

Construction and Real Estate Sector

Indian Concrete Institute

Hotel Capitol

20-12-2018

GST at 12% *

Developer liable to GST

Construction of apartment
sold to Buyer

Construction of apartment's
exchanged with Land-Owner

GST at 18%

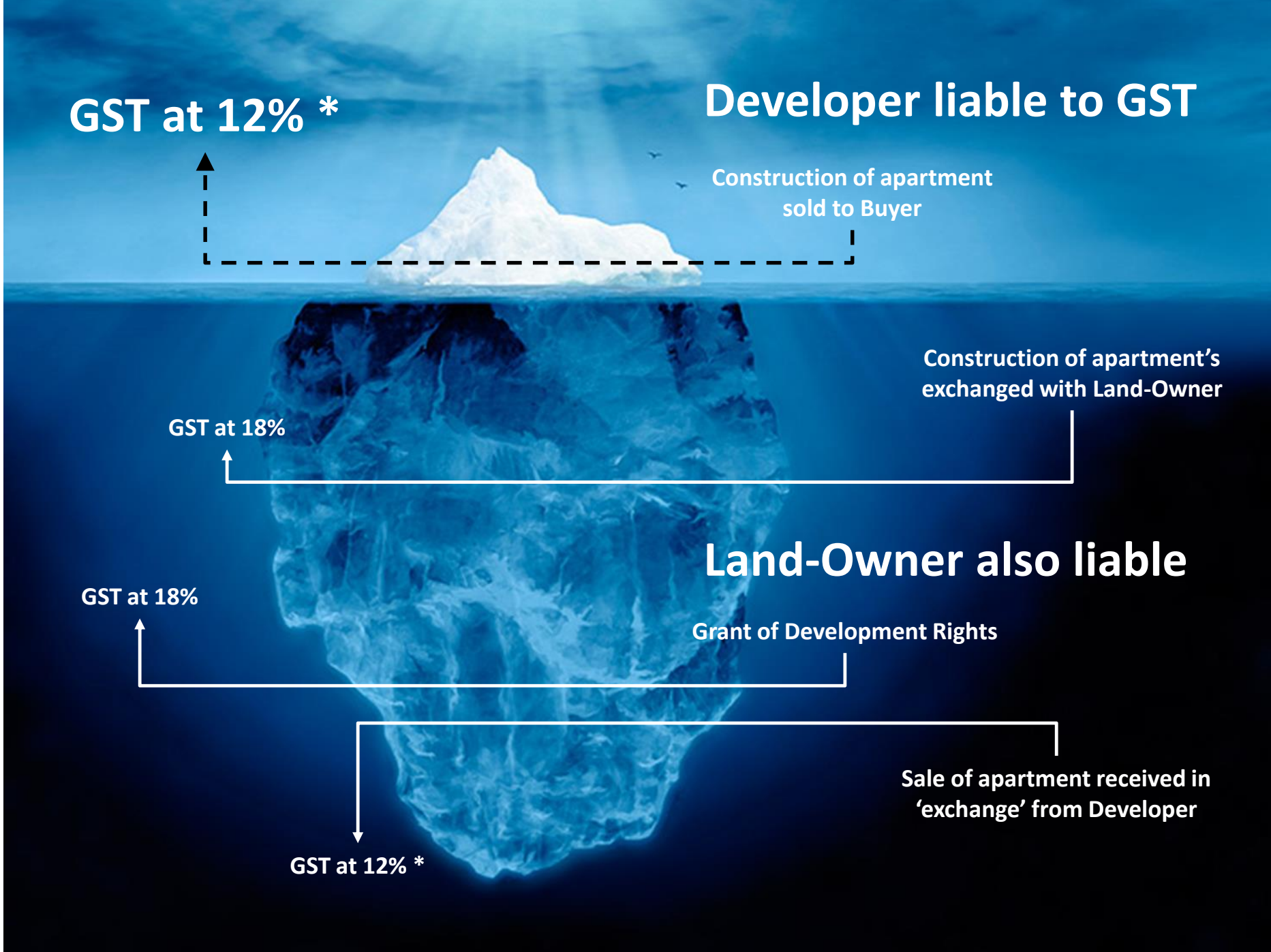
Land-Owner also liable

GST at 18%

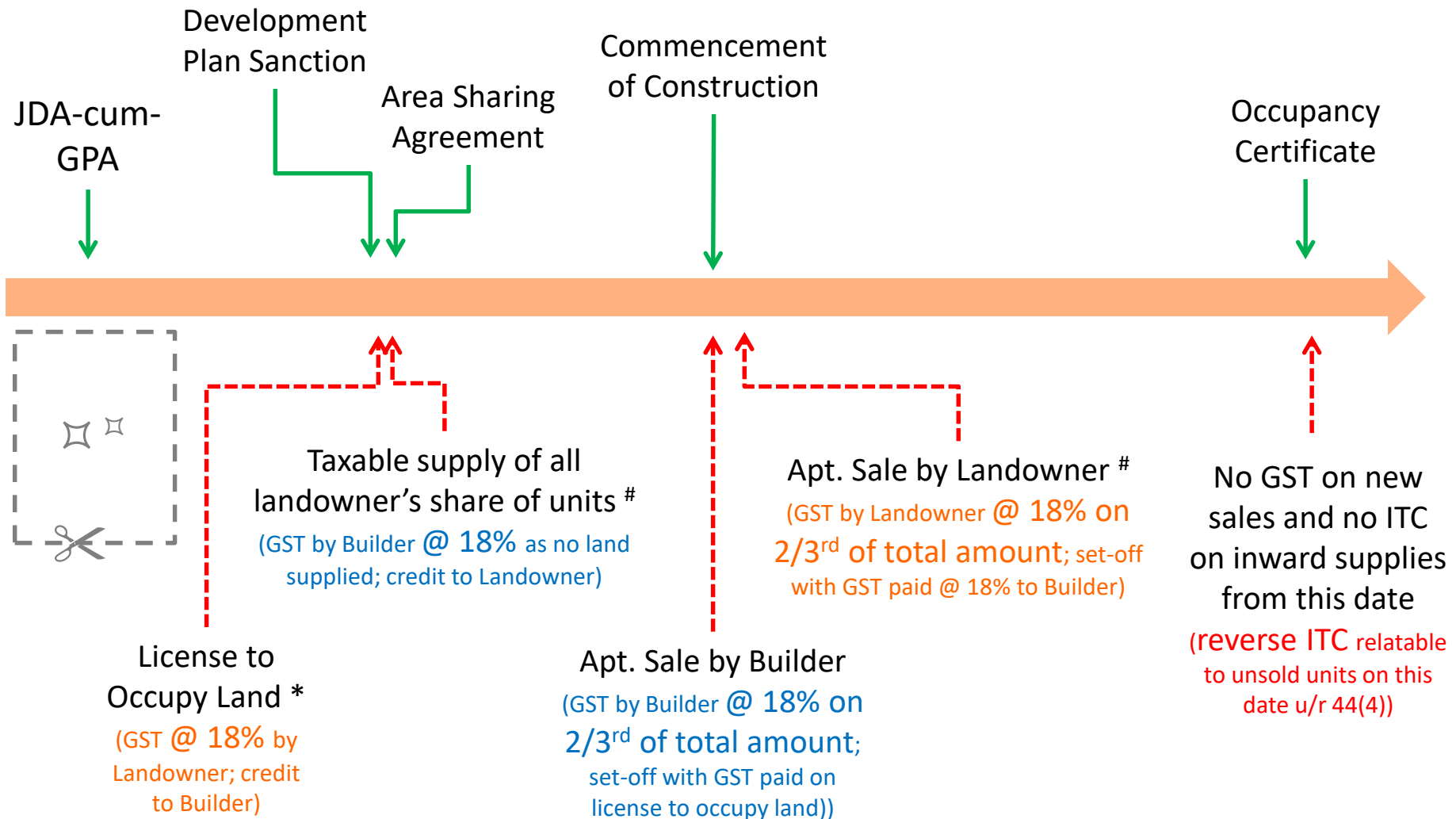
Grant of Development Rights

Sale of apartment received in
'exchange' from Developer

GST at 12% *



GST on Real Estate Development



* Builder liable u/s 9(4) (with ITC) if landowner refuses to pay GST

Landowner to charge GST to Buyer and set-off GST paid to Builder

4/2018-CT(R)

Notification No. 4/2018-Central Tax (Rate)

25 Jan, 2018

G.S.R.....(E).- In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the following classes of registered persons, namely :-

(a) registered persons who supply development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure; and

(b) registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights,

as the registered persons in whose case the liability to pay central tax on supply of the said services, on the consideration received in the form of construction service referred to in clause (a) above and in the form of development rights referred to in clause (b) above, shall arise at the time when the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter).

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Property Development

Construction for 'supply'

- GST on immovable property:
 - Scope of sch III
 - Scope of para 2(a), sch II
- Rights of Developer:
 - Transfer of Property Act
 - Indian Contract Act
- Co-existence of rights (div.)
- 'Roles' of Developer
- Credit stoppage/rule 42
- *Situs* effect, inward supply

Construction for 'lease'

- Identification of 'business'
- Completion of construction
- No fractional ownership
- Assets after completion
- Ownership of assets:
 - by Owners
 - by Tenants
 - by Association
- Electricity supply (ES Rules)
- Registration at PoB or PoS

