OFFICE OF THE CHIEF COMMISSIONER OF CENTRAL GST & CUSTOMS, PUNE ZONE, 41-A, GST BHAVAN, SASOON ROAD, OPP.-WADIA COLLEGE,PUNE – 411 001

MINUTES OF THE RAC MEETING FOR THE QUARTER ENDING JUNE, 2017

The RAC meeting for the quarter ending June, 2017 was held on 21st July, 2017 in the Office of the Chief Commissioner of Central GST & Customs, Pune Zone, 41-A, GST Bhavan, Sassoon Road, Pune –411 001. As directed by the Chief Commissioner, Pune Zone, the meeting was chaired by Ms. Vandana Jain, Commissioner, Central GST, Pune-II Commissionerate.

02. The following RAC members and Departmental Officers attended the meeting

(A) Departmental Officers:

(i)	Shri Milind Gawai	Commissioner, Pune-I GST
(ii)	Shri. Rajiv Kapoor	Commissioner, Audit-I GST
(iii)	Shri. Navneet	Add. Commissioner, CCO
(iv)	Shri K. Sivakumar	Add. Commissioner, Pune-II GST
(v)	Shri. Dilip Goyal	Add. Commissioner, Audit-II GST
(vi)	Shri Santoshkumar Vatsa	Joint Commissioner, Customs
(vii)	Shri Sarthak Saxena	Deputy Commissioner, CCO
(viii)	Shri S.T.Singh	Asst. Commissioner, CCO
(ix)	Shri D.S.Man	Asst.Commissioner, Customs

(B) Members of the Trade & Industry:

(i)	Dr. Sanjay Bhargave	Member (RAC)
(ii)	Shri. Deepak Naik	Member (RAC)
(iii)	Shri Harish Radhakrishanan	Member (RAC)
(iv)	Shri H.P.Srivastava	Member (RAC)
(v)	Shri Chandrashekhar K.Hande	Member (RAC)
(vi)	Shri Vidyadhar Purandare	Member (RAC)
(vii)	Shri N.K.Nimkar(Institute of Cost Accountant of India)	
(viii)	Shri J.K.Varma(AAI, Pune Airport)	
(ix)	Shri K.P.Mishri(Bilcare Ltd)	
(x)	Shri P.C.Nambiar(MCCIA)	
(xi)	Shri Deepak Sood(Jet Airways (I) Ltd)	
(xii)	Shri F.B.Darukhanawala (-do-)	
(xiii)	Shri Vishwanath Nayak((-do-)	

03. The Chairperson welcomed all members of the RAC for the meeting.

04. The following points received in advance from various Trade / Industry Associations were taken up for discussion.

POINT NO.1 : Queries related to the certain issues with respect to the De-Bonding of Capital Goods (including computer and computer peripherals)

Shri V.V.Purandhare,RAC Member, SEAP, sought clarification about the issues faced by Software Technology Parks (STP) with respect to the de-bonding of capital goods (including computer and computer peripherals).

The RAC member referred to the two versions of interpretation by the jurisdictional authorities, while issuing the de-bonding permission. He was of the opinion that this ambiguity might be probably due to the absence of clarity regarding the correct legal interpretation with respect to the legal provisions in force for de-bonding of capital goods, including computer/computer peripherals.

One interpretation says that if a unit is NFE positive then it is allowed to de-bond computer & computer peripherals without having to pay the duty considering that the WDV is zero. Another way to interpret is that the unit has to pay duty on the transactional value, if any, though the unit is NFE positive & the WDV is zero.

