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Implications of RERA 2016, GST 2017 & Covid 19 on Construction Industry with special reference to Maharashtra State

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Abstract: From July 1, 2017, the Goods and Services Tax will replace multiple taxes levied by the central and state governments and get subsumed of all the indirect taxes, including central excise duty, commercial tax, octroi tax/charges, Value-Added Tax (VAT) and service tax. The RERA Act was passed in the 2016, subsequently the GST Act was passed in 2017. Since January 2020 India is facing crisis of Covid-19. All these Acts makes positive and late negative impact on the construction industry. The researcher studied the both the Acts from Builders and customers point of view. Both Acts have positive impact on the construction industry in the long run. The contractors and builders will be shouldered responsibility of providing the quality product to their customers due to RERA Act. GST also increased the coverage of tax as builders will have to purchase the material from registered dealer to avail the credit. After the introduction of GST, other taxes are subsumed the rates of materials reduced slightly, the benefit of which ultimately goes to the customer. But due to Covid-19 pandemic situation the purchasing power capacity of many people decreased. People were focusing only on basic needs and it had adverse impact on the construction industry. In short, the customer will be more beneficial on account of Quality product with lower prices.

Index Terms - RERA, GST, Real Estate, Construction Industry, Covid-19

I. Introduction:

The RERA Act 2016 and The GST Act was passed in 2017. After GST there was confusion among the buyers regarding the prices of houses and construction material. In this paper the researcher has tried to study various rates of GST on different materials used in construction work. The researcher has also studied impact of RERA Act and GST Act 2017 on Construction Industry. Similarly the researcher also tried to explain various works contracts. The researcher has tried whether GST and RERA is beneficial from Customers and Contractors point of view. Due to consecutive Acts applicable to construction and industry and Covid-19 pandemic situation construction industry slow down their sales.

II. Objectives:

- To study the GST on account of Construction Industry
- To study the RERA Act 2016
- To study the impact of GST & RERA together on Construction Industry.
- To study the impact of Covid-19 on Construction Industry.

III. Impression of RERA Act 2016:

The real estate (Regulation and Development) Act, 2016 was passed on 25th March 2016. RERA Act lays down that in case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is brought to the notice of the promoter within a period of five years by the allotted from the date of handing over possession, it shall be the duty of the promoter to rectify such defects without further charge, within thirty days, and in the event of promoter's failure to rectify such defects within such time, the aggrieved allotted shall be entitled to receive appropriate compensation in the manner as provided under this act. This is a boon to the buyers.

IV. Important Provisions of RERA

No promoter is allowed to advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building in any real estate project or part of it, in any planning area, without registering the project with the RERA. The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority and the registration number obtained from the Authority. Where any Allottee sustains any loss or damage by reason of any incorrect, false statement included therein, he shall be compensated by the promoter in the manner as provided under this Act. The entire

investment along with interest and compensation shall be returned to allottee if he intends to withdraw from project. The promoter shall make an application to the Authority for registration of the project within a period of three months from the date of commencement of this Act for ongoing projects and whose completion certificate is not issued.

V. Impression of GST Act 2017:

The GST Bill was approved in the Lok Sabha on March 29, 2017 with four supplementary legislations- The Central GST Bill, 2017; The Integrated GST Bill, 2017; The GST (Compensation to States) Bill, 2017; and The Union Territory GST Bill, 2017.

At the debate preceding the passing of the bills, finance minister Arun Jaitley said the GST, which will usher in a uniform indirect tax regime in the country, will make commodities 'slightly cheaper.' "Today, you have tax on tax, you have cascading effect. When all of that is removed, goods will become slightly cheaper,"

On 1st July 2017, all sectors have to pay Goods and Service Tax (GST) in India. The GST is expected for reducing the overlapping tax burden in India.

The GST for building materials ranges between 5% and 28%. Following table shows GST rates based on the percentage relating to Construction Materials.

5%	12%	18%	28%	12-18%	18-28%
River Sand	AAC Blocks	Steel	Cement	Marble and Granite	Tiles
Crush Sand	Fly Ash Bricks	Cement Block	Glass		CP Fittings
Aggregate		GI Fittings	Wire and Cable		Aluminum Windows
Stones		Key Lock	Paint & Varnish		
Red Bricks		Sanitary Fittings	Wooden Door and Window		
Shahabad		Wallpapers			

VI. Important Definition:

Works Contract:

Works Contract has been defined in Section 2 (119) of the CGST Act, 2017 as under:

"works contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

Thus, the definition as adopted in GST is more influenced from VAT Laws than Service Tax. Accordingly, the definition does not provide for any generic definition but only includes 14 types of contracts as works contract, which are as follows:

1. Building
2. Construction
3. Fabrication
4. Completion
5. Erection
6. Installation
7. Fitting out
8. Improvement
9. Modification
10. Repair
11. Maintenance
12. Renovation
13. Alteration
14. Commissioning

VII. Will GST make home loans expensive?

Before evaluating the likely impact of the GST on home loan costs, it is important to understand the components that will be impacted by the increased rates under the GST. The main cost of taking a home loan, is the interest payment on the money. This cost will not change, as there is no service tax or GST on it. Similarly, any stamp duty charged in connection with the documentation of the home loan, will not change with the GST, as stamp duty is not subsumed under the GST.

