Applicability of GST Law & Rules to Resident Welfare Associations

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What constitute “Maintenance Charges”

Maintenance charges are recurring fees collected from residents to manage and maintain shared common areas and common facilities and to fund the daily operations, security, repairs. Maintenance charges charged by RWA’s generally included the following:

- **Housekeeping & Sanitation** : Regular cleaning of corridors, staircases, lobbies, and other common areas. Includes garbage collection, disposal, and upkeep of hygiene standards across the premises.
- **Security & Surveillance** : Salaries and benefits for security guards, installation and maintenance of CCTV cameras, access control systems, and other measures to ensure safety of residents.
- **Utilities (Common Area Consumption)** : Electricity and water used in lighting corridors, running pumps, operating elevators, and other shared facilities.
- **Power Backup** : Costs of running and maintaining diesel generators or other backup systems to provide electricity during outages. Includes fuel expenses, servicing, and operator charges.
- **Infrastructure Repairs & Preventive Maintenance** : Repairs and maintenance of lifts, generators, water tanks, pipelines, gardens, children’s play areas, and other shared facilities. Covers both minor fixes and long-term upkeep.
- **Reserve / Sinking Fund** : Contributions toward a dedicated fund for major structural repairs, renovations, or replacements (e.g., repainting buildings, replacing elevators, waterproofing terraces).
- **Clubhouse & Recreational Facilities** : Charges for membership, usage of gym, swimming pool, indoor games, banquet halls, and other recreational amenities. May also include rental fees for private events hosted in common facilities.
- **Taxes, Levies & Statutory Payments** : Property tax, house tax, municipal authority fees, fire safety compliance charges, and other statutory levies payable by the RWA on behalf of residents.

Applicability of GST on RWAs

Section 7(1)(aa) of CGST Act, 2017 was specifically introduced vide Not. No. 39/2021, Dated 21-12-2021 to brought supply made by club, association etc. to its members under GST ambit. These provisions was brought into force on 1st January 2022 and made applicable with retrospective effect from 1st July 2017. The said section is reproduced below:

Section 7(1)(aa)

For the purposes of this Act, the expression - "supply" includes the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation -For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another.

By virtue of above provisions, Resident Welfare Association and its members are treated as two separate persons for GST purposes. These provisions was specifically introduced to bypass the concept of mutuality. The principle of mutuality is a legal doctrine that holds that no one can make a profit out of themselves. In the context of clubs and associations, it means that there is no distinction between the entity and its members and they are treated as the same legal person. Hence, transactions between them are not considered "supply" or "income," and cannot be taxed. This doctrine has long been recognised in Indian law, especially in indirect tax cases.

Thus, in view of above provisions when the RWA collects money from residents for services/facilities, it is considered a taxable supply by the RWA to the members. Accordingly, as per above provisions RWA's are liable to charge and pay GST and required to get registration under GST. However, If the turnover of housing society is less than Rs. 20 lakhs, it does not need to take registration under GST in terms of Section 22 of the CGST Act, 2017.

Principle of Mutuality in GST

Before the introduction of GST, the principle of mutuality was well-established under both sales tax and service tax regimes. Several High Courts and Apex Court consistently held that clubs and associations were not liable to pay tax on transactions with their own members as RWA and its members are treated as same legal person and they cannot provide service to self and hence tax cannot be levied. In GST regime also recently the Hon'ble Kerela High Court In the case of **Indian Medical Association vs. Union of India**, held the provisions of 7(1)(aa) unconstitutional and void being ultra vires to Article 246A.

The Division Bench of the Kerala High Court allowed the Petitioner's writ appeals, holding that the impugned amendments were unconstitutional in their entirety. The Court held that GST, as envisaged under Article 246A read with Article 366(12A) of the Constitution, is a tax on the supply of goods or services or both, and that the concepts of "supply" and "service" inherently require the existence of two distinct persons, namely a supplier and a recipient. Transactions involving self-supply or self-service are not contemplated under the constitutional scheme. The Court noted that while the 46th Constitutional Amendment had introduced a deeming fiction under Article 366(29A) to treat certain transactions as "sales" for the purposes of sales tax, no corresponding constitutional amendment had been enacted in the context of GST to deem supplies between clubs and their members as taxable supplies.

