for redevelopment or undertake repairing works as they have not conveyance.

They did not get conveyance because they have not Occupancy Certificate or Building Completion Certificate. Now the Chief Minister have given solace to all such buildings. He has announced that Deemed Conveyance will be issued on fast track to all such buildings and after issuing the Deemed Conveyance the society has to seek the Occupancy Certificate from the concerned authority by fulfilling all legal formalities. He also further stated that the notification in this regard will be issued by Cooperative Minister at an earliest. MSWA welcomes this decision of the Hon'ble CM for which we are fighting from last so many years.

The government is doing their best but it is also our responsibility to take care of our building, our flat. While making renovation of the flat we should have to take architect certificate and should have to take necessary permission from local authority.

We have to conduct structural audit of our building periodically and timely repairing works. Precaution is better than cure.

As per bye-law No.6 it is compulsory to become the member of housing federation.



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GST for Housing Societies – Issues & Challenges

- By Mohanraj Y

Government of India is pushing for Implementation of GST on the 1st of July 2017. In the latest GST Council meeting held on the 3rd of June 2017, all the States have also agreed to the implementation date as 1st of July 2017.

Since GST deals with all sorts of goods and services, manufacture, import, export, trade, etc. while addressing the requirements of the specific sector of Housing Societies, many practical issues arise and are not addressed properly.

This article is an attempt to understand these constraints.

1. Registration : Every Society with an aggregate turnover of over Rs 20 lakhs is required to be registered under GST. The aggregate turnover includes all maintenance charges (Other than Municipal Tax), any miscellaneous income, and includes Bank interests.

Further, every society engaging an advocate or an advocate firm, needs to register under GST, even if the aggregate turnover is less than Rs 20 lakhs, since Advocate Services is categorized under Reverse Charge.

While a simple window of "Composite Levy" is available for Manufacturing/ Trading Sectors, the same is not available to Housing Society Sector.

2. Exemption: Payment of Municipal Tax may be considered as Payment on behalf of Member as an Agent, and may be treated as outside the purview of GST and hence not taxable.

Water charges, may be treated as Supply of Goods, and hence attracts GST at "zero %" as per the GST Rate table.

Members in a GST Registered Society are exempted and will not be charged GST, if the maintenance charges on "Charges / Contributions" are less than Rs 5000 per month. Here, only Charges for "Sourcing of goods or services from third party, for the common use" are to be considered. Thus, while water charges, electricity charges, service charges, repair fund /

maintenance charges, insurance premium, etc, are included while calculating the amount of Rs 5000/-, vehicle parking charges, non-occupancy charges, share transfer premium, hall booking charges and similar other charges are not included.

The challenge for a housing society is to identify the members for application of GST and also identification of billing heads for considering the limit of Rs 5000/-.

Also it is not clear whether for a member who is not in the exemption category, GST is to be charged on the amount exceeding this limit or for the entire amount. Going by Service Tax provisions, from which the exemption criteria is picked, GST is to be applied on the entire amount and not on the amount exceeding Rs 5000/-.

3. Invoicing : GST provisions require that Taxable and Exempt amounts must not be included in the same invoice. For Taxable amounts, tax invoice has to be issued, and for exempt amounts, bill of supply has to be issued.

4. Arrears : Even if a member has not made the payment, the GST charged to the member must be paid. Interest on arrears also attracts GST. Even this has to be paid once interest bill is raised on the member. Arrears problem itself is a challenge to Housing Societies.

5. Advances : GST has to be paid on the Advance Maintenance Charges Received, and adjusted against the invoice when raised later. To distinguish the Advance against Taxable and Non taxable amount, and to calculate the GST on the same, keep a track of the same month after month is again a challenge.

6. Reverse Charge: On certain services, in particular for Services by an Advocate, GST will not be charged by the Supplier, But the GST has to be calculated and paid to the Govt. by the Society. Similarly, if the Society is procuring Services from any Unregistered Vendor, [which is very common for Housing Societies], GST has to be calculated and paid by the Society. The GST rate may change from

Vendor to Vendor depending on the kind of Supply [service or Goods] , and its category . Again , since the invoice does not reveal the GST rate, it is again a challenge to know the GST rate for each category and pay.

