

PANEL DISCUSSION ON ISSUES UNDER REAL ESTATE

CASE STUDY NO. 3

FACTS OF THE CASE :

- Ashirwad Co- Op Hsg Society (proposed) having slums on piece of land owned by government.
- Slum Rehabilitation Authority notified it as Slum in December 2016.
- Collector granted Lease in in favor of Society in May 2017.
- Society appointed Developer by executing DA in June 2017 to develop the project under SRA with condition of rehabilitation of slum dwellers.
- Developer was to provide free of cost tenement to eligible tenant and rent and other shifting allowance to them.
- Developer entered into Agreement with tenant in December 2017.
- Developer was allowed to construct two sale building and was to construct three rehab building free of cost.
- IOD with full plan approval was obtained with LOI but Commencement Certificate was received only for rehab building in June 2018.
- Commencement Certificate for Sale Building was received in March 2019 but no booking was done till 31-03-2019.

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ISSUES UNDER RERA :-

- a. Whether Entire Project can be registered with RERA in June 2018 as developer had mega plans to launch advertisement campaign OR it can be registered in March 2019 on receipt of commencement certificate for sale building.
- b. Whether entire project include rehab portion also ?

ISSUES UNDER GST :-

The approval conditions under SRA are as under :

1. Upon completion of plinth of Rehab Building , Commencement Certificate (CC) for sale building plinth will be available
 2. Upon progressive work of Rehab Building , progressive CC of sale building will be granted.
- Can it be concluded that since Society does not have Development Rights at inception but it comes progressively ? Is it Entitlement or Eligibility for the purpose of fixing GST issues on supply of Development Rights ?
 - GST impact on allotment of free tenement to slum dwellers ?
 - Whether Project can be qualified as On Going Project though registered as New Project under RERA ?

ISSUES UNDER INCOME TAX :-

- Taxability on surrender of tenancy rights for commercial units