The Court relied heavily on the doctrine of mutuality. Before the introduction of GST, the principle of mutuality was well-established under both sales tax and service tax regimes. Courts consistently held that clubs and associations were not liable to pay tax on transactions with their own members as recognized and affirmed by the Supreme Court in State of West Bengal v. Calcutta Club Ltd., and held that the principle continued to apply even after the introduction of GST.

While the Government has already appealed the decision, it is pending before the Supreme Court vide SLP (C) Nos. 18349-18350/2025. (Union of India v. Indian Medical Association)

Exemption to RWA from GST

An exemption has also been provided to RWA's from levy of GST on maintenance service vide entry no. 77 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 which is given hereunder

S. No.	Service Code	Description of services	Rate
77	Heading 9995	Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution – (a) as a trade union; (b) for the provision of carrying out any activity which is exempt from the levy of Goods and service Tax; or (c) up to an amount of (Seven thousand Five Hundred)* rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.	NIL

* The said limit was Rs. 5000 which was increased to Rs. 7500/- w.e.f. 25.01.2018 vide Not. No. 2/2018- Central Tax (Rate).

The above entry provides that GST Rate shall be Nil if the amount of Monthly Maintenance Charges per member is less than Rs. 7500/-. From the bare reading of the provisions, it is clear that the exemption of Rs. 7500/- per month per member is available on a monthly basis, irrespective of the pattern of issuance of invoices, whether monthly or quarterly.

Here it is important to note that per person means per apartment unit, not the number of people living in the apartment. Also, the threshold limit of Rs. 7500/- will apply twice if one person owns two flats in a society.

Exemption if monthly charges exceed Rs. 7500

An important question arises here is that if monthly maintenance amount exceeds Rs. 7500 per month per member , whether GST to be charged on aggregate amount or amount exceeding Rs. 7500

On the plain reading of the wordings of entry no. 77, it can be clearly comprehended that maintenance charged **UPTO** an amount of Rs. 7500 are exempt. In other word, maintenance charges over an above 7500 are leviable to GST.

However, CBIC issued circular no.109/28/2019- GST wherein it was clarified that the exemption from GST on maintenance charges charged by a RWA from residents is available only if such charges do not exceed Rs. 7500/- per month per member. In case the charges exceed Rs. 7500/- per month per member, the entire amount is taxable.

However, the above circular was quashed by the judgement passed by Madras High Court in the matter of **Greenwood Owners Association vs. Union of India** in July 2021. Hon’ble Madras High Court ruled that Resident Welfare Associations (RWAs) are required to pay Goods and Services Tax (GST) only on the differential amount if a member’s monthly contribution exceeds the Rs. 7500/- exemption threshold, rather than taxing the entire amount. The CBIC Circular dated 22nd July 2019, which said that the entire amount becomes taxable, was quashed to that extent.

Though this matter is not yet settled as department has challenged the said decision of the Hon'ble Madras High Court before the Hon'ble Division Bench of Madras High court and Hon'ble Division Bench has issued interim stay order to the said decision and matter is not yet decided.

What is included in exemption limit of Rs. 7500

For the purpose of determining the exemption threshold of ₹7,500 per month per member under GST, the amount to be considered includes the monthly subscription or contribution collected by the Resident Welfare Association (RWA) from its members towards common maintenance and related services. This encompasses charges for upkeep of common areas, security, housekeeping, repair and maintenance of facilities, and other routine services provided collectively to members. The exemption limit is computed on the gross monthly contribution per member, and any amount exceeding ₹7,500 per month per member renders it taxable.

