

House prices may go up 4% on service tax

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PRICES of residential flats are likely to go up by 4% in a couple of months, notwithstanding the recent relaxation in the service tax. The latest Union Budget had imposed a 3% service tax on builders, while the state would impose VAT of 1% on a flat's price.

Though the service tax has been waived off on flats with a completion certificate, it's unlikely to help, say people associated with the realty sector. Builders typically sell as they build and finance a project through sale of flats while they are still under construction. Also, if builders wait for a completion certificate before selling, then (local) municipal taxes kick in and they will have to pay these till the flat is sold. Builders say this is unlikely to happen.

"Normally, tax provisions in the Finance Bill come into force from June 1, which is when we expect the service tax to come into force. So, if a flat costs Rs 40 lakh, builders will get 75% abatement which leaves Rs 10 lakh, or 25%, on which service tax will have to be paid. The buyer will have to pay around 3% as service tax and 1% VAT (in some states including Maharashtra)," said CREDAI Pune president Satish Magar.

CREDAI, or the Confederation of Real Estate Developers Association of India, is an industry body with local city chapters. Taking a more optimistic view, Pawan Swamy, managing director, western region of Jones Lang LaSalle Meghraj, or JLLM, a property consultancy, said prices could go up by a more modest 2-2.5%. "The service tax has already been rolled back from being charged on 33% to 25%, with the finance minister realising that builders will pass on this and a price increase will affect the 'aam aadmi', the end buyer," he said. There seems to be, however, no clarity on the imposition of service tax. Sachin Menon, executive director, KPMG, and national leader for indirect tax at the consultancy company, said levying service tax on developers is ultra vires of the Constitution.

"There is no constitutional sanction for the levy of service tax on developers, since there is no concept of a deemed service in the Constitution. Builders may not challenge this in court, but it is only a matter of time before someone else does," Mr Menon said.

Last year, when the excise department had sent notices to builders in Maharashtra over payment of service tax, CREDAI Pune had challenged this in court. The Bombay High Court had upheld the builders' contention that selling a house is not a service, hence cannot come under the ambit of service tax. This year, however, the provision has been included in the Union Budget, so there is no chance for interpretation, said CREDAI Pune's Mr Magar.

Mr Swamy added: "It is not clear at what stage the service tax will be levied: when the document is being registered or when the flat is handed over, on completion." This raises the contradictory issue that once the flat is completed and handed over, service tax does not apply.