

WORKS CONTRACT IN GST

Definition

What is a Works Contract ?

Section 2(119) of the CGST Act, 2017 defines Works Contract “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property where in transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.”

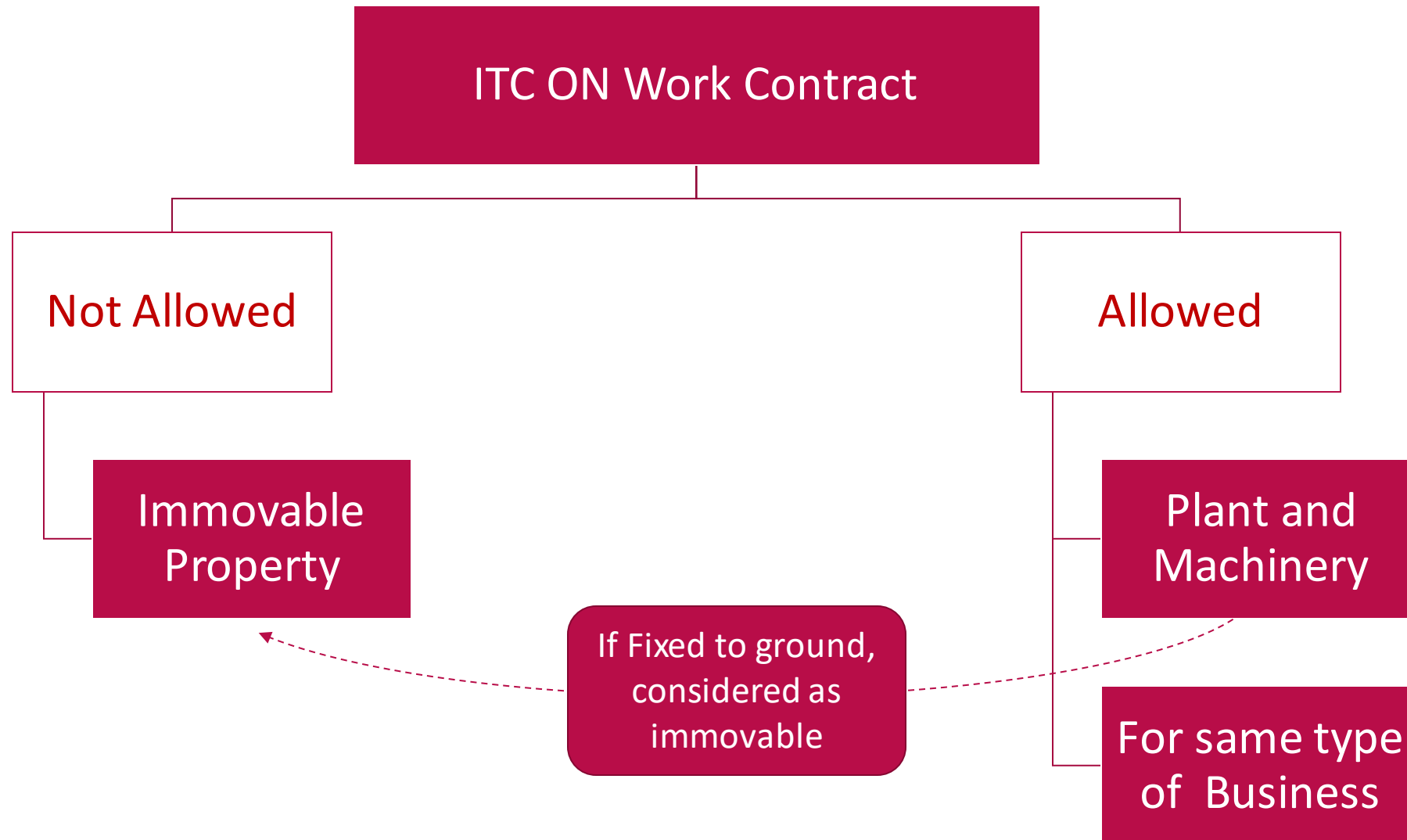
Input Tax Credit For Work Contract



Section 17(5)(c) of CGST Act states that Input tax credit **shall not be available** in works contract services when supplied **for construction of an immovable property** (other than plant and machinery) except where it is an input service for further supply of works contract service,

- In case where works contract is a sub-contractor, main contractor can claim the credit on tax paid on SUB CONTRACT i.e. input service for further supply of WCS
- In case of works contract of plant and machinery, service receiver can claim credit on tax on that works contract of plant and machinery.
- In other cases Input tax credit shall not be available for service receiver i.e. tax paid on works contract cannot be claimed by service receiver.

Input Tax Credit For Work Contract



Schedule II of CGST Act - Activities to be treated as supply goods or supply of services

As per Para 6 (a) of Schedule II to the CGST Act, 2017,

Works Contracts as defined in section 2(119) of the CGST Act, 2017 shall be treated as a supply of services.

Thus, there is a clear demarcation of a works contract as a supply of service under GST.