Here a question arises whether a corpus fund/sinking fund collected from member of RWA for specific purposed is to be included while calculating monthly exemption limit?

Contributions collected from members towards sinking fund or corpus fund constitute advance receipts for future supply of services though liable to GST at time of receipt, however nature and character of sinking fund/ corpus fund are distinct from monthly maintenance charges, accordingly, such contributions are not required to be clubbed with monthly common area maintenance charges for purpose of determining eligibility for exemption under Entry No. 77 of Notification No. 12/2017-Central Tax (Rate), dated 28.06.2017.

The said issue also came before the Hon'ble Advance Ruling Authority of Karnataka in the matter of Godrej United Owner's Association, In re [2026] 185 taxmann.com 329 (AAR - KARNATAKA) and it was decided in favour of taxpayer that sinking fund or corpus fund shall not form part of the monthly maintenance charges for calculated exemption limit of Rs. 7500.

What is included in exemption limit of Rs. 7500

Another question arises here is that whether Electricity and Water charges of specific units of members is to be included while calculating monthly exemption limit?

Electricity and water consumption charges for units supplied directly to member and paid by RWA are normally charged on cost-to-cost basis i.e. as reimbursement of actual charges are charged by RWA's from its members. As Per entry no. 77 of Not. No. 12/2017 **Services charges** by way of **reimbursement of charges** or **share of contribution** upto Rs. 7500 per month per member for **sourcing of goods or services** from a third person **for the common use** is exempt. If we go by the plain reading of the words given in the notification it includes reimbursement of charges in the monthly limit of Rs. 7500.

However, as per Section 15 of CGST Act read rule 33 of CGST Rules, expenses incurred by a supplier as a pure agent of the recipient are excluded from the taxable value of supply i.e. when supplier incurred expenses on behalf of recipient and recover the actual cost without any markup, the said value is not included in the value of supply. Thus, as per the said rule, unit specific electricity and water charges should not be included in the value of supply. Similar view has been expressed in Circular No. 206/18/2023-GST dated 31.10.2023 issued by CBIC.

This view also get strength from the fact that notification no. 12/2017 mentioned about **service charges** for **sourcing of goods** or **services** for **common use**, whether collected as reimbursement or share of contribution while rule 33 specifically excludes reimbursement of charges from value of supply. Unit specific **electricity and water usage charges** does **not** constitute **service charges for common use** but are specific for units and charged as pure reimbursement. Thus, In our considered view, the value of electricity and water supplied to individual units ought not to be included while computing the exemption threshold of ₹7,500 per month per member. That said, it is pertinent to note that the Department may adopt a divergent interpretation on this aspect.

Input Tax Credit (ITC) to RWA

RWA is eligible to claim Input Credit of the GST paid on inputs, Input Services and capital goods subject to the conditions prescribed in section 16(2) which lays down specific conditions for claiming ITC. In essence, the RWA can offset the tax paid on its inward supplies against its outward tax liability, provided the statutory requirements of Section 16(2) are satisfied

Resident Welfare Associations (RWAs) are entitled to avail Input Tax Credit (ITC) on the GST paid towards procurement of capital goods such as lifts and water pumps, as well as on services like security, manpower supply, and other goods or services procured for providing maintenance services to residents. This entitlement ensures that RWAs can offset the tax paid on such inward supplies against their outward tax liability.

However, it is important to note that ITC can be claimed only when the RWA is itself charging GST on the maintenance/service charges collected from its members. In other words, the availability of ITC is conditional upon the RWA being registered under GST and levying GST on its taxable supplies to residents. If RWA is not charging GST from its member, being total value of supply is less than 20 Lakhs or monthly services charges are less then exemption limit i.e. 7500 per month per member, ITC cannot be claimed.

