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2.1 Basic understanding of TDRc, TDR & FSI

Para 2.1.46 of Consolidated FDI Policy Circular dated 28-8-2017	"Transferable Development Rights" means certificates issued in respect of category of land acquired for public purposes either by the Central or State Government in consideration of surrender of land by the owner without monetary compensation, which are transferable in part or whole.
TDR Guideline issued by NITI Aayog (Sep-2020)	TDR certificate (TDRc) / Development Rights Certificate (DRC) is a certificate issued by the competent authority to an owner or a lessee of the land on surrender of the gross 'area' of the land which is required for public purpose. Such 'area' of land must be free of cost and free from all encumbrances. The certificate comprises of the details like FSI/FAR credit in square meters of the built-up area to which the owner or lessee is entitled, the place from which it is generated and the rate of that plot as prescribed in the Annual Statement of Rates issued by the Registration Department or other concerned department for the concerned year
Gujarat Comprehensive Development Control Regulations - 2017	"Tradable Development Rights (TDR)" means an incentivisation mechanism by which the Tradable Floor Space assigned to one building can be traded for use on another building-unit. The competent authority shall identify the buildings eligible for selling the TDR, amount of floor space available for trading as specified in sanctioned GDCR of competent authority. (Gujarat Comprehensive Development Control Regulations - 2017)
Gujarat Slum Areas Improvement, clearance and rehabilitation Act, 1973	"Transferable Development Rights" means transfer/trade/sale of development rights from one land to another land. Such rights will be given in the form of certificates showing time limit and price by Local Self-government or Development authority.(Resolutions no. PRC/ 102013/783/TH, dated 18th July 2013, Policy for in-site rehabilitation of slums situated on public land by PPP under Mukhya Mantri GRUH Yojana under Gujarat Slum Areas Improvement, clearance and rehabilitation Act, 1973).
Gujarat Town Planning and Urban Development (Amendment)Act, 2014	"Development right" means a right to develop the land or building or both on any land to be acquired under section 20 to the extent that may be decided in the development plan. [Section 2, Gujarat Town Planning and Urban Development (Amendment)Act, 2014)]
FSI Floor Space Index	"Floor Space Index (FSI)" shall mean the ratio of a building's total floor area (gross floor area) to the size of the piece of land upon which it is built. -Base FSI is the basic FSI permitted by the competent authority as a matter of right without any cost. -Chargeable/Premium FSI is the FSI available by additional payment to the competent authority as per the applicable rules. -Maximum permissible FSI is the FSI that includes the base and chargeable FSI.

Comparison of TDRc, FSI & TDR

Abr.	TDRc		FSI	TDR
Type	Transferable Development Rights Certificates		Floor Space Index (additional FSI / premium FSI)	Transfer of Development Rights
Issuer/Transferor	Public Authority	Slum Redeveloper	Public Authority	Landowner
Form	TDR Certificate	TDR Certificate	FSI order	Development Agreement
Purpose	Issued a certificate as consideration for the surrender of land rights or towards redevelopment/rehabilitation of the slum to Slum Developer	Transfer of TDR Certificate by Slum Developer to Promoter	Authority grants additional FSI beyond base permissible FSI, generally against payment of premium, charges, or conditions	Landowner transfer development rights to promoter/developer for area sharing or revenue sharing
Taxability	Neither Supply of Goods Nor supply of Services as notified 243W/243G	Supply of service taxable under entry at SI. No. 16 (iii) (Heading 9972) @ 18% (Refer Sn. 28 of FAQ part 1 issued by CBIC)	Neither Supply of Goods Nor supply of Services as notified 243W/243G	Supply of service taxable under entry at SI. No. 16 (iii) (Heading 9972) @ 18%

2.2 Provisions of Transfer of Development Rights Certificates (TDRc) in various state laws

State	State/UT - Building Bye Laws/TDR Policy	Chapter/Section
Gujarat	Comprehensive General Development Control Regulations -2017	Section 9.3
Maharashtra	Development Control & Promotion Regulations (DCPR), 2034	Part IV, Section 4.3 - Table -12
Karnataka	Karnataka Municipalities Model Building ByeLaws 2017	Section 13.11
Rajasthan	Rajasthan Urban Area Transferable Development Rights (TDR) Policy -2012	Clauses 4 to 8
Andhra Pradesh	Andhra Pradesh Building Rules, 2017, G.O.MS.No. 119 Dated: 28-03-2017	Chapter – XII - Section 166-170
Madhya Pradesh	Madhya Pradesh Transferable Development Rights Rules, 2010	Rules 3 to 12

