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INDIRECT TAX STUDY CIRCLE MEETING ON 5TH SEPTEMBER, 2019

Subject: Issues in GST relating to Real Estate Sector

Group Leader: CA Kush Vora

Chairman: CA Naresh Sheth

1. Taxability of Development Rights:

- A.** In case of joint development agreement, when can we say that development rights are deemed to be transferred? What will be the date of transfer in following case:
- Development agreement was executed on 15th January 2017
 - IOD/ commencement certificate was received 1st August 2017;
 - Construction of owners area (Wing A) was completed and owners area was handed over in June 2019
- B.** In the above referred project, developer has taken TDR from open market in April 2019 for further development of saleable area i.e. Wing B. You are requested to discuss the tax implications of transfer of TDR assuming the following scenarios:
- Wing B to be constructed in fully commercial;
 - Wing B to be constructed in fully residential;
 - Wing B to be constructed in partly commercial and partly residential
- C.** The developer has also paid for premium FSI to BMC in April 2019 for the development of Wing B. You are requested to discuss the tax implications on acquisition of premium FSI from BMC.

2. Society redevelopment:

A society has entered into a development agreement with XYZ builders on 15.04.2019 for redevelopment of their society having total FSI of 1,00,000 Sq Ft.

Presently society is having area of 30,000 Sq Ft occupied by its members for residential use and 10,000 Sq Ft. for commercial use.

The main terms of DA are as under:

- Society members to get their existing area plus 20% extra area as free of cost;
- Corpus of Rs. 10Lakhs to each member;
- Rent allowance of Rs. 30,000 per month to each member
- One time hardship and shifting allowance of Rs, 50,000 to each member

The breakup of total constructed area will be as under:

Particulars	Residential	Commercial	Total
Existing tenants	36,000	12,000	48,000
Sale portion	44,000	8,000	52,000
Total	80,000 (80%)	20,000 (20%)	1,00,000

The developer has got booking for 70% of saleable portion and balance 30% intends to sell post OC.

In light of the above background, you are requested to analyze the following:

1. GST implications for Society
2. GST implications on the members
3. GST implications for developer

Whether implications would change if society is registered or unregistered

3. SRA project:

- A.** The SRA authorities have issued 'Letter of Intent' to developers on 01.04.2016 (i.e. before GST period) for the purpose of construction of a Rehab building at Mahul.

The developer has begun the construction of Rehab buildings in July 2016 and handed over the rehab building to SRA authorities in June 2019.

The builder has also simultaneously constructed permissible portion of saleable building and have sold certain flats during construction in the sale building. He is not in a position to utilize entire FSI generated from SRA construction. He has sold unutilized FSI by way of TDR in open market to the dealer in TDR.

Out of saleable area, 40% of area remains unsold on the date of

OC. What are the GST implications of above?

- B.** If the above developer has executed joint development agreement on July 2016 with another developer for construction of saleable building on a revenue share basis in the ratio of 50:50. The joint developer is under obligation to construct and sell the building. The developer will get revenue share in F.Y. 2019-20, 20-21 and 21-22.

What are the GST implications for developer as well as joint developer?

4. Reversal of ITC on completion of

project: Facts matrix:

Project	Date of completion	Unsold area on date of completion	ITC July 2017 to March 2018	ITC April 2018 to March 2019	ITC April 2019 to June 2019	Total ITC
Tower A	15.01.2019	40%	75L	50L	-	125L
Tower B	15.06.2019	30%	60L	80L	20L	160L
			135L	130L	20L	285L

How do you reverse the ITC in above referred cases?

5. Sub-contractor rate of GST in affordable housing projects:

A developer has started a project in January 2018 for construction of building consisting of 100 flats as under:

No of flats	Area	Value	Total area	Percentage
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65	30 Sq Mt	40 Lakhs each	1,950 Sq Mt	45%
15	55 Sq Mt	65 lakhs each	825 Sq Mt	20%
20	75 Sq Mt	80 Lakhs each	1500 Sq Mt	35%
100			4,275 Sq Mt	100%

The issues for deliberations are as under:

1. Rate of GST for all kinds of flats pre and post 01.04.2019
2. GST rate for sub contractor pre and post 01.04.2019

6. Lease of plot:

In the year 1880, MIDC had provided an industrial plot on lease of 99 years for setting up manufacturing plant to M/s A.