7. Input Tax Credit : The Societies are allowed to avail Input Credits on GST paid by them to the various Vendors or through Reverse Charge. [In case of Reverse Charge, the credit is available only in the month next in which GST is paid.] . Again, if the Vendor has not made the payment of the GST before the due date, the ITC availed by the Society will be reversed by the GSTN .

Input Tax on Capital Goods [Fixed Assets] is adjustable over a period of five years. To keep a track of this is a challenge.

If the Society has all its members under the exempt category, then the entire ITC, that are attributable to exempt services will not be available. If the Society does not have any member under the exempt category, all the input Tax is available as ITC. However, where there is a mix of these two kinds, the situation becomes challenging. Only proportionate Input Tax is available for ITC. This proportion is required to be calculated every month and applied accordingly.

8.Accounting:Most of the Accountants book expenditure directly without creating any vendor. Under GST, every Invoice has to be booked first, and then payment made against this invoice is required to be accounted. The voucher posting work of the Accountant increases almost three fold.

9 Rectification of the Accounting Entries: Since all the rectifications in accounting entries made are required to be reported in subsequent Reports of GST, one has to keep a track of the rectifications done.

10. GSTN : All GST related issues [Reports and Payments] are handled through an online application GSTN. For making payments, one has to download a challan and make the payment online or through any authorised Bank. Many Societies do not even have Computers and transactions online itself becomes a Challenge.

11 Reports : This becomes the most challenging part. Most of the Societies do not have any full time Accountant. But the requirement of Reports is very much time bound.

GSTR -1 is required to be filed on or before 10th of Each month. GSTR-2 is required to be filed on or before 15th of each month. Between 15th and 17th of each month, one has to tally the GSTR- 1 of the input Supplier with our GSTR-2 , and ensure that the two match each other. By 20th one has to pay the Tax, and Submit the Tax return in GSTR – 3.

In addition, there will be GSTR- 9, an Annual Return and GSTR – 9B [GSTR Audit Report, if the aggregate turnover exceeds Rs 1 Cr] to be filed on or before 31st of December . This will reconcile the GST payments vis-à-vis the audited statement of accounts of the Society.

The compliance requirement of GST is very high. For Very big societies, the cost increase is shared by a larger number of members. But for smaller societies, the cost increase becomes a very high burden on the members. But this should not be a reason for not complying with the GST requirements. Since the invoices raised by Registered Suppliers on Unregistered persons are all uploaded in the GSTN, the chances of getting detected, if not Registered, is very high. While interest and penalty will be charged on the detected evaded tax, input Tax credit, including the one on Reverse Tax basis, which may be a very huge, will not be available.

ABOUT THE AUTHOR

Mohanraj Yenagudde is a the Director of a Leading Company providing Billing / Accounts / Management / Consultancy and Compliance Services under the name Society123 Support Services Pvt Ltd (Formerly Pangal Computer Services Pvt Ltd) to Housing Societies for the last thirty years. Ph:- 9820090808 email : Mohanraj@society123.com



WHATSAPP QUESTION AND ANSWERS

WhatsApp On MahaRERA

MahaSeWA/RERA/10/27.05.2017

Q. What i understand that it is about registration of project by 31st July. ..when the project is to be registered?

Immediately on getting the development rights or when the builder wants to market it?

So can he postpone registration beyond 31st July as IOD cc is pending?

=====

Ans: By Housing Guru Ramesh Prabhu

So long as the developer does not want to advertise or market or sell the Apartments, he may postpone the registration. In other words, the project is required to be registered with MahaRERA, before the Apartments are offered for sale or advertised in the market.

MahaSeWA/RERA/11/28.05.2017

Q. Many thanks for today Lecture in RERA

1. One point Emerge that RERA apply to sale portion, 2. Further RERA Registration if builder want to advertise and sale flat. So builder view in case of redevelopment project is that he does not want to advertise and sale any project till OC. He will sale saleable flat after OC. So registration does not require at present?