2.10 GST on Long Term Lease of Industrial Plots by State Industrial Development Corporations

State Industrial Development Corporations (such as GIDC, MIDC etc.) across the country give land on long term lease basis (more than 30 years) to industrial units. Lease deed also permits the lessee to assign his interest in the given plot (for the remaining part of lease) to any other person subject to the approval of State Industrial Development Corporation.

State Industrial Development Corporation → Granting of Long-Term Lease of Industrial Plot → Industrial Units (Original Lessee)

Taxability on transfer of long term lease hold land from State Industrial Development Corporation (such as GIDC, MIDC etc.) to business entity.

Exemption under Entry 41 of notification 12/2017 CT(R) dtd 29-06-2017 as amended	GST is exempted on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 20 percent. or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area.
Condition for exemption [Entry 41 of NN 12/2017 CT(R)]	Any violation or change in land use will hold the original lessor, original lessee (industrial units) and any subsequent lessee or buyer jointly liable for the central tax amount that would have been payable on the upfront lease amount, along with interest and penalty. Lease or sale agreements must explicitly state the exemption of central tax on long-term lease and ensure compliance by all parties involved.
Circular No. 101/20/2019-GST dated 30-04-2019	GST exemption on the upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease (of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business under Entry No. 41 of Exemption Notification 12/2017 – Central Tax (R) dated 28.06.2017 is admissible irrespective of whether such upfront amount is payable or paid in one or more installments, provided the amount is determined upfront.

Industrial Units (Lessee - Assignor) → Assignment of Lease hold rights → Another Industrial Units (Lessee - Assignee /Allottee Lessee)

Taxability on assignment of long term lease hold land from the business entity to another business entity.

Case Reference	Court	Summary of matter	Judgement
GCCI vs UOI & ors dtd. 03-Jan-2025 [2025 (1) TMI 516]	**Gujarat High Court**	Whether assignment by sale and transfer of leasehold rights of the plot of land allotted by GIDC by the lessee in favour of a third party for consideration would amount to "supply" under section 7(1)(a) of the GST **Held by the Court:** Assignment by sale and transfer of leasehold rights of the plot of land allotted by GIDC to the lessee in favour of third party-assignee for a consideration shall be assignment/sale/transfer of benefits arising out of "immovable property" by the lessee-assignor in favour of third party-assignee who would become lessee of GIDC in place of original allottee-lessee. In such circumstances, provisions of section 7(1)(a) read with clause 5(b) of Schedule II and clause 5 of Schedule III would not be applicable to such transaction and the same would not be subject to levy of GST under section 9 of CGST Act.	No GST leviable on assignment of leasehold rights to Third party-assignee/allottee lessee

3.1 GST on Plotting Projects

Plotting projects under GST have been a continuous subject of controversy. The department has consistently raised demands seeking tax on such transactions, while clarity has remained limited. Key questions still persist – whether plotting projects under a Joint Development Agreement (JDA) are exempt or taxable and whether development rights transfer in such cases falls outside GST. Though a circular clarifies that basic development of land will not attract GST, ambiguity remains as to what exactly should be considered as "basic development." This uncertainty has led to differing interpretations and ongoing disputes.

Different Models under Plotting Project

Vacant Plot

\+ **Basic Development** levelling, laying down of drainage lines, water lines, electricity lines Boundary wall etc.

= **Basic Plot**

Vacant Plot

\+ **Basic Development** levelling, laying down of drainage lines, water lines, electricity lines Boundary wall etc.

\+ **Extra Development** Landscaping, Club House

= **Developed Plot**

Vacant Plot

\+ **Basic Development** levelling, laying down of drainage lines, water lines, electricity lines Boundary wall etc.

