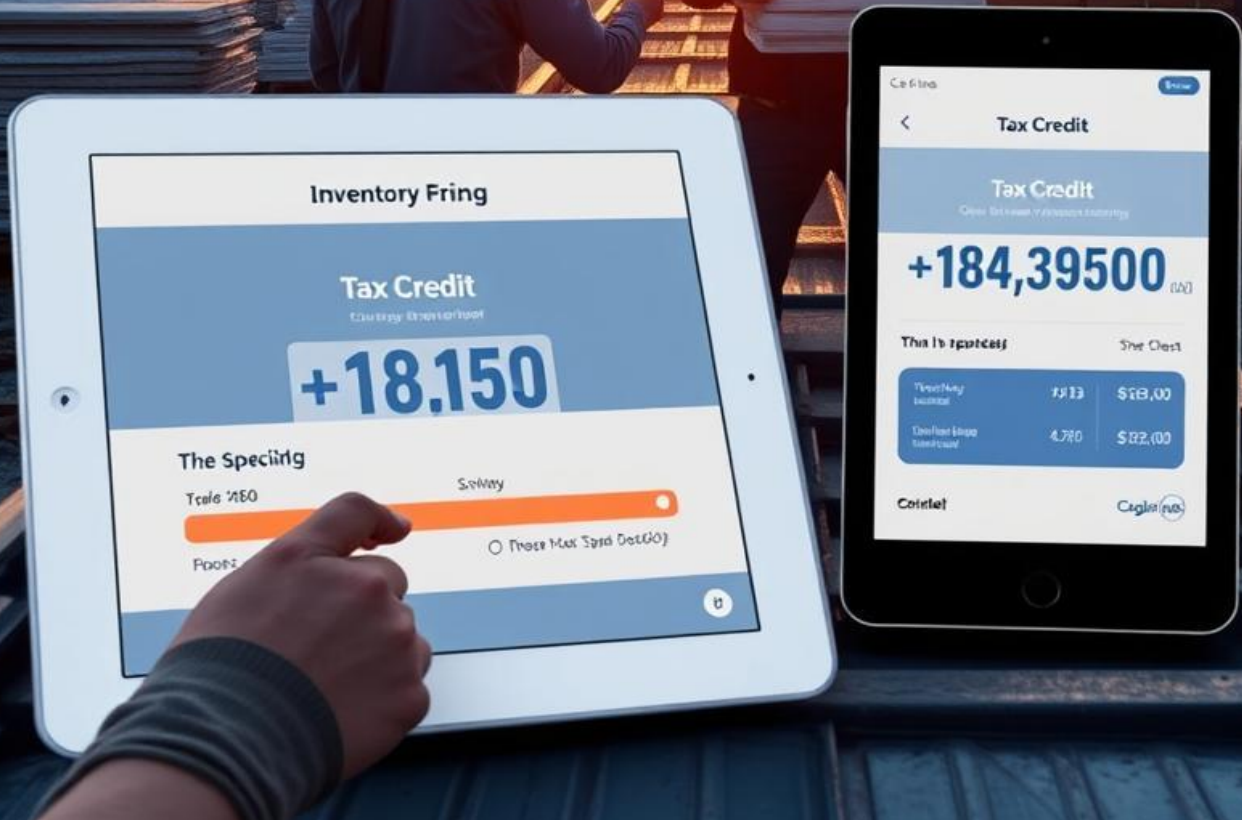


GST Regulations for Construction Services : A Detailed Overview



GST : Entities Engaged in Construction Services

The introduction of the Goods and Services Tax (GST) has revolutionized taxation in the real estate and infrastructure sectors by subsuming multiple indirect taxes. For construction service providers, be it for residential, commercial, or government projects, understanding GST compliance is critical. This guide walks through the applicable tax rates, input tax credit (ITC) rules, valuation mechanisms, and specific considerations like completion certificates and reverse charge mechanism (RCM)

Scope and nature of construction services under GST

Under the GST framework, construction-related activities are predominantly classified as "works contract services", which are treated as a supply of service. Construction includes:

- ▶ New constructions (residential or commercial),
- ▶ Additions or alterations,
- ▶ Renovation or repair of immovable property.

To whom are these services provided?

- ▶ Private individuals or entities (builders, developers, flat buyers),
- ▶ Government bodies (central, state, or local),
- ▶ Promoters or real estate developers, including in joint development agreements.

Taxability based on Completion Certificate (CC)

The time of supply is crucial to determine whether GST applies:

Before Completion Certificate / First occupation

- ▶ Taxable under GST
- ▶ Treated as a supply of service
- ▶ Builder/developer liable to charge GST on sale of flats/units.

After Completion Certificate / First occupation

- ▶ Not taxable under GST
- ▶ Sale of a completed building is treated as a sale of immovable property, not a supply under GST [Section 7(2)(a) of CGST Act read with Schedule III].


GST : Different Projects and Their Rates

Valuation rule – Land abatement provision

- ▶ Where the construction service involves supply of land and building as a composite supply, GST is not levied on land. As per Notification No. 11/2017-Central Tax (Rate):
Value of supply = Total consideration – deemed land value (1/3rd). So, only 2/3rd of the total amount is taxable under GST.

