IMPACT OF RERA AND GST ON THE REAL ESTATE SECTOR IN INDIA

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ABSTRACT

The most recognized industry is real estate. After agriculture, real estate employs the second largest population in India. It serves as an overall framework for addressing a country's housing and infrastructure needs. The introduction of a new tax system, the GST (or goods and services tax), also represents a major change in the real estate market. The need for regulation in the real estate market arises from the increase in fraud in the construction industry, which forces consumers to assume many risks related to title, quality of installations, delays in delivery, etc. By regulating commercial activities and transactions in the real estate sector, the Real Estate Regulation (Development and Regulatory Authority) Act 2016 aims to restore consumer confidence. The main objective of the legislation is to protect the interests of buyers, facilitate the purchase of property and encourage transparent investment in the real estate sector. Prior to RERA, there was no clarity in the pad area, the result of builder confusion over pricing, payment terms and charges. There are willful forgeries, project clouds, ratings, and judgmental people.

In this article, after identifying the factors affecting the real estate sector by GST, we look at the impact of RERA on small, medium and large fixed sector industries in India. The underlying reason for this article is to assess all the impacts of the coastal part of GST on India. Also, the paper aims to understand the impact of the past levy and the impact of GST on the construction industry in the current scenario. This article attempts to analyze the origin, meaning, main purposes, provisions and impact of the law, and finally will discuss various details that the legislator did not address, as well as various loopholes in the legislation. The scope of the study is limited to small, medium and large manufacture industries in India between 2017 and 2022.

Keywords: RERA, Real Estate, GST, Construction Industry, Taxation

STATEMENT OF PROBLEM

For the development of the real estate sector, the Real Estate Regulation Act (RERA) was passed in 2016 and entered into force in 2017. The enactment by the legislation is essential as the real estate sector develops and investors develop. This action will contribute to greater transparency. Because there are so many loopholes, too much black money and an unorganized sector where transactions cannot be traced, this legislation was passed to address these issues and loopholes. Although the RERA law is good for the public, many problems are encountered by players in the real estate sector. The RERA law is mainly aimed at the public, but it has also affected the economics of the real estate sector and caused a lot of problems for their businesses. Also in construction, there is a constant need to change the way things are done to achieve better results while spending less time, effort and money. In this way, many shortcuts and time-saving operations are performed, leaving insufficient data in all areas of the project. When it comes to compiling all project data after completing the project, something is completely missing. All of these areas need improvement and the Ministry of Finance has introduced the Goods and Services Tax (GST) to legalize the construction industry. The introduction of the Goods and Services Tax (GST) by the Government of India has created a lot of uncertainty in the construction industry as it is not only a new problem but it also recognizes legally the so-called "disorganized sector". In order to draw conclusions, a thorough investigation from the planning phase to the execution phase will show exactly the areas of concern that will affect the cost of the project due to the implementation of excise duties.

HYPOTHESIS

The irregularity created in real sector is momentary and shall resolve with setting up of the realestate regulatory authority.

OBJECTIVES

1. To understand the analyse importance & the need for the RERA & GST Act.
2. To determine & accomplish the effect of the RERA & GST act on real estate.
3. To understand the extent to which the RERA & GST act has affected the real estate sector &reduced risk of the buyer.

4. To establish a relationship between RERA-GST & productivity on construction sites.

SCOPE

This research's focus shall be on how the RERA & GST affected the real estate sectorof the country. It will also focus on the enhancement & challenges of the act. The research will focus on the importance of the RERA & the importance for all the states to follow the act. It also focuses on the issues faced by the builders & all other people in this sector after the enforcement of the RERA.

RESEARCH METHODOLOGY

This paper is based on the doctrinal method for research. The researcher will also use the analyticalresearch method for an analysis & conclusion on the statement of problem. They shall take the help of books, articles, journals & web sources & would try to assess the impact of RERA on financial institutions & developers. And in the due course of time read articles, journals, reports to support or rebut the above-mentioned hypothesis.

RESEARCH QUESTION

1. Does the escrow of 70% of the money collected from the allottees in anyway affect theefficiency of the promoters?

2. With the approval of the real estate investment trust (REIT) by the SEBI would the provisionsof RERA draw enough interest from the financial institutions?