\+ **Extra Development** Landscaping, Club House

\+ **Villa Construction** Construction of Luxurious Villa

= **Farm House / Villa Project**

3.2 Relevant Provisions related to Sale of Land with and / or without basic development

Schedule III of CGST Act	It specifies transactions of Sale of land - treated neither as a supply of goods nor as a supply of services. Relevant extract: *"Schedule III Entry 5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building."*
Plotting Project Considered as "Real Estate Project"	RERA Act 2016 define "Real Estate Project" under clause (zn) of section 2 : *(zn) "real estate project" means :* *-the development of a building or a building consisting of apartments, or* *-converting an existing building or a part thereof into apartments, or* *-the development of land into plots or apartment, as the case may be,* *for the purpose of selling all or some of the said apartments or plots or building, as the case may be and includes the common areas, the development works, all improvements and structures thereon and all easement, rights and appurtenances belonging thereto;*
Circular No. 177/09/2022 dtd 03-Aug-2022	*This circular clarifies that Sale of land, even after basic development, is covered under Schedule III Entry 5* → **No GST.** Relevant extract: *Issue 14 of Circular: Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST ?* *14.1 Representation has been received requesting for clarification regarding applicability of GST on sale of land after levelling, laying down of drainage lines etc.* *14.2 As per Sl no. (5) of Schedule III of the Central Goods and Services Tax Act, 2017, 'sale of land' is neither a supply of goods nor a supply of services, therefore, sale of land does not attract GST.* *14.3 Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by Sr. No. 5 of Schedule III of the Central Goods and Services Tax Act, 2017 and accordingly does not attract GST.* *14.4 However, it may be noted that any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) sh*all attract GST at applicable rate for such services.

4.9 GST Implications on Solar Power Plants

Periodic changes in GST on Solar Power Plants					
Effective Period	**Notification /Circular Reference**	**Description / Coverage**	**GST Rate on Goods Portion**	**GST Rate on Service Portion**	**Overall Effective Rate**
01-07-2017 to 31-12-2018 (Actual basis)	Notification 01/2017-CTR, Sr. No. 234	Solar Power Generating System & parts (modules, inverters, transformers etc.)	5%	18%	on Actual Basis
Effective Period	**Notification /Circular Reference**	**Description / Coverage**	**GST rate on 70% of the contract value deemed as Goods**	**GST rate on 30% of the contract value deemed as Services**	**Overall Effective Rate**
01-01-2019 to 30-09-2021	Notification 24/2018-CTR	Insertion of explanation for **70:30** deemed valuation in Entry 234 of NN 01/2017 CT(R)	5%	18%	8.90%
	Notification 27/2018-CTR	Insertion of Entry 38 in NN 11/2017 CT(R) for GST on 30% Service Portion			
01-10-2021 to 21-09-2025	Notification 08/2021- CTR	Entry 234 removed and new entry inserted 201A in Schedule 12%	12%	18%	13.80%
22-09-2025 onwards	Notification 09/2025-CTR	Rate reduced pursuant to Notification No. 09/2025-CT(R)	5%	18%	8.90%

Circular 163/19/2021-GST -Clarification on retrospective applicability of 70:30 w.e.f 01-07-2017

Supply of Solar Plant as	Valuation
Composite Supply	If the Solar Power Generating System or parts thereof is supplied as a part of composite contract for supply of goods and services for a common price then the value shall be deemed to be 70% for goods and 30% for services as per explanation inserted in notification.
Individual supplies/ separate supplies	If such Solar Power Generating System and / or parts and the related services such as installation, commissioning, etc. are procured from more than one vendor whereby the prices are negotiated based on individual goods and service, then such supply can be billed at their specified rates under the GST schedules.

Solar Power Generating System classified as Composite Supply - not "Works Contract" or "Immovable Property”

Sterling And Wilson Private Limited Andhra Pradesh High Court TS-07-HC(AP)-2025-GST	The Andhra Pradesh High Court held that the Solar Power Generating System supplied and installed by the petitioner does not qualify as an immovable property. The Court applied the principles laid down by the Supreme Court in Commissioner of Central Excise, Ahmedabad v. Solid and Correct Engineering Works and observed that although the mounting structures are embedded in the earth, **the solar modules and the generating system are not attached for the permanent beneficial enjoyment of the land. Instead, the civil foundation is embedded only for the beneficial functioning of the Solar Power Generating System itself. Therefore, the system cannot be treated as immovable property.** Based on this finding, the Court concluded that the transaction does not fall within the definition of a “works contract” under Section 2(119) of the GST Act. The Court held that the supply of the Solar Power Generating System is a composite supply and not a works contract, as the condition of resulting in immovable property was not satisfied. Consequently, the impugned assessment treating the activity as a works contract taxable at 18% was set aside.

