

Gist of GST Changes for Construction Sector w.e.f 01.04.2019

- The earlier effective rate of GST (both CGST and SGST together) was 12 % with ITC (18% on two thirds value, after excluding one third towards land value) {S.No. 3 (i) of Notification 11/2017}
- The earlier effective rate of GST (both CGST and SGST together) in respect of certain specified construction projects, covered under certain specified schemes was 8 % with ITC (12 % on two thirds value, after excluding one third towards land value) {S.No. 3 (iv) and 3 (v) and 3 (vi) of Notification 11/2017}.
- For the above two categories of projects, assesses can continue to pay the same rate of GST, with ITC after 01.04.2019 also. Such option has to be exercised before 10.05.2019. This is permissible only for “ongoing projects” as on 31.03.2019 and not for fresh projects after 01.04.2019. For fresh projects commenced after 01.04.2019, the rate of GST would be 1 % for affordable residential apartments and 5 % for other residential apartments.
- “Affordable Residential Apartments” would mean those, having carpet area not exceeding 60 square meter in metropolitan cities or 90 square meter in cities or towns other than metropolitan cities and for which the gross amount charged is not more than forty five lakhs rupees.
- If not opted for the above, GST rate (both CGST and SGST together) for “affordable residential apartments” would be 1 % (1.5 % on two thirds of value after excluding one thirds towards land value) and 5 % for other residential apartments (7.5 % on two thirds of total value, after excluding one thirds towards land value). No ITC would be permissible.
- If no option is exercised before 10.05.2019, in respect of ongoing projects, it shall be deemed that the assessee has opted for 1 % or 5 %, as the case may be.

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- Once 1 % (for affordable residential apartments) or 5 % (for other residential apartments) rate is opted for ongoing projects, then the ITC availed from 01.07.2017, including the transitional credit shall be reversed, after retaining only such credit as calculated on proportionate basis. The principle behind this provision is that ITC would be available to the extent GST is payable at old rates upto 31.03.2019 and ITC would not be admissible to the extent GST is payable on 1 % or 5 %, as the case may be, post 01.04.2019. Further, suitable mechanism has been provided to avoid any mischief in this regard, such as huge procurement of inputs prior to 31.03.2019, huge billing disproportionate to percentage of completion, huge billing without realisation before 31.03.2019, etc. **The method of calculation of such reversal would be explained separately.**
- A project where the commercial area is less than 15 % of the total area would also be considered as Residential Project and the rate of 5 % would be applicable even for the commercial area in such projects.
- In projects, where the commercial area is more than 15 % of the total area, for the residential area, GST rate applicable would be 1 % or 5 %, as the case may be and for the commercial area, GST rate applicable would be 12 % (18 % on two thirds of the total value, after excluding one thirds towards land value).
- Wherever 1 % (for affordable residential apartments) or 5 % (for other residential apartments) is opted for ongoing projects and compulsorily adopted for new projects, at least 80 % of the purchase of inputs and input services (other than services provided by land owners and purchase of petrol, diesel, natural gas and electricity) shall be purchased from Registered persons.
- If there is any shortfall below 80 %, GST @ 18 % has to be paid by the Promoter on such shortfall value, under RCM.
- If Cement is received from unregistered person, Promoter has to pay GST at the rate applicable for cement, under RCM.

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- If capital goods are received from unregistered person, Promoter has to pay GST at the rate applicable for such capital goods, under RCM.
- The transfer of development rights (TDR) and transfer of FSI by the landowners in favour of promoters, or obtaining land on long term lease basis from the landowners, would be a service, attracting GST. Such GST is payable by the promoter under RCM.
- GST on TDR and Additional FSI payable by the Promoter in respect of residential apartments is exempted, where GST is paid on such residential apartments. If any part of the apartments in the project are sold after completion, without payment of GST, to that extent, GST @ 1 % in respect of affordable residential apartments and @ 5 % in respect of residential apartments other than affordable residential apartments is payable by the Promoter under RCM. The time of supply for this would be the date of issue of Completion Certificate or first occupation whichever is earlier. ITC of such GST cannot be taken, as the subject residential apartments would be sold without payment of GST.
- GST on TDR and Additional FST and on long term lease, payable by the Promoter in respect of commercial apartments is payable by the Promoter @ 18 %. The time of supply for this would be the date of issue of Completion Certificate or first occupation whichever is earlier. The GST thus paid would be entitled for ITC.
- Where an assessee has opted to continue to pay @ 12 % or 8 %, as the case may be for certain on going projects with ITC benefit, the portion of ITC attributable to those apartments which are not booked by the time of completion (which would be sold without payment of GST) shall be calculated for the entire project for the entire period and not only for the year in which completion happens. For example, if the project commenced in 2017-18 and the assessee has been availing ITC since then. He has opted to pay 12 % GST with ITC for the said project. The project is completed during 2019-20 and out of 50 residential apartments in the complex, 10