Joint Development – Flats/Units

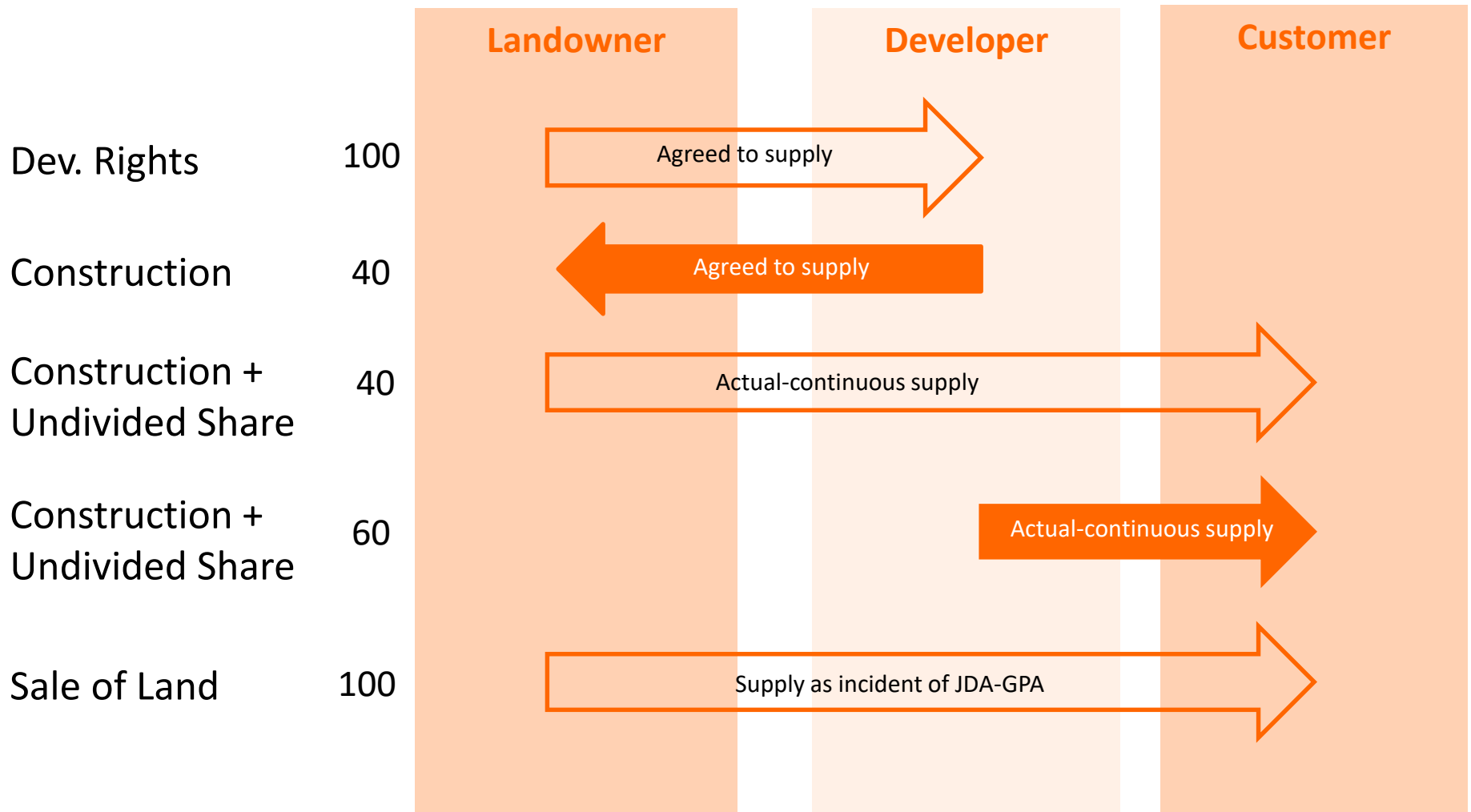
Area Sharing

- Object(s) of supply:
 - by Owner
 - by Developer
- Number of supplies
- Effect of 4/2018
- Valuation of 'exchange'
- Time of credit accrual
- Owner 'cash neutral'
- Overlap of Agreements

Revenue Sharing

- Object(s) of supply:
 - by Owner
 - by Developer
- Availability of 4/2018
- Effect on Time of Supply
- Effect on 'time' of credit
- Margin 'effect' on addl. tax
- Developer's credit overflow
- Overlap of Agreements

4/2018-CT(R)



Joint Development – Plot

Area Sharing

- Object(s) of supply:
 - by Owner
 - by Developer
- Effect of pre-sales ‘advance’
- Manner of financing
- Contribution of 4/2018
- Concept of ‘building’
- Undivided ownership (acc.)
- Overlap of Agreements

Revenue Sharing

- Object(s) of supply:
 - by Owner
 - by Developer
- Effect of pre-sale ‘restrictions’:
 - Contractor with lien
 - ‘Time of Supply’ (not 4/2018)
 - ‘Time’ of credit accrual
 - Role alteration (Phase A-B)
- Cooperative model

Construction Activity

- GST on works contract:
 - Construction services
 - Other works contract
- Special 'rate' categories
 - Identification
 - Responsibility
 - Effective date
- Execution method:
 - Buy-hold-supply
 - In-transit supply
 - Supply-apply
- Margin allocation:
 - Captive services
 - Bought-out components
- Classification effect (subcon)
- Credit restrictions:
 - Nature of ineligible credit
 - Credit overflow effect
 - Cross-utilization effect
 - Special rate categories
- Credit-loss recovery effect
- Effect of 142(11)

Thank You