Rooftop solar-power plant at shopping mall qualifies as 'plant and machinery' and eligible for ITC

Grand Centre Mall Kerala Advance Ruling Authority AAR -KER/15/2025	**Observations by AAR:** The solar power plant is used in the course of furtherance of business and, since its mode of installation satisfies the legal test of being “fixed to the earth by foundation or structural support,” it qualifies as ‘plant and machinery’. It is integrally linked to the applicant’s business operations, as systems like lighting, air-conditioning, CCTV, networking infrastructure, UPS, lifts and escalators are essential for the functioning of a modern commercial mall. On applicability of ‘blocked credit’ u/s 17(5), AAR clarifies that “the solar panels and systems are mounted without major civil structures and can be dismantled without significant damage or effort. As such, they do not qualify as immovable property under general legal interpretation. Hence the restrictions under Sections 17(5)(c) and 17(5)(d) of the CGST Act are not applicable in the present case.

4.11 EPC Contracts of Mining Project

Mining projects involve extraction of minerals and require large-scale development before actual production starts. They are capital-intensive projects with multiple activities carried out through contractors and EPC arrangements. Major transactions in mining projects mainly include mine development work, overburden removal, construction of roads and civil structures and installation of plant and machinery.

Under GST, the key issue is whether these activities are treated as a single works contract or as separate supplies of goods and services. ITC is one of the most litigated issues in mining projects, with the core dispute being whether inputs and services relate to immovable civil structures (ITC blocked) or to plant and machinery used for mineral production (ITC allowed) u/s 16 and 17(5) of the GST law.

Typical EPC Contracting Structure in Mining Projects & GST Implications

Transaction	Supplier	Recipient	GST liability type
Grant of mining lease, extraction rights, royalty-based rights	Government / Mining Department / State PSU	Mine operator / SPV	Please refer to the table below titled ***"Tax Implications on Payment of Mineral Royalty"*** and **Circular No. 164 /20 /2021-GST**
Award of EPC contract for mine development work, overburden removal, construction of roads and civil structures.	Mining lessee / SPV	EPC contractor (main contractor)	Forward charge at 18% by EPC contractor
Back-to-back sub-contracts for specific project components	EPC contractor (main contractor)	Sub-contractors (civil, mechanical, electrical, pipeline, fabrication)	Forward charge at 18% by each sub-contractor; EPC contractor can claim ITC.

ITC Eligibility of Major components of Mining EPC Project

Asset / transaction	Nature of Inward supply (GST)	Situations
Mine development & overburden removal	Construction / improvement of land (immovable property)	Treated as Construction/works contract; blocked under section 17(5)
Haul roads / internal approach roads	Civil immovable property	Roads permanently attached to earth; section 17(5)(c)/(d)
Crusher house, conveyor tunnels, transfer towers	Composite works contract (civil + mechanical)	Civil Portion immovable; machinery may qualify as plant and machinery
Internal water supply / de-watering pipelines (within lease)	Plant and machinery (if linked to production)	Allowed when within operational premises
Pipelines / slurry lines outside lease area	Pipelines outside factory premises	Specifically excluded from plant and machinery
Mine offices, canteens, shelters	Business buildings	Civil immovable property - blocked under section 17(5)
Machinery (dumpers, excavators HEMM, drill rigs etc)	Vehicles / heavy equipment	Eligible, as it is not a passenger vehicle having approved seating capacity of not more than 13 persons