The different provisions which are applicable on the said transactions are as follows:

1) Firstly, it is interpreted that when the Notification No. 52/2003-Cus dated 31.03.2003 was brought in force in the Year 2003, para 4 of the said Notification reads as follows: -

"4. Without prejudice to any other provision contained in this notification, the said officer may, subject to such conditions and limitations as he may deem fit to impose under the circumstances of the case for the proper safeguard of revenue interest and also subject to such permission of the Development Commissioner, wherever it is specially required under the Export and Import Policy, allow the unit to clear any of the said goods for being taken outside the unit, to any other place in India in accordance with the Export and Import Policy:

Provided that –

(a) such clearance of capital goods, may be allowed on **payment of duty either on the depreciated value thereof and at the rate in force on the date of payment of such duty or on the transaction value whichever is higher**, the depreciation shall be allowed at the rate of 20% per annum of the original value in respect of computer and computer peripheral items and 10% per annum in case of other capital goods.

Explanation: The depreciation shall be allowed for the period from the date of commencement of commercial production of the unit or where such goods have been received after such commencement, from the date such goods have come into use for commercial production to the date of payment of duty;"

The prima facie intent of the para4(a) of this Notification is that when the requisite permission for de-bonding of the subject capital goods has been granted in accordance with the provisions of the Export & Import Policy (now known as the Foreign Trade Policy), the goods can be de-bonded subject to payment of duty calculated on the basis of assessable value. This assessable value could be the '*depreciated value*' or '*transaction value*', **whichever is higher.** This effectively meant that if the assesse is selling the goods after de-bonding, the duty is leviable on the 'transaction value' if the 'transaction value' is higher than the 'depreciation value'.

However, vide Notification No. 60/2008 dated 05.05.2008, the Notification No 52/2003 dated 31.03.2003 was amended. Consequent to this amendment, in paragraph 4, after the second proviso, in the clause (a), for the words '*such clearance or de-bonding of capital goods may be allowed on payment of duty on the depreciated value thereof and at the rate in force on the date of de-bonding or clearance, as the case may be.*', the following was substituted, namely:-
'…

such clearance or de-bonding of capital goods may be allowed on **payment of duty on the depreciated value thereof and at the rate in force on the date of de-bonding or clearance, as the case may be,** if the unit has fulfilled the positive NFE criteria taking into

consideration the depreciation allowable on the capital goods at the time of clearance or de-bonding. In case of failure to achieve the said positive NFE, the depreciation shall be allowed on the value of capital goods in the same proportion as the achieved portion of NFE.

The apparent intent of this amendment appears to be that irrespective of whether the de-bonded capital goods are sold or not, the duty **shall** be leviable on the '*depreciated value*' of the de-bonded goods. Thus, irrespective of whether the de- bonded goods are treated by the unit as waste or not, or, whether the unit intends to further use or sell the de-bonded capital goods, shall have no effect on the duty liability of the unit with respect to the said capital goods. Thus, the transaction value, if any, should not be considered while assessing the value while de-bonding
of capital goods for which permission has been granted under the Foreign Trade Policy.

On the basis of the above-mentioned interpretation, it appears that duty should not be demanded on the transaction value of the said de-bonded capital goods, if the transaction value is more than the depreciated value of the de-bonded capital goods. Further, if the depreciated value of the capital goods works out to be 'Nil', then the duty liability of the assesse should also be Nil.

REPLY :-

It was brought to the notice of committee that relevant provisions of Notificaion No. 52/2003-Cus dated 31.03.2003 had interalia, undergone amendments vide Notf.No. 40/2004-Cus dtd. 31.03.2004 & Notf.No.60/2008-Cus dtd 05.05.2008 . The net effect of the same was clearance or de-bonding of capital goods, may be allowed on payment of duty on the depreciated value thereof and at the rate in force on the date of de-bonding or clearance, as the case may be, if the unit has fulfilled the positive NFE criteria taking into consideration the depreciation allowable on the capital goods at the time of clearance or de-bonding. In case of failure to achieve the said positive NFE, the depreciation shall be allowed on the value of capital goods in the same proportion as the achieved portion of NFE. Hence the impression with the representation was not fully correct.

