WORKS CONTRACT UNDER GST (GOODS AND SERVICES TAX)

Works contract has always remained a mystery for over half a century and has acted as a rodent to all the avid indirect tax lovers.

It is basically a composite supply of transfer of property (goods) and provision of labour (service)

Before implementation of GST, works contract was liable for both vat in form of works contract tax and service tax but an attempt has been made to simplify the term **"WORKS CONTRACT"** so as to reduce the litigations that used to occur before.

We all have numerous numbers of doubts in our mind and will see for each and every doubt the relevant answer.

Q. what exactly is works contract and where it has been defined?

A. Works contract has been defined in clause 119 of section 2 of cgst act 2017 which says that works contract is a contract for building, construction, fabrication, completion, erection, installation, improvement, repair, maintenance, and renovation etc. of any immovable property where transfer of property in goods is involved in execution of contract.

So, the conclusion drawn from the definition is that any work should be on immovable property and transfer in goods must take place.

We arrive at one more internal question which is what if such work has been done on movable property.

Answer to such question is it will be treated as a composite supply of goods or services depending upon the principal supply.

Q. What is the taxable event in GST and will works contract be goods or services?

A. We all know that many taxes were subsumed to form GST. Earlier we used to charge VAT on sale of goods, service tax on provision of service and excise duty on manufacture of goods, but in GST tax is liveable in the event "SUPPLY". The word supply is very comprehensive and is very wide. It has been defined in section 7 of cgst act 2017 along with 3 schedules.

Works contract duly qualifies the definition of supply and will be liable to GST.

For GST, works contract will be treated as supply of service, thereby putting a closure to the deliberation on the methodology of segregating the works contract between goods and services.

Entry no 6(a) of schedule II clearly states that works contract will be treated as supply of service.

Q. Will construction of building, complex intended for sale to buyer be liable to GST?

A. Construction of a complex, building, civil structure which is intended to be sold to a buyer will be liable to GST only if part of consideration has been received by the supplier before issuance of completion certificate or first occupancy whichever is earlier.

Q. Will TDS provisions be applicable or not?

A. Yes, TDS provisions which are provided in section 52 of cgst act 2017 will be applicable to works contract provided amount is more than 250000 and it is not inter-state supply.

Many people are confused as to whether TDS u/s 194C of Income tax act 1961 will continue or not. Income tax provisions will continue to be applicable & TDS will be deducted at a rate of 1%/2% as the case may be on the amount excluding GST.

Q. Is there any benefit arising from input tax credit?

A. As per section 17(5) of cgst act 2017 input tax credit shall not be allowed in case of works contract except in case of plant and machinery. ITC shall be allowed only if it is an input service for further supply of works contract service.

Construction on own account will also not qualify for input tax credit. So, accordingly tax paid on works contract services will form part of cost of such asset as it will be capitalised thus increasing the amount of depreciation.

But this provision is for service recipient, provider of service I.e. builder, contractor can avail input tax credit of tax paid on inputs like bricks, cement, paints etc.

Q. Is composition scheme applicable?

A. As per entry 6(a) of schedule II of, works contract have been specifically determined as supply of service while going through the provisions of section 10 of cgst act 2017 composition scheme excludes supply of service except restaurant services. So, in short composition scheme is not applicable for works contractor.

Q. what is the rate of tax applicable?

A. Rate of tax is 18% with no abatement.

Q. Is reverse charge applicable on works contract?

A. No, reverse charge is no longer applicable it will follow forward charge mechanism.