Tax implication on payment for Mineral Royalty	
Supreme Court (Nine-judge Constitution Bench) **Mineral Area Development Authority** **[2024 INSC 554] Dated 25-July-2024**	**Issue: Whether 'royalty' determined under the Mines and Minerals (Regulation & Development) Act, 1957 is in the nature of tax?** **Supreme court (8:1 Majority view)** held that "*Royalty is not a tax. Royalty is a contractual consideration paid by the mining lessee to the lessor for enjoyment of mineral rights. The liability to pay royalty arises out of the contractual conditions of the mining lease. The payments made to the Government cannot be deemed to be a tax merely because the statute provides for their recovery as arrears.*" **Retrospective application of the MADA Judgment with a cut-off date** The Supreme Court settled the issue by setting a cut-off date of 01 April 2005. Taxes can be levied on transactions made after this date, with collections beginning from 01 April 2026. To ease the burden, the amounts may be paid in instalments spread over twelve years. No interest or penalty will be chargeable for any period prior to the date of the judgment, that is, before 25 July 2024.
Supreme Court **Udaipur Chambers of Commerce and Industry & Ors. and Lakhwinder Singh versus Union of India** **[2021 (2) TMI 1219 - SC]** **[2021 (11) TMI 336 - SC]** **Dated 21-Feb-2021**	**Issue: whether the royalty under the Act of 1957is a "consideration" or not and further if that is "consideration", then what would be the effect pertaining to payment of service tax?** On 04.10.2021,in Writ Petition (Civil) No. 1076 of 2021 filed by the petitioner before the Hon'ble Supreme Court in the matter of M/s. Lakhwinder Singh v. Union of India & Ors., an interim order came to be passed whereby recovery of GST on royalty arising from the grant of mining lease, insofar as the petitioner was concerned, was directed to remain stayed. The said writ petition was ordered to be tagged with SLP (C) No. 3726 of 2017 in the case of Udaipur Chambers of Commerce and Industry v. Union of India, where the larger issue regarding leviability of GST on royalty was already under consideration.
Himachal Pradesh High Court (Shimla) **Lakhwinder Singh Stone Crusher** **TS-722-HC(HP)-2024-GST Dated 04-Nov-2024**	**Issue: Whether there can be levy of GST on royalty paid by the mineral concession holder for any mining concession granted by the State ?** **High Court held that** *"the judgment rendered in India Cement Ltd.'s case (supra) has now been overruled by Nine-Judge Bench of the Hon'ble Supreme Court in Mineral Area Development Authority & anr. vs. M/s Steel Authority of India & anr., 2024 INSC 554, wherein it has been held that royalty is not a tax. Therefore, the respondents (Department)are well within their rights to levy GST on the royalty paid by the mineral concession holder for any mining concession granted by the State. "*

5.5 When does a Civil Structure qualify as "Plant and Machinery" under GST ?

One of the most recurring interpretational challenges under GST arises in distinguishing "plant and machinery" from civil structures, particularly for the purpose of Input Tax Credit under Section 17(5). The law allows ITC on works-contract services used for the construction of plant and machinery but blocks ITC when the same services relate to civil structures, buildings or immovable property not qualifying as plant and machinery.

At the heart of the issue is the functional-nexus test: whether the structure merely houses the business activity or whether it actively enables or participates in the business's operational output.

Civil constructions like buildings, boundary walls and office blocks are non-qualifying because they do not directly contribute to the business process. However, structures used to store, transfer, process, or transmit utilities—such as water, effluent, electricity, refrigeration, or fiber-optic systems—may be civil in form but mechanical in function. These installations operate as essential components of the plant rather than as mere enclosures. Their dual nature blurs the boundary between civil construction and functional machinery. This intersection is the core source of disputes and drives the need for precise interpretational guidance.

#	Structure Type	Case/Circular	Reference	Ruling or Clarification under GST
1	Concrete towers that support and erect VCV lines within the factory	KEI Industries Ltd	GUJ/GAAAR APPEAL/2025/14 Dt. 31-07-2025	ITC on concrete towers for VCV lines is allowed, as they form part of plant and machinery and are not barred under Section 17(5)(c)/(d) of the GST Act.
2	Fresh water storage tank and a guard pond (effluent storage tank)	Nitta Gelatin India Ltd	Kerala KER/19/2025 Dt. 27-06-2025	GST paid on goods and services used for the construction of the fresh water storage tank and the effluent guard pond is eligible for ITC, as both structures qualify as "Plant and Machinery"
3	Rooftop Solar Power Plant	Grand Centre Mall	Kerala AAR KER/15/2025 Dt. 19-05-2025	Input Tax Credit (ITC) available on procurement and installation of a rooftop solar power plant at a shopping mall and will qualify as "Plant and Machinery"
4	Ducts and manholes used in optical fiber networks	CBIC Circular	Circular No. 219/13/2024-GST Dt. 26-06-2024	Ducts and manholes used in optical fiber networks qualify as "Plant and Machinery"
5	Refrigerated storage tank and Fire Water reservoir(tank)	SHV Energy Private Limited	10/AAR/2021 Dt. 31-03-2021	Refrigerated storage tank and Fire Water reservoir(tank) including structure support qualifies as "Plant and Machinery"
6	Structure Support to Water Slides	Atriwal Amusement Park	MP/AAR/12/2020 Dt. 09-06-2020	Steel & Civil Structure affixed to earth to Support Slides shall form part to "Plant and Machinery"