It was further impressed upon the representationist that the issue raised by him was partly of legal interpretation, while this forum was meant for allowing difficulties experienced by member of Trade Association / specific assesses. It was therefore inferred that they should cite specific instances of specific assessee that would require remedial steps / directions by this forum.

POINT NO.2 :- Queries related to the latest Customs Notification no. 59/2017 & 68/2017 dated 30th June 2017.

On account of GST rollout, the STPI units needs some clarity in view of latest changes in FTP, customs notification no. 59/2017 dated 30th June, 2017 & 68 / 2017 – Customs (N.T.) dated June 30th, 2017.

Few queries faced by them are mentioned below:-

1) Will the current format & procedure pertaining to customs duty exemption i.e. Procurement Certificate, valid. What are the changes proposed, if any. Need to have procedural document in place.
2) What would be the procedure for re-export of loaned assets which are stored in the premises (client loaned assets).
3) Could you please provide clarity on the procedure to be followed to avail applicable duty exemption for imported capital goods?
4) Few units have been asked to submit ICGR bond for Import of capital goods on the basis of Procurement Certificate.
5) We understand that exemption on excise duty has gone & STPI units are proposed to pay GST to claim a refund at a later date. Can a process be suggested for this especially for STPI units.
6) We are sure the existing B-17 bonds stand valid. Please help us understand changes if any.
7) Need some clarity on repairs, replacement & temporary removal of assets for business needs.

8) It is mentioned separately that a LUT is supposed to be provided for export of goods. Does this apply for re-export of goods or not.

Also, we suggest a detailed discussion with representatives of the IT/ITES industry operating under STPI scheme. SEAP can take a lead to have senior folks from the industry attend this meeting, if needed.

REPLY:-

It was explained that these issues have already been clarified by the Board vide Circular No.29/2017- Customs dated 17thJuly 2017 and Notification No.68/2017-Cus. (NT) dated 30.06.2017.

In respect of re-export or clearance of unutilized or defective goods, procedure have been prescribed in Notification No.68/2017-Cus. (NT) dated 30.06.2017. However, as regards procedure for re-export of loaned assets which are stored in the premises (client loaned assets), further clarification is awaited from the Board.

FOLLOWING POINTS RECEIVED FROM SHRI. H.P.SRIVASTAVA, RAC MEMBER, DECCAN CHAMBER OF COMMERCE INDUSTRIAL AND AGRICULTURE, PUNE WERE ALSO DISCUSSED IN THE MEETING.

Point No. 3: - Combined stuffing of consignment for Exports.

Under Para 4 of Part V of Central Excise Manual, manufacturer exporters were permitted to remove the goods without payment of duty from one factory (1st factory) of manufacturer to another factory of the said manufacturer (subsequent factory) for the purpose of consolidation and loading of goods manufactured in subsequent factory and export there from subject to certain conditions specified therein.

The Above Procedure requires examination and sealing of the goods at each factory by a Central Excise Officer. Accordingly, permissions were given by Customs for "Combined Factory Stuffing". With the introduction of Self Sealing procedure from 1st September 2017, it is not clear as to how the "Combined stuffing" of container will be undertaken for consolidation under revised procedure. It is requested that the suitable clarification may be issued on this point.

REPLY :-

Regarding combined stuffing of containers for exports the Association has contended that Para 4.1 of Part V of Chapter 7 of the erstwhile Central Excise Manual permitted removal of goods without payment of duty from one factory to another and so on until final consolidation and export from the final premises from where the export is to be effected. As per the Association, this procedure required examination and sealing of goods at each factory by Central Excise Officer. The Association has contended that with the introduction of self-sealing procedure from 01-09-2017, it is not clear as to how the combined stuffing of container will be undertaken for consolidation under revised procedure, clarification in this regard is awaited from the Board.