3. Does the new provision have optimistic impact the interest of the buyers?

INTRODUCTION

Parliament enacted the Real Estate (Regulation and Development) Act 2016 on a range of matters aimed at protecting consumer rights and promoting harmonization and standardization of business operations and transactions in the real estate sector. It is designed to create a quick dispute resolution process. The Central Government has passed the Act, whereby State Governments ("SG") and Union Territories ("UT") will notify their own rules. Accordingly, each SG and UT promulgated its own real estate rules based on the guidelines of the Central Real Estate (Regulation and Development) Act 2016, and under the rules, a Real Estate

Regulatory Authority ("RERA") was created to oversee the relevant State or Utah real estate regulations. Further, while the "70% of sales proceeds into an escrow account" rule in the Real Estate Regulation Bill approved by Cabinet is expected to reduce fraud by developers and expose them to serious treasury risks as they are highly dependent on pre-releases, it also brings Here is serious financial risk. Developers often sell their apartments to clients at a lower price before being allowed to partially finance leases and purchases and use the proceeds to complete ongoing projects.

WHY RERA?

RERA was put in place to increase transparency and consistency. Before RERA, there were many problems between consumers and suppliers. They had a lot of problems, but they were powerless to solve them because there were no guidelines or regulations in place. Consumers are ultimately forced to deal with all these problems, and the main problem is waiting. There are still some issues, so this Law is enforced

• Security: All funds received from a project will be held in a specific escrow account assigned to it; therefore, each project has its own account, the fees related to the project Payments for will be made from this account only.

• Transparency: It is essential that buyers provide all documents and information for any project they undertake. The builder is not authorized to make any adjustments without the buyer's consent. This helps in smooth transactions. Equity: RERA just installed carpet and added some space, but not too much. The builder is entitled to bear the costs associated with any delay in completion.

• Quality: The manufacturer has the right to correct any defect within 5 years of purchase. Problems must be corrected within 3o days.

• Authorization: Registration is important, without registration the regulator cannot advertise or sell the building.

In addition, market regulator SEBI intends to change its regulations to allow such trusts to invest more in infrastructure projects and have more shareholders, thereby making REITs more attractive to investors. investors. The Securities and Exchange Board of India (SEBI) introduced regulations for real estate investment trusts (REITs) in September 2014, but investors and industry players have been looking for new measures to make them more attractive. Sebi has now elected to further amend its regulations, taking into account representations received from various sources, even though the government has already announced numerous tax and other policies for REITs. Among the planned reforms, Sebi intends to lift the ban on special purpose vehicles (SPVs) from investing in other SPVs that own assets. Accordingly, this would allow the REIT to participate in a holding company with an interest in the SPV.

The REIT should have majority ownership and at least a 50% ownership interest in the holding company. In turn, the holding company may have a controlling interest and at least a 50% interest in the relevant SPV. Financial institutions in India finance a significant portion of real estate projects on a project finance basis, where lenders require collateral on SPV shares.

Introduction to GST Act, 2017

The introduction of the Goods and Services Tax (GST) by the Government of India has created a lot of uncertainty in the construction industry as it is not only a new problem but it also recognizes legally the so-called "disorganized sector". In order to draw conclusions, a thorough investigation from the planning phase to the execution phase will show exactly the areas of concern that will affect the cost of the project due to the implementation of excise duties. Not only will these studies shed more light on areas of concern that need to be eliminated to reduce unnecessary costs, but they will also help project managers analyze and create schedules that align with projected costs and timelines. Eliminate the effect of cost changes in the building construction sector. Hence, a full analysis of the project before and after GST to look at cost changes to get a clear idea of cost increase or decrease due to GST. A unified tax structure is certainly a welcome step, and the introduction of the Goods and Services Tax (GST) aims to achieve this by consolidating many central and state taxes into one.

IMPACTS OF THESE ACTS ON REAL ESTATE SECTOR OF THE COUNTRY

Impact of RERA Act

The real estate industry is one of the biggest industries in India, not only in the cities but even in the small towns it is growing amazingly. RERA & GST is another development that will have a significant impact on the industry. For example, builders making various changes and modifications to projects without notice to buyers has always been a concern for homebuyers.