Note: These rulings are **fact-specific** and eligibility of ITC depends on the functional integration of the structure with the business process.

9.7 Validity of 1/3rd Land Deduction Under GST

Munjaal Manishbhai Bhatt I 06-May-2022 I Gujarat High Court | 2022 (5) TMI 397	
Facts of Case	The writ applicant entered into agreement with Navratna Organisers & Developers Pvt. Ltd for Purchase of plot of land along with Development of Bungalow on land. The agreement specified separate considerations for the land and the construction of the bungalow. According to the agreement, the writ applicant was responsible for paying all applicable taxes, including GST on entire consideration of sale of land and development of Bungalow after allowing 1/3rd of value towards land in accordance with the impugned paragraph 2 of Notification 11/2017 CGST Rate. The writ applicant contested the validity of the notification, claiming it was delegated legislation beyond the scope of the GST Acts. They argued that GST should apply only to construction services. The entire value of the land, they contended, ought to be excluded from the tax base.
Taxpayer Argument	• By taxing consideration attributable to land through a deeming fiction, the notification exceeds the scope of Sections 7, 9 and 15 of the GST Acts. • In petitioner's case, separate consideration was agreed for land and construction. When actual land value is ascertainable, tax must be on actual construction value; deeming it as only 1/3rd is arbitrary and contrary to Section 15(1). • Earlier VAT and Service Tax laws, guided by Gannon Dunkerley and Larsen & Toubro, allowed deduction of actual land value and only prescribed fixed percentages where actual value was unascertainable. • The 14th GST Council minutes show 1/3rd abatement was discussed only for flats / apartments with undivided land share, not for independent plots with separate land pricing. • In applicant case, the construction portion is only about 15-20% of the total agreement which is coterminous with the extent of construction to be made on the land. While the plot size is 1021 Sq. Mts., the built-up area is only 160 Sq. Mts. • Same 1/3rd deduction applies irrespective of land size or construction portion, causing higher tax in cases like petitioner's (large land, small construction) compared to flats. • Section 15(5) permits prescription by rules (not notification) for "supplies" only; land is neither goods nor services.
Department Contentions	• GST Council recommended standard deduction of 1/3rd land value to avoid valuation disputes and possible tax evasion from inflated land pricing. • Petitioner's agreement is not for mere land sale; it is an integrated package of developed land, construction and common amenities (roads, waterlines, drainage, club, security, etc.). Such developed plots fall under Para 5(b) of Schedule II (construction service), not Schedule III (sale of land). • Supreme Court in Narne Construction held sale of developed plot is not pure land sale; it involves service elements. Value of common amenities and approvals is inseparable from transaction value. • Even if inequities arise in some cases, it is not ground to strike down; legislature has wide latitude in tax classification (VKC Footsteps, Nitdip Textiles). • If land value in contract were accepted at face value, parties could artificially inflate land price to reduce GST liability on construction. Standard deduction is a safeguard against such practices. • Writ petitions against Advance Ruling Appellate orders are not maintainable under Article 226.
Court Ruling / Observation	• Sale of land is excluded from GST under Section 7(2) read with Entry 5 of Schedule III; only construction service can be taxed. In the case, the land was already fully developed before the agreement, so the only taxable supply was construction undertaken for the petitioner. • The impugned 1/3rd standard deduction applied even when actual land value was clearly ascertainable, which is contrary to Section 15 requiring valuation on actual consideration. • The deeming fiction was originally contemplated only for flats/apartments with undivided land share where actual land value was hard to determine but was wrongly extended to all cases. • Uniform deduction without regard to transaction type or land-to-construction ratio is arbitrary and not in line with the statutory valuation scheme. • The measure of tax must align with the charge of tax; here, part of the land value (which GST law excludes) was effectively taxed. • Entry 5(b) of Schedule II only decides whether a transaction is goods or services and does not expand the scope of supply. • Paragraph 2 of the notification, prescribing 1/3rd deduction in all cases, was held ultra vires the GST Acts and violative of Article 14 and was struck down.
Held	The Court struck down paragraph 2 of Notification No. 11/2017-Central Tax (Rate) and its State counterpart, which mandated a uniform 1/3rd deduction for land value in construction contracts, holding it ultra vires Sections 7, 9 and 15 of the GST Acts and violative of Article 14 of the Constitution; it ruled that when the actual land value is ascertainable, GST can only be levied on the construction portion with full exclusion of land value and found the deeming fiction arbitrary, discriminatory and without nexus to the charge of tax, thereby allowing the writ petitions and granting consequential relief to the petitioners.