Example :

If total value charged = ₹90 lakhs (including land),
Taxable value = ₹90 lakhs × 2/3 = ₹60 lakhs
GST = ₹60 lakhs × 7.5% = ₹4.50 lakhs

 **CBIC (Circular No. 151/07/2021-GST):** If actual land value is clearly ascertainable and separately charged, the 1/3rd deemed deduction is optional — the actual land value may be excluded instead

GST rates and classification of construction services

Type of Project	GST Rate	Value on which GST is Applied
Residential (Affordable Housing)	1%	Including land value (No abatement)
Residential (Other than Affordable)	5%	Including land value (No abatement)
Commercial Construction	12%	Excluding 1/3rd value for land
Works Contract (Government Entity)	12%	Excluding 1/3rd value for land
Works Contract (Others)	18%	Excluding 1/3rd value for land



Definition of affordable housing under GST

As per Notification No. 11/2017-Central Tax (Rate) (as amended), a residential property is considered affordable based on:

1. Carpet area criteria:

- ▶ Up to 60 sq. meters (645 sq. ft.) in metro cities
- ▶ Up to 90 sq. meters (969 sq. ft.) in non-metro cities

2. Value (price) criteria:

- ▶ The gross amount charged for the unit (including land) must not exceed ₹45 lakhs

 **If BOTH conditions are met, it is treated as affordable housing under GST.**

Input Tax Credit (ITC): Eligible Vs Ineligible

✅ Scenarios where ITC is permitted

Project Type	ITC Availability
Commercial Construction	✅ Allowed
Works Contract (Govt and Others)	✅ Allowed

❌ Scenarios where ITC is restricted

The CGST Act imposes absolute restrictions on ITC in the following construction-related cases:

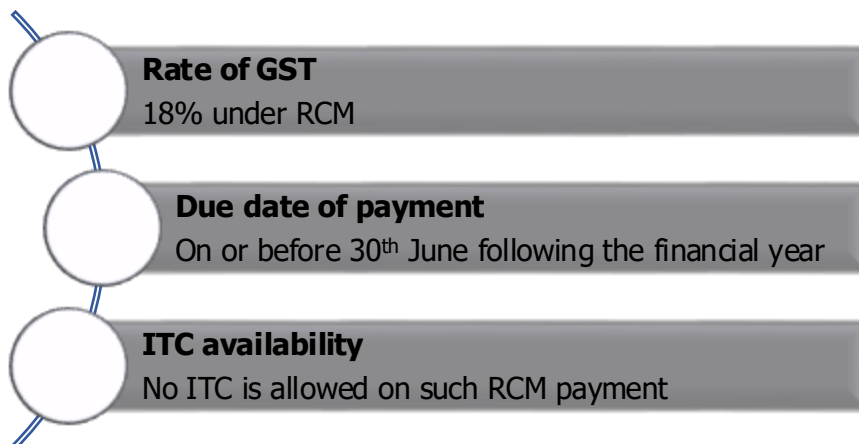
Scenario	ITC Eligibility	Reason
Construction of immovable property for own use	❌ Not Allowed	Blocked u/s 17(5)(d)
Residential projects under 1% / 5% rate (projects commencing from 01/04/2019)	❌ Not Allowed	Scheme condition

80% procurement rule for promoters under RREP / REP

◆ Applicable law:

As per Notification No. 07/2019 – Central Tax (Rate), dated 29.03.2019:

- ▶ Promoters must ensure that at least 80% of value of input and input services are procured from registered persons.
- ▶ If they procure construction services (e.g., subcontracted works) from unregistered suppliers, and it results in a shortfall from 80%, then RCM applies :



✅ Who is covered by the rule?

Promoters of :

- Real Estate Project (REP)
- Residential Real Estate Project (RREP)

! Special rule for cement:

- ▶ If cement is procured from an unregistered person, the promoter must pay GST under RCM, regardless of the 80% condition, at 28% GST, with no ITC.

Joint Development Agreements

What is a Joint Development Agreement (JDA)?

A Joint Development Agreement is an arrangement between a landowner who provides land and a developer/builder who undertakes construction where the consideration is usually provided in the form of constructed flats or a share of revenue from the developed property.

Key transactions in a JDA

- ▶ Transfer of Development Rights (TDR) by landowner to developer
- ▶ Construction services by developer to landowner
- ▶ Sale of flats /units by landowner or developer to independent buyers.

GST liability in JDAs depends on:

- Type of project (residential or commercial)
- Date of agreement (before or after 01.04.2019)
- Nature of transaction (TDR, construction service, or sale)

Transaction	Time/Type	Who Pays GST ?	GST Rate
[1] Transfer of Development Rights (TDR)	Residential Project (Before 01.04.2019)	Landowner	18%
	Residential Project (On/After 01.04.2019)	Developer (under RCM)	1% (Affordable) 5% (Non-Affordable) Only on unsold units at CC/first occupation
	Commercial Project (Any Date)	Landowner	18%
[2] Construction Services to Landowner	Residential Project (Before 01.04.2019)	Developer	12% (after 1/3rd land deduction)
	Residential Project (On/After 01.04.2019)	Developer	1.5% (Affordable) 7.5% (Non-Affordable) on value of similar flats sold
	Commercial Project (Any Date)	Developer	12% (after land deduction)
[3] Sale of Flats to Buyers	Before Completion Certificate (CC)	Seller (Developer or Landowner)	12% (before 01.04.2019) 1.5% / 7.5% (on/after 01.04.2019)
	After Completion Certificate (CC)	—	No GST applicable

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