In such case how interest of old member in redevelopment project is protested? Request to enlighten

=====

Ans by Housing Guru Ramesh Prabhu.

RERA provides that before sale a single flat, developer has to register the project. On your case, if no flats are sold or offered for sale, the developer may postpone the registration. Regarding existing flat owners will be considered as allottees and all the benefits available to other flat owners are available except the RERA registration.

MahaSeWA/RERA/12/29.05.2017

Q. RERA applies for plotted development scheme without any construction of building but only sale of NA plots.

What will be the "Occupation/ completion certificate" provision in such plotted schemes? No such occupation or completion certificate is issued for plotted developments.

=====

Ans. Housing Guru Ramesh Prabhu.

The plotting is approved by the town planning or the collector of the district as per the delegation of power given under Maharashtra Regional Town Planning Act, 1966.

When a plotting is approved, certain common amenities are shown or agreed to be provided by the developer in the agreement for sale such as common road, garden, swimming pool, water connection, electric connection for common area and individual plot, gym, club facilities, compound etc. As I understand when you do any such area built, you do get a completion certificate from local authority. For e.g. Gym or Club house OC. If that is not provided, internal road completion certificate or electric supply connection, water connection provided... Also as I understand, town planning authority gives initial approval with few conditions and then final approval of layout after the facilities are constructed and inform to the town planning authority. At least, the developer should complete the common facilities and individual facilities as per agreement for sale and as per the details provided at the time of registration of real estate project and submit the Architect certificate as per form 4 given in Maharashtra Real Estate Regulatory Authority (General) Regulations 2017. In this certificate of architect, the completion of facilities provided by respective authorities to be incorporated and issue certificate... Then submit to town planning authority and then upload that to RERA website as project completion..

The architects in this group or town planners may give their input and I may be corrected....



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APPLICATION FOR MEMBERSHIP/ SEMINAR REGISTRATION

No. _____

Date: _____

To,

The President/ Hon., Secretary,
AHWOI /MSWA, Andheri (W), Mumbai.

I, the undersigned, would like to get enrolled as a Free Member of AHWOI /MSWA /Seminar . On becoming AHWOI / MSWA, I shall abide by the rules and regulations of AHWOI/ MSWA.

My particulars are as follows:

1.Name in full with surname first : _____
(Surname) (First Name) (Father's Name)

2.Office address in full : _____

3.Designation : _____

4.Residential address : _____

5. Phone No.(L): _____ Mobile No.: _____ Email: _____

6. Date of Birth: _____ Age: _____ Monthly Income Rs. _____

7. Number of dependents on Applicant: _____

8. Liabilities : Bank / Other Loans Rs. _____ Others Liabilities Rs. _____

9. Total Family Income : Rs. _____

10. Membership of any other Professional bodies / Associations / Institutions.

Sr. No.	Name of Organisation	Designation
1.		
2.		
3.		
4.		

1. Location preferred for buying / renting of house : _____

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Signature of the Applicant _____ AHWOI / MSWA Membership No. _____

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The Hon.Secretary,
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Yours faithfully,

Name of the subscriber

=====

ACKNOWLEDGEMENT

Received the subscription for VTHF Magazine for one year, starting from -----, -----
to -----, ----- Reference no. -----

Secretary /Authority
Vasai Taluka Co-op.Housing Federation Ltd.

FORM OF APPLICATION FOR MEMBERSHIP/And Allotment of the
VASAI TALUKA CO-OPERATIVE HOUSING FEDERATION LTD.,
VASAI - 401202

Regd. No. TNA/VSI/GNL/(O)/1453/2011 dated 25th August 2011.

Date: _____

The Hon. Secretary,
Vasai Taluka Co-op Housing Federation Ltd.
Vasai. Dist : Thane 401 202.

Sir,

We hereby apply for the membership of the **THE VASAI TALUKA COOP. HOUSING FEDERATION LTD.**, and for allotment of Ten shares of Rs. 100/- each. We furnish below following particulars in respects of our society.