10.4 List of all Notification, Circulars, ROD, Instructions & FAQs for Developer and Contractor

Date	Notification/ROD /FAQ	Issues
25-01-2018	Notification 4/2018 CT (R)	Time of Supply for TDR (FCM by Supplier)
02-05-2018	Circular No.44/18/2018-CGST	Issue related to taxability of 'tenancy rights' under GST
29-03-2019	Notification 3/2019 CT (R)	GST New Rates, Conditions & ITC (amending NN-11/2017)
29-03-2019	Notification 4/2019 CT (R)	Exemption on TDR & Lease and Valuation of TDR & unbooked area (amending NN-12/2017)
29-03-2019	Notification 5/2019 CT (R)	RCM on TDR & Lease by Promoter (amending NN-13/2017)
29-03-2019	Notification 6/2019 CT (R)	Time of Supply for TDR (RCM by Supplier)
29-03-2019	Notification 7/2019 CT (R)	RCM under section 9(4)- URD Cement, Capital Goods & Shortfall of 80% RD Purchases by Promoter
29-03-2019	Notification 8/2019 CT (R)	GST Rate @ 18% on Shortfall of 80% RD purchases
30-04-2019	Circular No. 101/20/2019-GST	GST exemption on upfront amount in installment of long term lease (Sn 41 of NN 12/2017)
07-05-2019	F.no. 354/32/2019-TRU-FAQs-I	Issued related to real estate clarified
14-05-2019	F.no. 354/32/2019-TRU-FAQs-II	Issued related to real estate clarified
22-07-2019	Circular No.109/28/2019- GST	Issues related to GST on monthly subscription/contribution charged by a RWA from its members
29-03-2020	ROD No.04/2019-Central Tax	ITC Reversal Rule 42 - Area based w.e.f 01-04-2019
30-09-2019	Notification 23/2019 CT (R)	NN.4/2018 ineffective from 01.04.2019 (FCM to RCM by Promoter)
30-09-2019	Notification 20/2019 CT (R)	In NN 3/2019 - Central Tax (Rate) dt. 29 March, 2019 the word 'registered' is omitted
24-06-2020	InstructionNo.3/2/2020-GST	Payment under RCM Shortfall of 80% RD Purchases by Promoter by DRC-03
02-06-2021	Notification 02/2021 CT (R)	Availability of ITC for landowner in JDA
02-06-2021	Notification 03/2021 CT (R)	Amendment of NN 06/2019 CTR- time of Supply for TDR (RCM by Supplier)
03-08-2022	Circular No. 177/09/2022-TRU	GST on preferential location charges (PLC) in addition to the lease premium for long term lease of land
03-08-2022	Circular No. 177/09/2022-TRU	Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST
13-04-2020	Circular No. 137/07/2020-GST	Refund or adjustment where contract is cancelled before issuance of invoice
27-12-2022	Circular No. 188/20/2022-GST	Manner for refund for unregistered person in case of cancellation of booking
03-08-2022	Circular No. 178/10/2022-GST	GST on liquidated damages, forfeiture of booking & Cancellation charges
31-10-2023	Circular No. 206/18/2023-GST	GST on reimbursement of electricity charges
15-07-2024	Circular No. 228/22/2024-GST	GST on statutory collections made by RERA
11-10-2024	Circular No. 234/28/2024-GST	GST Applicability on Preferential Location Charges collected along with Residential/Commercial Properties