M/s A is now desirous of closing the manufacturing unit and intends to hand over the said plot to a builder for the purpose of construction of a commercial complex. M/s A will execute an agreement for assigning the balance period of lease to the builder. The builder has agreed to pay an upfront premium of INR 10 Crore.

What will be the tax implications on the activity of assignment of lease to builder?

LEGAL FRAMEWORK:

1. S. 13 (2)

The time of supply of services shall be the earliest of the following dates, namely:—

(a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or

(b) the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or

(c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply

2. Notification No. 3/2019- Central Tax (rate)- 29.03.2019:

(ii) in the Table, -

(a) against serial number 3, for item (i), and the entries relating thereto in column (3), (4) and (5), the following items and entries shall be substituted, namely, -

(3)	(4)	(5)
<i>“(i) Construction of affordable residential apartments by a promoter in a Residential Real Estate Project (herein after referred to as RREP)</i>	<i>0.75</i>	<i>.....</i> <i>Provided also that where a registered person (landowner- promoter) who transfers development right or FSI</i>
<i>(ia) Construction of residential apartments other than affordable residential apartments by a promoter in an RREP which commences on or after 1st April, 2019 or</i>	<i>3.75</i>	<i>(including additional FSI) to a promoter (developer- promoter) against consideration, wholly or partly, in the form of construction of apartments, -</i>
<i>(ib) Construction of commercial apartments (shops, offices, godowns etc.) by a promoter in an RREP which commences on or after 1st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below,</i>	<i>3.75</i>	<i>(i) the developer- promoter shall pay tax on supply of construction of apartments to the landowner- promoter, and</i> <i>(ii) such landowner – promoter shall be eligible for credit of taxes charged from him by the developer promoter towards the supply of construction of apartments by developer- promoter to</i>

<p><i>(ic) Construction of affordable residential apartments by a promoter in a Real Estate Project (herein after referred to as REP) other than RREP, which commences on or after 1st April, 2019 or</i></p>	<p>0.75</p>	<p><i>him, provided the landowner-promoter further supplies such apartments to his buyers before issuance of completion certificate or first occupation, whichever is earlier, and pays tax on the same which is not less than the amount of tax charged</i></p>
<p><i>(id) Construction of residential apartments other than affordable residential apartments by a promoter in a REP other than a RREP which commences on or after 1st April, 2019 or in an ongoing REP other than RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or</i></p>	<p>3.75</p>	<p><i>from him on construction of such apartments by the developer-promoter.</i></p> <p><i>Explanation. -</i></p> <p><i>(i) “developer- promoter” is a promoter who constructs or converts a building into apartments or develops a plot for sale,</i></p> <p><i>(ii) “landowner- promoter” is a promoter who transfers the land or development rights or FSI to a developer- promoter for construction of apartments and receives constructed apartments against such transferred rights and sells such apartments to his buyers independently.</i></p> <p>.....</p> <p>.....</p>

d. after item (v) and entries relating thereto in column (3), (4) and (5), the following items and entries shall be inserted, namely, -

<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<p><i>(va) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of affordable residential apartments covered by sub- clause (a)</i></p>	<p>6</p>	<p><i>Provided that carpet area of the affordable residential apartments as specified in the entry in column (3) relating to this item, is not less than 50 per cent. of the total carpet area of all the apartments in the project;</i></p> <p><i>Provided also that for the purpose of determining whether the apartments at the time of supply of the service are affordable residential apartments covered by sub- clause (a) of clause (xvi) of paragraph 4 below or not, value of the apartments shall be the value of similar apartments booked nearest to the date of signing of the contract for supply of the service specified in the entry in column (3) relating to this item;</i></p> <p><i>Provided also that in case it finally turns out that the carpet area</i></p>