Where an RWA charges GST on service charges collected from certain members, while not charging GST from others whose monthly contribution falls below the exemption threshold of ₹7,500 per member, the entitlement to Input Tax Credit (ITC) becomes proportionate. In such circumstances, ITC can be availed only to the extent attributable to taxable supplies, in accordance with Section 17 of the CGST Act read with Rules 42 and 43 of the CGST Rules. In such cases ITC can only be claimed in same proportion which taxable turnover bears to the total turnover.

Frequently asked Questions

1. **What is the HSN/SAC Code and GST rate for maintenance services, club charges, power backup and other services provided by RWA to its members?**

Services provided by a Resident Welfare Association (RWA) fall under the broader Services Accounting Code (SAC) heading 9995. The specific and most accurate code for Home Owners Associations is 999598. GST rate on maintenance services is 18%.

Maintenance Service	999598	18%
Parking Charges	996743	18%
Club charges	999594	18%
Power backup	998631	18%
Sinking fund / corpus fund	999598	18%

2. **Is GST leviable on amounts collected from the members as a corpus fund/sinking fund which is in form of deposit?**

The corpus fund / sinking fund / repair fund collected by the RWA for future contingencies constitutes consideration for future supply of services and, therefore, attracts GST. The time of supply will be the date of receipt of payment.. Authority for Advance Rulings, Tamil Nadu in the case of **M/S. Crimson Dawn Apartment Owners Welfare Association** vide Case No. TN/16/ARA/2025 dated 07.05.2025, ruled that GST is payable on corpus/sinking/capital fund collected for future services like painting and major maintenance.

3. **Is voluntary contribution received from the members by RWA for celebration of cultural festivals liable to GST?**

Voluntary donations collected by RWA does not involve any services. The contributions are made at the discretion of the members and are not linked to any specific supply. Therefore, voluntary donations from members for festival celebrations do not constitute consideration for any supply in terms of section 7 of CGST act and, therefore, does not attract GST.

Frequently asked Questions

4. Are electricity charges collected by the RWA liable to GST?

Electricity charges collected by RWA from individual flat owners for unit specific usage would not attract GST if the RWA is acting as a pure agent. i.e. if RWA is collecting same amount which was incurred and do not charge any profit / markup on the same. However, if these charges are collected for generation of electricity by society's generator, then such charge will be liable to GST.

5. How Interest or Penalty on Late Maintenance Payment are treated under GST?

Interest or penalty charged by a housing society for delayed payments of maintenance charges is taxable under GST. As per Section 15(2) (d) of the CGST Act, interest or late fee in relation to a supply form part of the value of such a supply. In the case of housing societies, the supply is maintenance contributions, and the cost of punishment for default of payment is an incidental cost associated with the supply.

6. Is the contribution from members for supply of water procured through water tanker or WSSB exempt from GST?

Such contribution is incidental to the maintenance services provided by the RWA and constitute part of composite supply. Accordingly, it is not exempt from GST and will be added while calculating the Rs. 7500/- monthly per person threshold.

7. Property Tax/ Water Tax collected by RWA on behalf of Municipal Corporation- liable to GST?

Services provided by Central Govt., State Govt., Union Territory or local authority to a person other than a business entity is exempt from GST. So, Property Tax, Water Tax, if collected by RWA on behalf of Municipal Corporation from individual flat owners, then GST is not leviable.

Frequently asked Questions

8. Whether GST shall be charged on maintenance service by RWA in respect of units whose monthly contribution falls below ₹7,500 per member while in case of few unit it exceeds the said limit?

GST shall be charged in respect of those units where monthly service charges of unit exceed Rs. 7,500/-. However, in case of units where monthly service charges are less than Rs. 7,500/-, no GST shall be charged.

9. If an RWA provides both taxable and exempt services, is the entire ITC available to the RWA?

No. Where the RWA makes both taxable and exempt supplies, ITC attributable to exempt supplies is restricted and common credit is required to be apportioned in accordance with Section 17(2) read with Rule 42 of the CGST Rules.

Thank you

DO YOU HAVE ANY QUESTIONS?

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