Place of Supply in respect of Works Contract



- ❖ **Works Contract under GST** would necessarily involve immovable property. In view of the same the place of supply would be governed by Section 12(3) of the IGST Act, 2017, where both the supplier and recipient are located in India. The **place of supply** would be **where the immovable property is located**.
- ❖ In case the immovable property is located outside India, and the supplier as well as recipient both are located in India, the **place of supply** would be the location of recipient as per proviso to Section 12(3) of the IGST Act, 2017
- ❖ As per Section 13(4) of the **IGST Act, 2017** , in cases where either the Supplier or the Recipient are located outside India, the place of supply shall be the place where the immovable property is located or intended to be located



Position Maintenance of records:

As per Rule 56 (14) of the CGST Rules, 2017,

Every registered person executing works contract shall keep separate accounts for works contract showing –

- (a) the names and addresses of the persons on whose behalf the works contract is executed;
- (b) description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
- (c) description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;
- (d) the details of payment received in respect of each works contract; and (e) the names and addresses of suppliers from whom he received goods or services.

Rate Of GST For Works Contract

The rate of GST for Works Contract service has been prescribed in

Serial number 3 of **Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017** as amended by **Notification No. 20/2017-Central Tax (Rate) dated 22.08.2017** & notification no.24/2017-Central Tax (Rate) dated **21.09.2017**

Sl. No.	Description of Services	Rate (per cent.)
3	(i) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)	9
	(ii) composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Services Tax Act, 2017.	9
	(iii) construction services other than (i) and (ii) above.	9

Rate Of GST For Works Contract

Notification No. 20/2017-Central Tax (Rate) dated 22.08.2017

against serial number 3, for item (iii) in column (3) and the entries relating thereto in columns (3), (4) and (5), the following shall be substituted, namely:- (3)

Description of Services	Rate (per cent.)
<p>“(iii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to the Government, a local authority or a Governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, -</p> <p>(a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);</p> <p>(b) (b) canal, dam or other irrigation works;</p> <p>(c) (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal</p>	6

Rate Of GST For Works Contract (contd...)

Description of Services	Rate (per cent.)
<p>(iv) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-</p> <p>(a) a road, bridge, tunnel, or terminal for road transportation for use by general public; (b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;</p> <p>(c) a civil structure or any other original works pertaining to the “In-situ rehabilitation of existing slum dwellers using land as a resource through private participation” under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers;</p> <p>(d) a civil structure or any other original works pertaining to the “Beneficiary led individual house construction / enhancement” under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;</p> <p>(e) a pollution control or effluent treatment plant, except located as a part of a factory; or (f) a structure meant for funeral, burial or cremation of deceased.</p>	6

Rate Of GST For Works Contract (contd...)

Description of Services	Rate (per cent.)
<p>(v) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, or installation of original works pertaining to,-</p> <p>(a) railways, excluding monorail and metro;</p> <p>(b) a single residential unit otherwise than as a part of a residential complex;</p> <p>(c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;</p> <p>(d) low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under-</p> <p>(1) the “Affordable Housing in Partnership” component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;</p> <p>(2) any housing scheme of a State Government;</p> <p>(e) post-harvest storage infrastructure for agricultural produce including a cold storage for such purposes; or</p> <p>(f) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages.</p>	6

Rate Of GST For Works Contract

Notification no.24/2017-Central Tax (Rate) dated 21.09.2017

In the said notification, in the Table, against serial number 3, for item (vi) in column (3) and the entries relating thereto, in columns (3), (4) and (5), the following shall be substituted, namely:-

Description of Services	Rate (per cent.)
“(vi) Services provided to the Central Government, State Government, Union Territory, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of – (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; (b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or (c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.	6
(vii) Construction services other than (i), (ii), (iii), (iv), (v) and (vi) above.	9

Exemptions on supply of services under CGST Act

12/2017-Central Tax (Rate), dt. 28-06-2017

Sl. No.	Description of Services	Rate (per cent.)
3	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	NIL

Amend notification No. 12/2017- Central Tax (Rate) so as to exempt certain services. 02/2018-Central Tax (Rate) ,dt. 25-01-2018

Sl. No.	Description of Services	Rate (per cent.)
3A	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	NIL

Article 243G in The Constitution Of India 1949

243G. Powers, authority and responsibilities of Panchayats Subject to the provisions of this Constitution the Legislature of a State may, by law, endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats, at the appropriate level, subject to such conditions as may be specified therein, with respect to

- (a) the preparation of plans for economic development and social justice;
- (b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule

Article 243W in The Constitution Of India 1949

243W. Powers, authority and responsibilities of Municipalities, etc Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule

Advance Ruling Case

AUTHORITY FOR ADVANCE RULING, WEST BENGAL

No.- Case Number 13 of 2019 Order No. 03/WBAAR/2019-20

Dredging And Desiltation Company Private Limited, In Re..... Appellant

Mr. Sydney D'silva, And Mr. Parthasarathi Dey, Member

Date : June 10, 2019

Applicant's representative heard: Sumit Nishania, CA

Decision :- Whether work of upgrading the navigability of Mandarmoni River is an exempt supply



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Thank You