<i>of clause (xvi) of paragraph 4 below, in a project which commences on or after 1st April, 2019, or in an ongoing project in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if), as the case may be, in the manner prescribed therein,</i>		<i>of the affordable residential apartments booked or sold before or after completion, for which gross amount actually charged was forty five lakhs rupees or less and the actual carpet area was within the limits prescribed in sub- clause (a) of clause (xvi) of paragraph 4 below, was less than 50 per cent. of the total carpet area of all the apartments in the project, the recipient of the service, that is, the promoter shall be liable to pay such amount of tax on reverse charge basis as is equal to the difference between the tax payable on the service at the applicable rate but for the rate prescribed herein and the tax actually paid at the rate prescribed herein”;</i>
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(d) after serial number 38 in column (1) and the entries relating thereto in column (2), (3), (4) and (5) the following serial number and entries shall be inserted, namely: -

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<i>“3 9.</i>	<i>Chap ter 99</i>	<i>Supply of services other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI) by an unregistered person to a promoter for construction of a project on which tax is payable by the recipient of the services under sub- section 4 of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), as prescribed in notification No. 07 / 2019- Central Tax (Rate), dated 29th March, 2019, published in Gazette of India vide G.S.R. No. _ , dated 29th March, 2019. Explanation. - This entry is to be taken to apply to all services which satisfy the conditions prescribed herein, even though they may be covered by a more specific chapter, section or heading elsewhere in this notification.</i>	<i>9</i>	<i>”;</i>

(iv) after paragraph 2, the following paragraph shall be inserted, namely, -

“2A. Where a registered person transfers development right or FSI (including additional FSI) to a promoter against consideration, wholly or partly, in the form of construction of apartments, the value of construction service in respect of such apartments shall be deemed to be equal to the Total Amount charged for similar apartments in the project from the independent buyers, other than the person transferring the development right or FSI (including additional FSI), nearest to the date on which such development right or FSI (including additional FSI) is transferred to the promoter, less the value of transfer of land, if any, as prescribed in paragraph 2 above.”

(v) in paragraph 4 relating to Explanation, after clause (xii), the following clauses shall be inserted, namely: -

“(xiii) an apartment booked on or before the 31st March, 2019 shall mean an apartment which meets all the following three conditions, namely-

(a) part of supply of construction of which has time of supply on or before the 31st March, 2019 and

(b) at least one instalment has been credited to the bank account of the registered person on or before the 31st March, 2019 and

(c) an allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued on or before the 31st March, 2019;

(xvi) the term “affordable residential apartment” shall mean, -

(a) a residential apartment in a project which commences on or after 1st April, 2019, or in an ongoing project in respect of which the promoter has not exercised option in the prescribed form to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be, 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.

For the purpose of this clause, -

(i) Metropolitan cities are Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR) with their respective geographical limits prescribed by an order issued by the Central or State Government in this regard;

(ii) Gross amount shall be the sum total of; -

A. Consideration charged for the services specified at item (i) and (ic) in column (3) against sl. No. 3 in the Table;

B. Amount charged for the transfer of land or undivided share of land, as the case may be including by way of lease or sub lease; and

C. Any other amount charged by the promoter from the buyer of the apartment including preferential location charges, development charges, parking charges, common facility charges etc.

(b) an apartment being constructed in an ongoing project under any of the schemes specified in sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi), against serial number 3 of the Table above, in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be.

(xx) the term “ongoing project” shall mean a project which meets all the following conditions, namely-

(a) commencement certificate in respect of the project, where required to be issued by the competent authority, has been issued on or before 31st March, 2019, and it is certified by any of the following that construction of the project has started on or before 31st March, 2019:-

(i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972); or

(ii) a chartered engineer registered with the Institution of Engineers (India); or

(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority.

(b) where commencement certificate in respect of the project, is not required to be issued by the competent authority, it is certified by any of the authorities specified in sub- clause (a) above that construction of the project has started on or before the 31st March, 2019;

(c) completion certificate has not been issued or first occupation of the project has not taken place on or before the 31st March, 2019;

(d) apartments being constructed under the project have been, partly or wholly, booked on or before the 31st March, 2019.