The situation cited by the Association is one where the export container is stuffed with 'Less than Container' (LCL) cargo at each factory until the container is eventually stuffed & ready for export at the factory where the export goods would be last stuffed. In this regard, the Board vide Circular No. Circular No. 26/2017-Customs dated 01-07-2017 outlined the export procedure and sealing of containerized cargo. The detailed procedure for sealing of containers effective from 01.09.2017, has been outlined in paras 7,8 & 9 of the said Circular. The said Circular does not specifically prescribe procedure for LCL cargo or consolidated LCL cargo to be stuffed in piecemeal at more than one premises. Applying the procedure laid down under the said circular to the export of LCL cargo, the exporter would be required to inform the details of approved premises, whether a factory or warehouse or any other place, where the container is proposed to be stuffed with LCL cargo and follow the procedure prescribed in the said circular. Needless to

mention that in all such movements appropriate electronic transit record / e-way bill or similar procedure prescribed in the GST Law would have to be followed in true letter and spirit. However, further clarification in this regard is awaited from the Board.

POINT NO.4 :- Submission of surety or security by EOU : Customs Notification No. 59/2017-Cus dated 30th June, 2017 and 68/2017-Cus (N.T) dated 30th June, 2017.

Vide notification no. 59 /2017 – Customs certain changes have been made in notification no 52/2003 - Customs dated 31st March 2003, in order to align it with the GST regime.

Besides other changes in mother notification 52/2003, a new condition has been inserted namely:-"2A. The Unit shall follow the procedure prescribed under Rule 5 of the Customs (Import of Goods at Concessional Rate of Duty) Rules 2017 for import of goods"

In View of the above change the EOU's are required to follow the rules notified vide notification no 68/2017-Customs (N.T) and are accordingly required:-

a) **To provide information in duplicate to the DC/AC of Customs the estimated quantity and value of goods to be imported, particulars of the exemption notification applicable and the port of import in respect of particular consignment for a period not exceeding 1 year.**

b) **To submit a continuity bond with such surety or security as deemed appropriate by Deputy Commissioner of Customs/ Assistant Commissioner of customs.**
Due to introduction of points a & b above, undue hardships are being caused to the EOU's due to the following reasons:-

i. **It is not possible for EOU's to estimate quantity of each input/raw material. capital goods, consumables and other permitted equipments. However estimated value can be provided for the purpose of bond. Therefore the quantity of each item may not be called for and just the value of the goods to be imported should suffice in compliance of point (a) above.**

ii. **Under the changed procedure each EOU is required to furnish such surety or security as deemed appropriate by DC/AC therefore every EOU irrespective of its standing/turnover/status is required to furnish a bank guarantee along with the bond. It is understood that up to 15% of bond amount is being asked as bank guarantee in form of security.**

Under previous procedure EOU's in existence for last three years with unblemished track records having export turnover of Rs 5 crore or above were exempted from furnishing bank guarantee etc or surety along with B17 bond. It is requested that the matter be taken up with Board for restoring these provisions and such EOU's be exempted from furnishing surety/security.

REPLY : - The issues raised by the Association in the context of the undue hardships caused to the EOUs due to conditions to be fulfilled in terms of the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules,2016 have been addressed in Circular No. 29/2017-Customs dated 17-07-2017 of the O/O Directorate General of Export Promotion which clarifies points raised by the Association. As regards, the quantum of surety or security for the Bond, presently in terms of the aforesaid Rules, it is to the discretion of the Deputy Commissioner of Customs or Assistant Commissioner of Customs / Central Excise having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods and no fixed amount or quantum thereof has been prescribed in the Rules. In respect of the power to exempt EOUs from surety or security, being a policy matters, the same is beyond the purview of RAC.

