

HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT

Notification

The 23rd July, 2015

No.19/ST-1/H.A.6/2003/S.60/2015.—Whereas, the State Government is satisfied that circumstances exist which render it necessary to take immediate action in public interest;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 60 read with the proviso to said Sub-section of the Haryana Value Added Tax Act, 2003 (6 of 2003), the Governor of Haryana hereby makes the following rules further to amend the Haryana Value Added Tax Rules, 2003 by dispensing with the condition of previous notice, namely :-

1. (1) These rules may be called the Haryana Value Added Tax (Amendment) Rules, 2015.
- (2) These rules shall be deemed to have come into force with effect from 17th May, 2010.
2. In the Haryana Value Added Tax Rules, 2003, in rule 25:-
 - (a) for sub-rule (2), the following sub-rules shall be substituted, namely:-

“(2) In case of turnover arising from the execution of a works contract or job work, the amount included in taxable turnover is the total consideration paid or payable to the dealer under the contract and shall exclude –

 - (i) the charges towards labour, services and other like charges; and
 - (ii) the charges towards cost of land, other charges relatable to land, if any, paid to the Government or its agency, subject to the dealer maintaining proper records such as invoice, voucher, challan or any other document evidencing payment of above referred charges to the satisfaction of the Taxing Authority.”;
 - (3) For the purpose of clause (i) of sub-rule (2), the charges towards labour, services and other like charges shall include:-
 - (i) labour charges for execution of works;
 - (ii) charges for planning and architect’s fees;
 - (iii) cost of consumables such as water, electricity, fuel etc. used in the execution of the works contract in which the property in goods is not transferred in the course of execution of the works contract;
 - (iv) cost of establishment of the contractor to the extent it is relatable to supply of labour and services;
 - (v) other similar expenses relatable to supply of labour and services;
 - (vi) profit earned by the contractor to the extent it is relatable to supply of labour and services subject to furnishing of a profit and loss account of the works sites:

Provided that where the amount of charges towards labour, services and other like charges are not ascertainable from the books of accounts of the dealer or the dealer fails to produce documentary evidence in support of such charges, the amount of such charges shall be calculated at the percentages of valuable consideration specified in the Table given below:-

TABLE
PERCENTAGES FOR WORKS CONTRACTS OR JOB WORKS

Serial Number	Type of Contract	Labour, service and other like charges as percentage of valuable consideration
1	Fabrication and installation of plant and machinery.	Twenty five percent
2	Fabrication and erection of structural works of iron and steel including fabrication, supply and erection of iron trusses, purloins and the like.	Fifteen percent
3	Fabrication and installation of cranes and hoists.	Fifteen percent

[Extract from Haryana Government Gazette (Extra.), dated 23rd July, 2015]

4	Fabrication and installation of elevators (lifts) and escalators.	Fifteen percent
5	Fabrication and installation of rolling shutters and collapsible gates.	Fifteen percent
6	Civil works like construction of buildings, bridges, roads, dams, barrages, canals and diversions.	Twenty five percent*
7	Installation of doors, doorframes, windows, frames and grills.	Fifteen percent
8	Supply and fixing of tiles, slabs, stones and sheets.	Twenty percent
9	Supply and installation of air conditioners and air coolers .	Fifteen percent
10	Supply and installation of air conditioning equipment including deep freezers, cold storage plants, humidification plants and de-humidors.	Fifteen percent
11	Supply and fitting of electrical goods, supply and installation of electrical equipments including transformers.	Fifteen percent
12	Supply and fixing of furniture and fixtures, partitions including contracts for interior decoration and false ceiling.	Fifteen percent
13	Manufacturing/fabrication of Railway coaches and wagons on under carriages supplied by Railway.	Twenty percent
14	Fabrication or mounting of bodies of motor vehicle and trailers.	Twenty percent
15	Sanitary fitting for plumbing and drainage or sewerage.	Thirty percent
16	Laying underground surface pipelines, cables or conduits.	Thirty percent
17	Dyeing and printing of textiles.	Thirty percent
18	Supply and erection of weighing machines and weighbridges.	Fifteen percent
19	Painting, polishing and white washing.	Thirty percent
20	Tyre retreading	Forty percent
21	Photography and Printing Contracts	Thirty percent
22	Electroplating, Electro Galvanizing and Anodizing and the like	Forty percent
23	All other contracts not specified from serial number 1 to 22 above.	Twenty percent

* In case of the works contract mentioned at serial number 6 where land is also transferred alongwith other property in goods, the deduction of twenty five percent shall be allowed after excluding the cost of transferred land as determined under this rule :

Provided further that where the dealer claims deduction on account of labour, services and other like charges exceeding the percentages of valuable consideration specified in the above Table, the assessing authority, after examining the claims, may allow the claim of the dealer and shall record reasons in writing for accepting the claim of the dealer.