Explanation.- For the purpose of sub- clause (a) and (b) above , construction of a project shall be considered to have started on or before the 31st March, 2019, if the earthwork for site preparation for the project has been completed and excavation for foundation has started on or before the 31st March, 2019.

(xxi) "commencement certificate" means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the competent authority to allow or permit the promoter to begin development works on an immovable property, as per the sanctioned plan;

3. Notification No. 4/2019- Central Tax (rate)- 29.03.2019: Amendments in Service exemption notification- 12/20170 Central tax (rate) dt 28.06.17

(1)	(2)	(3)	(4)	(5)
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"41 A	Head ing 9972	<p><i>Service by way of transfer of development rights (herein refer TDR) or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019 for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under: [GST payable on TDR or FSI (including additional FSI) or both for construction of the project] x (carpet area of the residential apartments in the project ÷ Total carpet area of the residential and commercial apartments in the project)</i></p>	Nil	<p><i>Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of value of development rights, or FSI (including additional FSI), or both, as is attributable to the residential apartments, which remain un-booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner - [GST payable on TDR or FSI (including additional FSI) or both for construction of the residential apartments in the project but for the exemption contained herein] x (carpet area of the residential apartments in the project which remain un- booked on the date of issuance of completion certificate or first occupation ÷ Total carpet area of the residential apartments in the project) Provided further that tax payable in terms of the first proviso hereinabove shall not exceed 0.5 per cent. of the value in case of affordable residential apartments and 2.5 per cent. of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation The liability to pay central tax on the said portion of the development rights or FSI, or both, calculated as above, shall arise on the date of completion or first occupation of the project, as the case may be, whichever is earlier.</i></p>
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(iii) after paragraph 1, the following paragraphs shall be inserted, namely, -

"1A. Value of supply of service by way of transfer of development rights or FSI by a person to the promoter against consideration in the form of residential or commercial apartments shall be deemed to be equal to the value of similar apartments charged by the promoter from the independent buyers nearest to the date on which such development rights or FSI is transferred to the promoter.

1B. Value of portion of residential or commercial apartments remaining un-booked on the date of issuance of completion certificate or first occupation, as the case may be, shall be deemed to be equal to the value of similar apartments charged by the promoter nearest to the date of issuance of completion certificate or first occupation, as the case may be.”

4. Notification No. 5/2019- Central Tax (rate)- 29.03.2019: Amendments in RCM notification- 13/20170 Central tax (rate) dt 28.06.17

(i) in the Table, after serial number 5A and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
"5B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter.

5. Notification No. 6/2019- Central Tax (rate)- 29.03.2019: Liability to pay tax on receipt of completion certificate

In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), , the Central Government, on the recommendations of the Council, hereby notifies the following classes of registered persons, namely:-

- (i) a promoter who receives development rights or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019 for construction of a project against consideration payable or paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the project or in any other form including in cash;

(ii) a promoter, who receives long term lease of land on or after 1st April, 2019 for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name),

as the registered persons in whose case the liability to pay central tax on, -

(a) the consideration paid by him in the form of construction service of commercial or residential apartments in the project, for supply of development rights or FSI (including additional FSI);

(b) the monetary consideration paid by him, for supply of development rights or FSI (including additional FSI) relating to construction of residential apartments in project;

(c) the upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid by him for long term lease of land relating to construction of residential apartments in the project; and

(d) the supply of construction service by him against consideration in the form of development rights or FSI (including additional FSI), - shall arise on the date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier.