POINT No. 5 :- Payment of customs duty by EOU's on DTA Sale

Under earlier procedure up to 30th June 2017, subject to compliance of provision/ permission by development commissioner, EOU's were allowed to clear the goods in DTA on payment of 50% of custom duty applicable. Under the revised procedure effective from

July 2017 under new GST regime, EOU's are required to pay basic custom duty foregone on importation of inputs into India which are used for the purpose of manufacture of finished goods . The revised procedure is leading to a lot of complications as EOU's are required to calculate basic custom duties forgone for each inputs used in the manufacture of finished goods (being cleared into DTA) which may run into hundreds for some of the units. This is only resulting in complication rather that simplification which is the motto of GST. It is requested that the flat custom duty be charged on such clearance into DTA.

POINT No. 6:- Payment of Customs Duty by EOUs on clearance of Waste /Scrap etc into DTA.

Under earlier provisions, Waste and scrap attracted 50% of applicable Custom duty when cleared into DTA. It is not clear as to what duty will be applicable now? Are the EOUs required to pay the equivalent custom duty foregone on inputs used in generation of such waste/scrap as well? If this be the case, it will again result into a cumbersome exercise.

It is requested that matter be taken up with the Board and suitable clarification be issued.

REPLY (Point 5 & 6) :- The Association has sought a flat rate of customs duty to be charged on clearances to DTA in the wake of the revised procedure which requires EOUs to pay basic Customs duty foregone on importation of inputs into India which are used for the purpose of manufacture of finished requiring calculation of duty foregone for each input, which may run into hundred for some units. The second issue is similar and relates to payment of duty on scrap. Both these issues being a policy matter, the same are beyond the purview of RAC. It is suggested that the Association may take up the matter with Board (GST Policy Wing).

Point NO. 7 :- One time Permission for Self-Sealing of Containers

Vide Circular No. 26/2017 - Customs, dated 1st July 2017, effective from 1st September 2017, self-sealing of the export containers has been made mandatory.

In the past Board has issued various circulars on this subject from time to time and accordingly an elaborate procedure was prescribed for obtaining the permission from Customs. Many Manufacturer Exporters have complied with the stipulated procedure pursuant to which Customs have granted the permission for self sealing of Containers . The details of such permission are entered into the EDI systems as well.

It is requested such Manufacturer Exporters who have already been given permission for self sealing of Containers by Customs, under earlier provisions, be not required to obtain fresh permission, as stipulated under above circular.

REPLY :- The Association has made a request that manufacturer exporter who have been granted self-sealing permission under the erstwhile provisions (pre-GST regime) should not be required to obtain fresh permission as stipulated under Circular No. 26/2017-Cus dated 01-07-2017. In this regard, the said Circular outlines the export procedure and process of sealing of containerized cargo at approved premises with effect from 01-09-2017. The power to relax, amend or modify any of these procedures lies with the Board. However, further clarification in this regard is awaited from the Board.

Further, Shri. H.P.Srivastava, RAC Member, Deccan Chamber of Commerce Industrial and Agriculture, Pune sponsored the following issue of M/s Evergreen Seamless Pipes & Tubes Pvt Ltd.

POINT NO.8 : Representation made to Hon'ble Minister of Commerce & Industry, New Delhi regarding carry forward of Input Tax Credit – CENVAT Credit lying in stock under Transition provisions under GST Regime.

a. The subject Company is involved in Trading of wide and comprehensive range of

carbon and alloy steel seamless pipes and tubes. They mainly include precision tubes, hydraulic and fuel injection pipes and tubes, boiler tubes and more which are used extensively in oil refineries, boilers, automated engines and sugar plants among others.

b. As a registered dealer, assessee was eligible to pass on the entire Cenvat Credit paid on purchase of goods and lying in stock to their Customers without any restriction on the duration of Stock.