(4) In case the works contract mentioned in sub-rule (2) is of the nature wherein the agreement executed between the land owner and the contractor or similar other agreement is of the nature of collaboration or joint development where the contractor constructs the building/units, and consideration for the construction is given by the land owner in the form of share in the land with or without additional money exchange, the value of works contract carried out by the contractor for the land owner shall be the highest of the following amounts,-

(i) Actual value of construction, including profit, transferred by the contractor to the land-owner in accordance with the books of accounts maintained by the contractor.

[Extract from Haryana Government Gazette (Extra.), dated 23rd July, 2015]

- (ii) Where proportionate land is transferred by the land-owner to the contractor by executing a separate conveyance/sale deed, the value stated in the deed for the purpose of payment of stamp duty as reduced by consideration paid by the contractor to the land owner through any mode of payment.
- (iii) On the basis of circle rate of proportionate area of land transferred by the land-owner to the contractor prevailing at the time of execution of agreement between them, as reduced by the consideration paid by contractor to the land-owner through any mode of payment:

Provided that where separate circle rates for land and construction have not been notified in respect of certain buildings or properties, then circle rate for land and construction prevailing in that locality for other buildings or properties, in respect of which separate circle rates have been notified, shall be taken into consideration for the purpose of determination of value under this sub-rule:

Provided further that the value of works contract under this sub-rule shall not be less than the circle rate of construction applicable on the date on which agreement between the land-owner and the contractor for the construction of property was executed.

Explanation.- The taxable turnover in relation to contractor's share of construction for activity carried on by him for the intended purchaser shall be calculated separately as per provisions of this rule.

- (5) For the purpose of clause (ii) of sub-rule (2), the cost of land in a works contract carried on by the developer for the intended purchaser shall be the highest of following :-
 - (i) Where separate conveyance/sale deed of the land has been executed between the developer and the intended purchaser, the consideration amount of land stated in that deed; or
 - (ii) Where separate conveyance/sale deed of the land has not been executed for transfer of land between the developer and the intended purchaser and transfer of land is mentioned in the conveyance deed of the constructed unit, then the value of land in the value of composite works contract shall be determined on the basis of notified circle rates of land prevailing at the time of execution of agreement between the developer and the intended purchaser:

Provided that where separate circle rates for land and construction have not been notified in respect of certain properties, then circle rate for land and construction prevailing in that locality for other properties in respect of which separate circle rates have been notified, shall be taken for the purpose of determination of value under this sub-rule:

Provided further that where land has been valued at circle rate and the value of conveyance/sale deed of the constructed unit with the intended purchaser exceeds the circle rate, then the difference between the two shall be proportionately divided between the value of land and the works contract (comprising material and services).

For example, in case of composite works contract, circle rate of land is ₹ 2 crore and circle rate of construction is ₹ 1 crore, and the consolidated value of sale deed (inclusive of land and cost of construction) is ₹ 3.60 crore. Difference of ₹ 0.60 crore shall be divided in the ratio of 2:1; and thus, value of land for the purpose of this sub-rule shall be ₹ 2.40 crore.

Explanation:- (a) The term "intended purchaser" for the purpose of this sub-rule means the person who agrees to buy the property before completion of construction and pays the consideration, in full or part, before such completion.

(b) For the purpose of this sub-rule, construction shall be deemed to be complete at the time of issuance of completion certificate by the competent authority, or at the time and in the manner notified by the State Government for this purpose;

- (iii) in the case of works contract where the payment of charges towards the cost of land is not ascertainable in accordance with the preceding clauses of this sub-rule, the amount of such charges shall be calculated @ 25% of the total value of the contract, except in the case of construction of commercial buildings/complexes where it shall be calculated @ 40% of the total value of the contract; or

[Extract from Haryana Government Gazette (Extra.), dated 23rd July, 2015]

- (iv) in the case of works contract, where only a part of the total area to be constructed is being transferred, the charges towards the cost of land shall be calculated on a pro-rata basis through the following formula.

**Proportionate super area multiplied by Value of land as
determined in this sub-rule
divided by
Total plot area multiplied by Floor Area Ratio**

Explanations:

- (a) Proportionate super area for the purpose of this clause means the covered area booked for transfer and the proportionate common area to be constructed, attributable to it.
- (b) Floor Area Ratio = Total constructed area divided by Total Plot Area.
- (6) In the case of works contract where only a part of total constructed area is being transferred, the deduction towards labour, services and other like charges mentioned in sub-rule (3) and input tax credit under section 8 of the Act shall be calculated on a pro-rata basis.
- (7) (i) Where an agreement is executed by the developer with the intended purchaser after commencement but before completion of construction, the taxable turnover of sale shall be the total value of agreement, as reduced by cost of land and pro-rata amount of labour, services and like charges, determined in accordance with this rule.
- (ii) Tax shall be payable at the time of an amount receivable or actually received, whichever is earlier, in whatever form or manner, from the intended purchaser in relation to (i) above.
- (iii) The developer shall be eligible to deduct labour, services, other like charges in relation to (i) above in the tax period when output tax becomes payable.”.

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