6. Notification No. 7/2019- Central Tax (rate)- 29.03.2019: Notifying person liable to pay tax under reverse charge as per Section 9(4) of CGST Act

In exercise of the powers conferred by sub-section (4) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies that the registered person specified in column (3) of the table below, shall in respect of supply of goods or services or both specified in column (2) of the Table below, received from an unregistered supplier shall pay tax on reverse charge basis as recipient of such goods or services or both, namely:-

Table Sl. No.	Category of supply of goods and services	Recipient of goods
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		and services
(1)	(2)	(3)
1	Supply of such goods and services or both [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI)] which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 11/ 2017- Central Tax (Rate), dated 28th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, published in Gazette of India vide G.S.R. No. 690, dated 28th June, 2017, as amended.	Promoter

7. Removal of difficulty order No. 4/2019- Central Tax (rate)- 29.03.2019:

1. Short title. -- This Order may be called the Central Goods and Services Tax (Fourth Removal of Difficulties) Order, 2019.
2. For the removal of difficulties, it is hereby clarified that in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the said Act, the amount of credit attributable to the taxable supplies including zero rated supplies and exempt supplies shall be determined on the basis of the area of the construction of the complex, building, civil structure or a part thereof, which is taxable and the area which is exempt.
3. This Order shall come into force with effect from the 1st day of April, 2019.

8. Amended Rule 42:

Manner of determination of input tax credit in respect of inputs or input services and reversal thereof.-

(1) The input tax credit in respect of inputs or input services, which attract the provisions of sub-section (1) or sub-section (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

(a) the total input tax involved on inputs and input services in a tax period, be denoted as 'T';

(b) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for the purposes other than business, be denoted as 'T1';

(c) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as 'T2';

(d) the amount of input tax, out of 'T', in respect of inputs and input services on which credit is not available under sub-section (5) of section 17, be denoted as 'T3';

(e) the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as 'C1' and calculated as-
$$C1 = T - (T1 + T2 + T3);$$

(f) the amount of input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies, be denoted as 'T4';

Explanation: For the purpose of this clause, it is hereby clarified that in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the said Act, value of T4 shall be zero during the construction phase because inputs and input services will be commonly used for construction of apartments booked on or before the date of issuance of completion certificate or first occupation of the project, whichever is earlier, and those which are not booked by the said date.

(g) 'T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person at the invoice level in FORM GSTR-2 [and at summary level in FORM GSTR-3B];

(h) input tax credit left after attribution of input tax credit under clause [(f)]⁴² shall be called common credit, be denoted as 'C2' and calculated as-

$$C2 = C1 - T4;$$

(i) the amount of input tax credit attributable towards exempt supplies, be denoted as 'D1' and calculated as-

$$D1 = (E \div F) \times C2$$

where,

'E' is the aggregate value of exempt supplies during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period:

[Provided that in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the Act, the value of 'E/F' for a tax period shall be calculated for each project separately, taking value of

E and F as under:-

E= aggregate carpet area of the apartments, construction of which is exempt from tax plus aggregate carpet area of the apartments, construction of which is not exempt from tax, but are identified by the promoter to be sold after issue of completion certificate or first occupation, whichever is earlier;

F= aggregate carpet area of the apartments in the project;

Explanation 1: In the tax period in which the issuance of completion certificate or first occupation of the project takes place, value of E shall also include aggregate carpet area of the apartments, which have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier;

Explanation 2: Carpet area of apartments, tax on construction of which is paid or payable at the rates specified for items (i), (ia), (ib), (ic) or (id), against serial number 3 of the Table in the notification No. 11/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 690(E) dated 28th June, 2017, as amended, shall be taken into account for calculation of value of 'E' in view of Explanation (iv) in paragraph 4 of the notification No. 11/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 690(E) dated 28th June, 2017, as amended.]⁴³

[Provided further]⁴⁴ that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

Explanation: For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 [and entry 92A]⁴⁵ of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

(j) the amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D2', and shall be equal to five per cent. of C2; and

(k) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies and shall be denoted as 'C3', where,-

$$C3 = C2 - (D1+D2);$$

[(l) the amount 'C3', 'D1' and 'D2' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR-3B or through FORM GST DRC-03;]

(m) the amount equal to aggregate of 'D1' and 'D2' shall be [reversed by the registered person in FORM GSTR-3B or through FORM GST DRC-03:]⁴⁷

Provided that where the amount of input tax relating to inputs or input services used partly for the purposes other than business and partly for effecting exempt supplies has been identified and segregated at the invoice level by the registered person, the same shall be included in 'T1' and 'T2' respectively, and the remaining amount of credit on such inputs or input services shall be included in 'T4'.