However, there are various charges that are levied by lenders on home loans. First and foremost is the processing fee that is paid at the time of taking the home loan. At present, it is 15 per cent but it will go up by 3 per cent under the GST, to 18 per cent. This is generally a one-time cost and its overall impact on your home loan tenure, will be insignificant. The banks may also recover other charges like advocate fees, valuation charges, etc., in connection with the home loan, which will go up proportionately.

COVID-19 impact on Indian housing market in Maharashtra State

The Coronavirus spread has further delayed a recovery that might have seemed possible, because of various government measures to revive demand, even though, right now, it does not seem like prices will go down immediately. Niranjana Hiranandani, National President, NAREDCO, states that "Salvaging Indian realty, the second-largest employment generator is critical, not only from the GDP growth perspective but also for employment generation, since the sector has a multiplier effect on 250-plus allied industries." The demand slowdown in the residential segment has already curtailed housing sales, project launches and price growth in India's residential realty sector, which has been reeling under the pressure caused by mega regulatory changes, such as the Real Estate Regulatory Authority (RERA), the Goods and Services Tax (GST), demonetisation and the Benami Property Law.

VIII. Remedies to Increase sale of Property by Maharashtra Govt.

1. Oct. to Dec. 2020 rate of Stamp duty was 2%
2. Jan. to March 2021 rate of Stamp duty was 3%
3. April to June 2021 rate of Stamp duty was 5%
4. As per survey of tealindia property sale transaction count was increased by 52.6%, 44.1% and 52.2% during the month Dec. 2020, March 2021 and June 2021 respectively to avail benefit of cost reduction on account of stamp duty. Among all the Talukas Haveli recorded highest maximum number of property sale registration.
5. RBI announced sever rate cuts, bringing the repo rate to 4% customer is getting housing loan at lower than 7% p.a.

IX. Important Findings:

1. One of the major flaws of the previous indirect tax regime – the non-availability of tax credit of central/union taxes over state taxes and vice versa, this could be eliminated by allowing unrestrictive tax credit under GST.
2. GST will have a positive change by ensuring cascading of taxes is reduced. This will be greatly beneficial as it will lead to a lower cost of production.
3. Due to RERA responsibility of developers to provide adequate and extended warranty for the material / equipment used in construction will result in the demand for quality and durable materials which will extend to products like doors and windows. Hence the demand for the PVC and aluminium doors and windows is bound to increase, the GST rate will be lower for the PVC product than the previous year's tax rate, it will bring down the price to the final consumer.
4. If builders don't use quality products, they will be in trouble, they have to compensate the buyers, in case they find any defect in the project in the initial 5 years, they have to fix any defects for free within 30 days, failing which they ought to compensate
5. GST will reduce the tax burden of raw material for the retail customers and builders. As tax credit will be available to all the builders for raw material purchased leading to reduction of overall cost of construction and interstate movement of material would have no additional tax, leading to lower cost to the purchaser.
6. Also, GST will not apply to completed and ready-to-move-in projects, as there are no indirect taxes applicable in the sale of such properties. What this means is that all properties that have received completion certificate will not fall under the ambit of GST.
7. GST rate of 12 per cent will be applicable on under-construction properties. A property that is under construction is governed by the works contract. Under GST works contract is taxable at 12 per cent with full input tax credit.
8. Rate of stamp duty was reduced by the Maharashtra Govt. during the Pandemic period for 9 months to increase the sale of real estate.
9. During the period of Dec. 2020 to June 2021 number of property sale is increased.

X. Conclusion:

While RERA and GST will slowly change the way the real estate industry operates in India, they have also thrown open a few aspects that need extensive deliberation. One such issue is the liability of developers to provide for workmanship for structural defects for a period of five years. Unlike in the past, developers will now have to create a back-to-back warranty with suppliers in case a challenge comes up. Starting from the contract to execution and finally handing over, documentation has to be clearly spelled out. If a developer wants to save himself from the pain of poor construction, he will have to keep tabs on agencies he conducts business with and the quality of materials he procures. The end user would, of course, benefit from this improved diligence.

GST in India provides the long awaited generalization of the indirect tax structure. The cash constituent of the building construction economy will reduce due to the execution of GST in India. To avail ITC, contractors must purchase raw materials from GST-registered vendors, resulting in better tax compliance. Under GST, the work contract is considered as a service, and hence, the composition scheme is not available. Contractor's compliances and costs will increase as they will follow the standard taxation system. GST confirmation on works contract as a service has brought clarity. But the lack of details in the areas of input tax credit (ITC) and composition schemes might lead to disputes. All in all, GST should impact the construction sector in a positive manner, not only from a rate perspective but also on pricing of various products, albeit in a long run.

With the introduction of GST and RERA, the Industry will benefit as there will be complete governance and transparency which will ensure that buyers are getting the right, good quality products. The project delivery would be on time and the builder will have to guarantee that the products installed in the projects are of superior quality or will then face actions. This will be a good move as companies with good quality products and reputed companies will only survive. The 5 year warranty will assure the use of high quality products. For resolving the issues, we should feat an international standard same like those practiced in Germany.

During pandemic situation the property states were stable, not increased but due decrease in stamp duty in registration real estate sector grown gradually.

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