

GST ON CO-OPERATIVE HOUSING SOCIETIES OR RESIDENT WELFARE ASSOCIATIONS

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Insertion in Scope of supply making services of Societies/ RWA (Resident Welfare Associations) taxable

Section 7 (1) (aa) was inserted with retrospective effect from 1-7-2017 in CGST ACT to clarify that expression 'supply' includes activities/transactions by a person other than individual to its members or constituents for cash, deferred or other valuable consideration. Recent [order no. MAH/AAA/ RS-SK/28/2020-2021](#) passed by Appellate Authority for Advance Ruling in a petition filed by [Apsara Co-operative Housing Society Ltd.](#) it was held that activities such as obtaining conveyance from builder, managing, maintaining and administering property of society, raising funds for achieving objects of society can be considered as rendering of supply of services to its members as per section 7 **CGST Act**. This insertion was introduced to remove ambiguity on taxability of services of housing societies.

Taxability, exemptions and rates

Exemption is provided upto Rs 7500 per month per member in case a society sources goods and services from third person for common use of its members. Eg (payments to security, cleaners, accountants etc). Thus the exemption is not applicable to receipts such as parking charges, transfer charges, non-occupancy charges and interest on delayed payments etc. which are not in nature of goods and services procured from third party for common use of members.

Services provided by the Central Government, State Government, Union territory or local authority to a person other than business entity, is exempted from GST. **So, Property Tax, Water Tax, if collected by the RWA/Co-operative Society on behalf of the MCGM from individual flat owners, then GST is not leviable.**

GST payable only if aggregate turnover exceeds Rs 20 Lakhs:

If a person owns more than one residence in a society, then a 'separate' ceiling of Rs 7500 is considered as the second unit also gets an individual exemption of Rs 7500.

There is an exemption if the annual aggregate turnover of the housing society is not over Rs 20 lakh.

Thus, for GST to apply, two criteria must be met.

Annual turnover of a housing society Monthly maintenance charge GST

≤20 Lakh or less	≤7500 or less	Exempt
≤20 Lakh or less	More than ≤7500	Exempt
More than ≤20 Lakh	≤7500 or less	Exempt

More than ₹20 Lakh

More than ₹7500

Applicable

Rate of Tax: Tax is payable @18% on the entire taxable proceeds. Example in cases where monthly proceeds exceed are 8000 Rs, GST is payable on entire 8000 Rs and not just on 500 Rs as clarified by CBI & C circular dated 22-7-2019.

GST on repairs and sinking fund collections: Corpus, contribution to repair fund and sinking fund collections are viewed as advance for future contingencies which may lead to rendering of services and hence are treated as taxable as well. There are few contrary advance rulings where the view taken is that these do not lead to supply of services and hence should not be taxable. My personal view is that a co-operative society collects funds from its members to be ready with the reserves when huge repairs need to be undertaken. Many societies contribute heavily to repair funds to be future ready and as such there is no service involved by way of value creation/addition. Also if we compare this entry on the monthly maintenance bill with others, all the others that are taxable also have associated input tax credit opportunity. This collection because it merely a deposit, taxing this would mean taxing non profit making societies @18 % without any input tax credit. In essence this is robbing the middle class of 18% on its own sinking fund and repair fund contribution and on the principle component of the deposit. Also given that the corpus and sinking fund contributions are mandatory in nature, taxing these would mean it is mandatory to pay 18% tax on a part of your funds. One would really wish that the GST council looks at the true nature of this deposit and comes up with a clarification on this particular issue. It would still be acceptable if the interest earned by society from the repair and sinking fund deposit are charged instead of the principle.

Registration requirement : A Co-operative Housing Society or Residential Welfare Association who's Turnover (collection money) crosses Rs 20 Lakhs per annum would become liable for Registration under GST and should charge GST (CGST + SGST) from its members. Such society would be required to maintain books of accounts as required under GST and file periodic GST returns as well. Such record maintenance and return filing will in turn inflate the maintenance bill by the amount that the society may pay to hire a GST consultant/practitioner.

Wish someday central and state governments validate some of the provisions they impose not only looking at their revenue targets but also keeping larger public good in mind.