1. Name of the society (in Block Letters) : _____

2. Registered Address : _____

3. Registration No. and Date if Registration : _____
4. Location of Land of building of the Society : _____
5. Total No. of member in a society : _____

The Bye-Laws of the Federation have been read by us and agreed to be binding on our society.

A copy of the resolution of the managing Committee of the society in this connection and a cheque of Rs.1600/- being the value of ten shares of Rs.100/- and Entrance Fee Rs.100/- and annual subscription of Rs 500/- is enclosed herewith.

Yours faithfully

Chairman / Secretary / Treasurer
Co-op. Housing Society Ltd.

Copy of the Resolution of the Meeting of the Managing Committee of the _____
Co-op. Housing Society Ltd. _____ held on _____. _____
_____ Resolved that the _____ Co-op Housing
Society Ltd _____

Do apply to **THE VASAI TALUKA CO-OP. HOUSING FEDERATION LTD., VASAI** and for allotment of TEN shares of the Federation of the Value of Rs. 100/- each, in the name of the society.

Further resolved that the Chairman / Secretary of the society be and is hereby authorized to sign the application for membership of the Federation on behalf of the society and to pay the amount of Rs. 1600/- towards ten shares of Rs. 100/- each. Entrance Fee of Rs. 100/- and Annul Subscription Expenses of Rs. 500/-..

Proposed By : Shri _____

Seconded By : Shri _____

Carried Unanimously.
TRUE COPY

Chairman / Secretary Society
Co-op. Housing Society Ltd.

DATA SHEET

Name of the Society : _____

Address of the Society : _____

Land Mark to reach Society : _____

Registration No. : _____

No. of Flat : _____ No. of Shops : _____

Name of the Committee Members :

Designation	Name	Mobile	E-mail-ID
Chairman			
Secretary			
Treasurer			
Other			

AVAILABILITY OF BOOKS -0250- 6457596

BOOK NO.	TITLE OF THE BOOKS	COST PRICE	DIS. PRICE	MARK (✓)
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BS - 02	Deemed Conveyance - Marathi	₹ 725	₹ 600	
BS - 03	Recovery of Dues	₹ 200	₹ 150	
BS - 04	Practical guide on Stamp Duty	₹ 150	₹ 120	
BS - 05	Registration of Documents	₹ 120	₹ 100	
BS - 06	Registration of Housing Society	₹ 120	₹ 100	
BS - 07	Statutory Obligation of Society	₹ 80	₹ 60	
BS - 08	Transfer of Flat	₹ 150	₹ 120	
BS - 09	Parking Rules & Regulations	₹ 150	₹ 120	
BS - 10	Nomination & Will	₹ 150	₹ 120	
BS - 11	Burning Issues	₹ 70	₹ 50	
BS - 12	Leave & License	₹ 120	₹ 100	
BS - 13	Redevelopment - Preparation	₹ 200	₹ 150	
BS - 14	Redevelopment - Tender Process	₹ 150	₹ 120	
BS - 15	Redevelopment - Documentation	₹ 200	₹ 150	
BS - 18	Associate Member - Rights, Duties	₹ 80	₹ 60	
BS - 19	Circular of Housing Societies	₹ 150	₹ 120	
BS - 21	Rights and Duties of Members	₹ 120	₹ 100	
BS - 22	Managers Manual	₹ 250	₹ 200	
BS - 23	Election Rules	₹ 250	₹ 200	
BS - 24	Minutes Writing	₹ 150	₹ 120	
BS - 26	Secretarial Manual	₹ 100	₹ 80	
BS - 29	Sinking Funds	₹ 70	₹ 50	
FAQ - 02	Deemed Conveyance - FAQ	₹ 200	₹ 150	
FAQ - 13	Redevelopment - FAQ	₹ 120	₹ 100	
BS - 15A	Permanent Alternate Acco. Agreement	₹ 100	₹ 80	
	Bye - Laws English	₹ 70	₹ 60	
	Bye - Laws Marathi	₹ 70	₹ 60	
	Housing Manual - Marathi / English	₹ 100	₹ 100	
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Opp. MSEB Colony, Station Road, Vasai (E) 401202

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