OFFICE OF THE COMMISSIONER OF SERVICE TAX: MUMBAI
5TH FLOOR, NEW CENTRAL EXCISE BUILDING, 115, M. K. ROAD, CHURCHGATE, MUMBAI – 400 020.
F.NO.V/ST-I/TECH-II/463/11

Mumbai, the 31st August, 2012.

To
Maharashtra Chamber of Housing Industry, Maker Bhawan II,
Thackersey Marg,
New Marine Lines,
Mumbai 400 020.

Sub:- Clarification regarding Service Tax on Construction Industry — reg.

Please refer to your letter No.MCHI/GEN/12-13/051 dated 26th July, 2012 seeking clarification In respect of Service Tax issues relating to Construction Industry. Our clarification on the Issues raised in your letter is given as under:

(1) Service Tax on Redevelopment and Slum Rehabilitation Project (SRA):

As far as taxability for Redevelopment and SRA Projects Is concerned, Board has Issued a Circular No.151/2/2012 ST dated 10th February, 2012. The clarification given In the said Circular would be applicable up to the period 30th June, 2012 only. After 1St July, 2012, following clarification is issued:

Under Section 66E of the Finance Act., Construction Service has been notified as a declared service. Further, the exclusion clause of “intended for personal use of residence” as was available in the earlier definition is not available in the present definition. Therefore, it is clarified that even when Construction Service is provided to the existing flat owners or slum owners under a scheme of Redevelopment or SRA Project, Service Tax would be liable to be paid for such services. In other words, even when the construction is made for the existing flat owners or slum owners for which no consideration or part consideration is paid to the developer, still Service Tax would be liable to be paid by the person who undertakes the construction activity. For the purpose of valuation, provision of Section 67 and the Service Tax Valuation Rules may be referred.

(2) Service Tax on floor rising charges:

As per your letter, it has been “mentioned that many builders charge additional amount known as “floor rise charges” in addition to the normal sale price of a flat. It is also mentioned in your letter that the said charges are recovered for additional construction cost for floor rise because the construction cost increases as per the increase in the floor. On this issue it is clarified that, since the floor rise charge are recovered on account of additional construction cost it would be treated as part of the consideration for sale of flat in terms of provisions of section 66F (Naturally Bundled service). Consequently Floor Rise Charge would be eligible for the abatement of 75% in terms of Notification No. 26/2012 ST. however it is clarified that this clarification is limited to floor rising charges only and not for other components of erstwhile definition of “preferential Location Service” which cover many other services.

Sushil Solanki, Commissioner,
Service Tax I, Mumbai