Under the GST Law with respect to Chapter XX -Transition provisions for First Stage Dealers section 140(3) would be applicable as follows:

> ***"A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012-Service Tax, dated the 20th June, 2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the appointed day subject to the following conditions, namely:-***
>
> ***(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;***
>
> ***(ii) the said registered person is eligible for input tax credit on such inputs under this Act;***
>
> ***(iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;***
>
> ***(iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and***
>
> ***(v) the supplier of services is not eligible for any abatement under this Act:***
>
> **and procedure for availing input credit in respect of stock held on appointed day by registered taxable persons under the GST Law.**

<u>The problems faced by the assessee:</u>

a. As per clause (iv) of section 140(3) indicates that a company having stocks held for more than 12 months would not be able to carry forward and take the CENVAT Credit to its Electronic Credit Ledger.

b. The presently the assessee is holding stocks of more than 12 months amounting to Rs.27 Crores (approx.).

In view of the above provisions the assessee would be deprived of CENVAT Credit on stocks held for more than 12 months.

<u>Suggestion made by the assessee</u>:-

a. Requesting GST Council to bring necessary clarification by removing the restriction of 12 months made vide clause (iv) of section 140(3) of the GST Act, 2017.

Alternatively, the First & Second stage dealers who are registered with the department of CBEC and maintaining registers as per the excise rules and carrying forward the CENVAT credit in RG 23D and filing quarterly returns which is an extract of RG 23D be included in Section 140(1) of the GST Act

REPLY : The issue raised by the unit is covered under clause (3) of Section 140 of the Central GST Act, 2017 and Maharashtra State GST Act, 2017. As per condition (iv) of Section 140(3) of the Act, a registered dealer shall be entitled to take, in his electronic ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on such invoices or other prescribed documents that were issued not earlier than 12 months immediately preceding the appointed day. Therefore, stock held in stock in respect of invoices or other prescribed documents issued earlier than 12 months immediately proceding the appointed day is not admissible. The case of the complainant is not covered under the provisions of Section 140 (1) of the Act. The amendment to the said provisions, as requested for by the complainant, being a policy matter, is outside the purview of RAC. .

05. Shri P.C. Nambiar brought to notice of following GST related issues with SEZ operations.

The SEZ units have been given a special status as per SEZ Act, wherein, exemption from Central Excise Duties, Service Tax, and Customs Duty etc. have been provided. With the onset of GST, there is a problem in availment of Indirect Tax benefits, in as much as a lengthy and complicated procedure of execution of bond with Bank Guaranty and or submission of Letter of Undertaking has been prescribed. Refund of tax paid is also been permitted and the onus of claiming the refund is on the suppliers of goods.

The suppliers of goods are in a total disagreement to this additional burden cast upon them for supplies to the SEZ unit and they have refused to supply material to the SEZ units , because of which their working has been seriously hampered. All the suppliers insist that they will clear the goods on payment of duty and have put a burden on the SEZ developers or units to avail the duty benefits in any way, it is possible.

In this regard, as a matter of abundant precaution, it is submitted that:

1.In respect of the duty paid inputs received by the SEZ units from the suppliers who are not ready to follow the bond procedure, the SEZ units be permitted to use Input Tax Credit for payment of IGST on domestic clearances made from the SEZ.

2. Alternatively, it is proposed that the SEZ units / developers may claim refund of IGST that has been paid by the vendors, by making a provision in the Refund Rules to the effect that the refund of IGST paid may be claimed either by the suppliers of goods to the SEZ or by the receiver of the goods in the SEZ. Amendment to this extent in Rule 89 of Central GST Rules,2017, will resolve the issue and SEZ's will be relieved to a great extent.

This suggestion may be taken up on SOS basis for implementation so as to ensure smooth functioning of SEZ units and developers.

REPLY : It was informed to the Committee that detailed Refund Rules have already been notified while supplies to SEZ have been made zero rated under Section 16 of IGST Act, wherein an option for supply under Bond/ LUT have also been provided for. Hence, the problem doesn't appear to be insurmountable However, the chairperson requested the member to take up the matter with Board(GST Policy Wing) in case they desired change in law or policy.