Additionally, project plans are not shared with buyers, leaving them in the dark. Buyers have no choice but to take the builder's word for it. With the introduction of property code, builders must follow certain rules, if they don't, it will greatly affect the project. Arguably, the real estate and housing industry was largely unregulated prior to this new law, and in many cases consumers and buyers found themselves holding builders and developers accountable. To avoid any inconsistency or fraud, the Real Estate Act was introduced to ensure transparency, accountability and responsibility in the real estate sector. The law aims to eliminate problems within the industry such as project delays and mis-selling. Builders and developers are now required to register with the Real Estate Regulatory Authority (RERA) before starting projects. To be fair, the risks and unreasonable delays in completing any project are primarily borne by the consumer, but the new law ensures that all costs incurred must now be borne by the builder/developer involved in the project.

Impact of GST Act, 2017

The days of local compositions schemes are over, although they are now fully eligible for input tax credits. This is the case even though the GST rate of 18% for supplying works contracts in the construction industry may be higher than the previous rate. However, many construction services that were previously free, such as building dams and roads, are now included in the GST. Essentially, this means that instead of the typical range of 11-18% for construction contracts in the previous government, 18% will now be charged as a flat rate. Additionally, GST property developers can get a free input tax credit on GST paid on services and goods they purchase, while the GST rate on outside supplies is 12%, including the value of I and since the incoming supply includes many items taxed above 12%, it should not involve very large cash flows to pay the GST on overseas deliveries. Not only does this help reduce costs for developers, but they can even pass on the benefits of these credits to potential buyers in the form of price reductions.

- The GST system will make it easy for the tax burden to be distributed fairly between manufacturing & services when all taxes are integrated.
- The GST will contribute to the development of a feasible and free tax administration.
- The GSTN, a fully integrated tax platform to handle all elements of GST, is the organisation that supports GST.

LITERATURE REVIEW:

When buying a property that is still under construction, the buyer is responsible for paying VAT, service tax, stamp duty and registration fees. Properties purchased after completion are exempt from VAT and service tax, but there are still stamp duties and registration fees. The real estate sector's problems will finally be solved by a new indirect tax regime known as GST, which will also help the sector wake up from its long slumber. Transparency in the operation of RES is ensured by GST. In this case, the price increase of new residential properties is generally lower than that of new commercial properties. This will reduce the cost of real estate purchases for home buyers, unlike the previous tax system where they had to pay service tax and value added tax for the purchase of residential units upon payment in full, and developers also had to pay GST, customer tax, CST and immigration tax, which are non-deductible taxes on their professional side, are included in the unit price. With the new flat rate, developers can now claim an input tax credit (ITC) on the GST paid on the services and goods they purchase, reducing their costs and allowing them to pass the savings on to their clients. After the implementation of the GST, the tax structure is simplified, so the government did not include the stamp duty in the value added tax (VAT).

OPPORTUNITIES:

Over the past few years, several policy changes have affected the real estate sector (RES). The Indian government, in cooperation with the state governments, has adopted a series of measures to promote the development of the industry. The government's emphasis on urban development through housing for all by 2022 is reflected in the government's increased emphasis on securing additional funding, improving transparency and encouraging the use of renewable energy by all major stakeholders through policy measures. In addition, the Prime Minister announced a new public-private partnership (PPP) policy aimed at stimulating private investment in affordable housing. The Indian Union budget seeks to give the government greater momentum for growth.

Infrastructure Spending, Poverty Reduction and Fiscal Accountability Management. The allocation to the infrastructure sector for the financial year 2017-2018 reached an all-time high of INR 3.96 crore, an increase of over 38% from the previous financial year. There are many opportunities in government and real estate.

IMPACT ON THE INDIAN ECONOMY:

Three policies came together and RERA was one of them which had a negative impact on the property market. The establishment of the RERA to regulate the real estate market has slowed down its development since its creation. Due to the lack of employment opportunities for the workforce, RERA has directly affected small developers and contractors in metropolitan areas, as many proposed real estate project developments are either closed or delayed until that they are registered with the RERA. The sharp rise in property prices, coupled with the exit of disorganized small businesses due to lack of capacity, and declining confidence due to reduced liability have added to headwinds in the property market. As a result, the real estate market stagnated. The ambiguity of the bill further complicates the mechanism.

For example, the Court of Appeal is not bound by article of the Code of Civil Procedure 1908, although it has jurisdiction similar to that of a civil court. Because the Central Law did not establish a clear process, the coalition gave states a year to establish rules based on the Central Law's guidelines and comply with them.

Present Condition of Real Estate Sector in India

Real estate is India's second largest industry after agriculture in terms of job creation. The industry is expected to grow at a rate of 30% per year over the next decade. Residential, retail, hospitality and trade are the four sub-sectors that make up the real estate industry. India's real estate sector is expected to reach $180 billion by 2020. The housing sector alone accounts for 5-6% of the country's gross domestic product (GDP).