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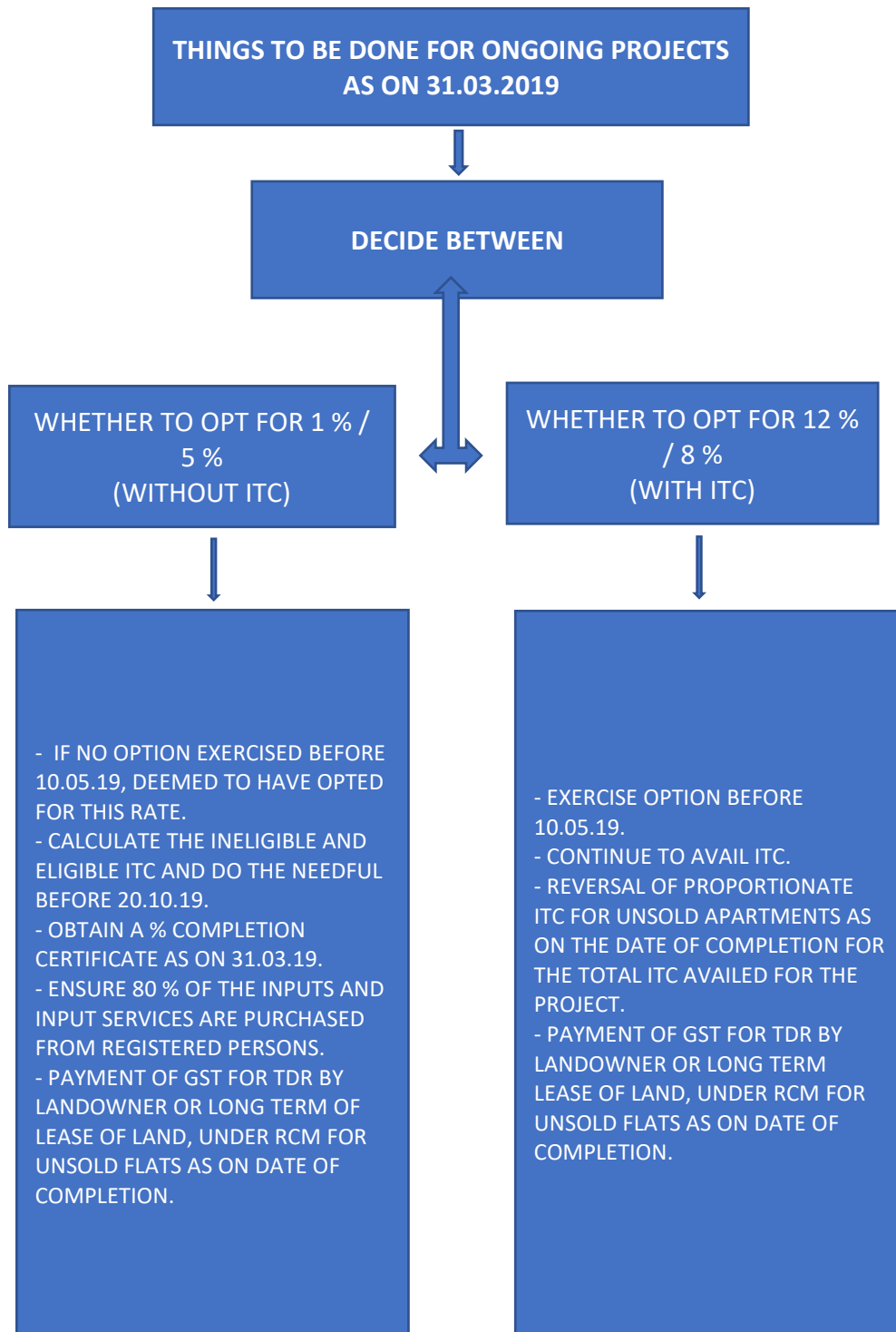
remain unsold at the time of issue of completion certificate. Such portion of total ITC availed since 2017-18 in respect of the said project, i.e. 10/50th of the total ITC availed since 2017-18 shall be reversed. Earlier, such reversal would apply only for the ITC availed in the year 2019-20.

- For the apartments handed over to Landowners in terms of Joint Development agreements, Promoter is liable to pay GST on the basis of value of comparable apartments sold at nearest time, excluding the land / UDS land value at the time when such apartments are conveyed to the Landowners.
- An assessee can opt to continue with old rates with ITC for ongoing projects and pay @ 1 % or 5 % as the case may be, for new projects after 01.04.2019. In such case, no ITC can be taken in respect of the new project, but ITC can be taken for the ongoing projects.

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