06. Shri Deepak Naik RAC Member(MBVA, Pune) brought to notice of following Issue relating to real estate under GST.

- **Input Tax Credit not available on construction work in progress as on 30 June 2017**

Background

- GST is payable on the supply of construction services in respect of complex, building or civil structure where the part or whole of the consideration is received by the supplier prior to its completion.

- Schedule II to the CGST / SGST Act covers activities to be treated as supply of goods or supply of services. In this connection, entry 5 (*b*) of the said schedule prescribes as below

> *Construction of a complex, building, civil structure or a part thereof,including a complex or building intended for sale to a buyer, wholly or partly,except where the entire consideration has been received after issuance of completioncertificate, where required, by the competent authority or after its first occupation,whichever is earlier.*

- In terms of Sr. No 3 (i) of Notification No. 11/2017 Central Tax (Rate) / Sate Tax (Rate) dated 28 June 2017, GST is payable @18% (CGST @9% + SGST @9%) less value of land which is to be considered as one third of the total amount charged for such supply. (The effective GST rate would be 12%).

- Provisions of section 140(3) allows registered person, who was not liable to be registered under the existing law, orwho providing works contract service and was availing of the benefit of notificationNo. 26/2012Service Tax, dated the 20th June, 2012 shall be entitled to take, in hiselectronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputscontained in semi-finished or finished goods held in stock on the appointed day subject to specified conditions.

Issue / difficulties faced

- There are situations where entire units in a project not booked but the construction work is in progress.

- It appears that the GST law, under above said provisions, allows transitional credit only on account of ‘inputs’held in stock as on 30 June 2017.

- In this case ‘inputs’ such as steel, cement, tiles and other construction related material in ‘goods’ stage would be eligible.

- Whereas, credit on account of construction work in progress i.e. converted in to immovable property and is in ‘no goods’ stage as on 30 June 2017 would not be available under above said provisions.

- As part of units are not booked, no service tax or value added tax is paid on the said portion of construction work in progresswhich is already completed.

- Such units when booked by clients (before completion) post 1 July 2017 would attract GST @ 12% on entire consideration without availability of input tax credit irrespective of its stage of completion.

- This will inflate the cost of real estate activities as the builders / developers have no option but to pass on the entire tax burden of 12% without any reduction in cost due to non-availability of input tax credit.

- As the burden of tax / GST @12% is extremely high as compared with 5.5% in the pre GST regime, it would be very difficult to run the business where the real estate sector is already passing through the several difficulties.

Suggestions

- Input tax credit on presumptive rate basis (a notional per cent) may be allowed on account of the construction work in progress already achieved up to 30 June 2017 and where no Service tax / MVAT was liable to be paid.

- Alternatively, a clarification may be issued that since the GST is new levy is not applicable on the portion of construction work in progress already achieved up to 30 June 2017.

REPLY : Being Policy matter no decision could be taken in the RAC meeting. However, the chairperson requested the member to take up the matter with Board(GST Policy Wing).

07. The meeting ended with a vote of thanks.

Sd/29.08.17
Navneet
Additional Commissioner
CCO, Pune Zone

F. No. IV/16-33/CCO/TECH/2017
Pune, the August, 2017.
Copy to:

1. The Zonal Member, CBEC, New Delhi.
2. The Director General, Directorate General of Taxpayer Service, Room No. 277, 2nd Floor, C.R.Building, IP Estate, New Delhi – 110 109.
3. Principal Additional Director General (DGTS), Directorate General of Tax Payers Services Mumbai Zonal Unit, Room No. 138/139, New Customs House, Ballard Estate, Mumbai – 400 001.
4. The Commissioner of Central GST Pune-I/II/Kolhapur/Goa Commissionerate The Commissioner of Customs, Pune/Goa
5. The Commissioner (Appeals), Pune-I/II/ Goa
6. The Commissioner (Audit), GST Pune-I/II,
7. All Members of RAC in the Zone.
8. Systems Manager, EDP Section, Hdqrs. Pune-I GST Commissionerate to upload on the website of Commissionerate / Zone.