The industry market size is expected to grow at a compound annual growth rate (CAGR) of 11.2% between fiscal years 2008 and 2020. The retail, hospitality, and commercial real estate sectors are also growing rapidly and helping to support India's growing infrastructure. need. Recent Changes in the Indian Real Estate Sector The real estate sector in India is currently going through a period of transition. Real estate industry players must align their plans and strategies with the Real Estate Regulation and Development Act (RERA), Real Estate Investment Trusts (REITs), GST, Benami Transactions (Prohibition) Amendment, amendments to IFRS accounting standards and the government. Sponsored economy Applicable housing projects.

The areas listed below are where the industry may be affected.

• Global capital flows to Indian real estate have increased.

• Developers will reorganize their business models, social housing will be strongly consolidated with the mining industry, mergers and

• Acquisition of REITs will be catalysts for growth.

SOME MAJOR ASPECTS:

Impact of GST on Home Buyers-

While the overall tax rate will drop from 5.5% to 12%, developers will be allowed to claim input credits on all items and services used to build the property. In terms of commodities, input resource prices also fluctuate. Steel and cement prices can suddenly rise. Sand is also scarce and not found during the rainy season.

Therefore, it is likely that the industry will not pass on the full value of the tax credit. You also need to check the finishing step. If the project is at an advanced stage, with substantial costs already incurred before GST is implemented, there will be few input credits available and very few benefits passed on. On the other hand, if the project is at an early stage, more benefits can be delivered.

Impact of GST on properties under construction

Affordable Housing Affordable housing could become property under construction if the GST exemption is extended to affordable housing projects (affordable housing is currently exempt from property tax). services and the government should explain the GST exemption) And cheaper under the service tax system.

Impact of GST on Property Prices

Mansions Section In the case of mansions, the basic construction cost can be reduced but as the input tax credit is limited to 12%, it will not be able to minimize the to pay, because other expenses also have to be taxed.

Impact of Reverse charge mechanism on construction costs-

Under the GST reverse charge regime, registrants are required to pay GST on services and goods they purchase from non-registered parties. In addition, the tax payable through the reverse charge system must be paid in cash or by bank transfer and not deducted from the input credit resulting from the imported GST. The program has a negative impact on developers. When they use services, such as those provided by persons residing in non-tax jurisdictions, they must pay GST. In addition, they must pay GST on all services provided by municipalities or other local organizations under the program. Small developers will be hardest hit by the increased costs, as they previously purchased goods and services from unregistered sellers and do not have the same tax liability as they do today.

Impact of GST on Construction & Real Estate Sector

The highlight of the GST in the real estate sector is the availability of input tax credits (ITCs) on payments for inputs, capital goods and input services. Under the previous system, developers would be responsible for paying many taxes such as VAT, Central Excise, Head Tax, LBT, Grant, Service Tax, etc. payment whose credit cannot be set off free of charge against the output tax due. However, the GST regime allows ITC to qualify for the purchase of construction and other services, thereby removing the inefficiencies created by the cascading effect of the tax.

RECOMMENDATION:

- The RERA shall keep the builders into consideration & would make few amendments as the laws is quite strict.
- The delay because of government approval is a major issue which the act did not covered. The government should give approval if the builders pay more, they have inside politics & this would affects the builders.
- The work is now too lengthy & it is difficult to start a new project without completing the prior one.
- The payment of 70% under escrow account will affect the builders. It makes difficult for the builders to work.

- The cash flow reduced highly & this will affect the economy of the country.

Limitations of study

Due to the lack of data, this study can only measure the short-term impact of RERA on real estate developers. Also, data should be collected from listed real estate developers as they have the most comprehensive accounting process and can comply with RERA.

CONCLUSION

The hypothesis is true as the most serious crime was solved by the construction of the building. RERA and GST will gradually change the way the Indian real estate market operates, as GST provides the long-awaited direct tax structure in India. Cash flow of the construction industry will decrease due to the implementation of GST in India. With the introduction of GST and RERA, the industry will benefit as there will be full control and transparency to ensure that buyers receive good and quality products. The delivery will be on time and the developers should guarantee that the products installed in the project are good or will be sued. This would be a good move because only a well-known company with good products can survive.

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