STUDY ON IMPACT OF RERA AND GST ON CONSTRUCTION SECTOR

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Abstract -*The Real Estate sector acts as an umbrella for satisfying the requirement for housing and infrastructure in a country. It majorly enhances five sub divisions such as housing, infrastructure, retail, hospitality, and commercial. The Real Estate sector lacked professionalism, standardization and consumer protection as a conventional practice throughout the country. The announcement of the Real Estate Regulator Bill (RERA) which was passed by the Indian Parliament in March 2016 (Differently categorized for different states) has ensured a new era in the Indian Real Estate market. This bill passed by the parliament of India provides more accountable transparent and dependable system in the construction sector focusing basically on the real estate market of selling and buying properties. The new Taxation system (GST – Goods and Service Tax) also introduced tremendous changes in the Real Estate Market. This made Real Estate Market slow in its Initial Stages which left Builders and Contractors to stay away from the Business for a particular period of time, to confront themselves with the new laws and the new taxation system.*

Key Words: **RERA, MahaRERA, GST, Real Estate, Taxation, Impact**

1. INTRODUCTION

In the History of the Indian Real estate sector The Real Estate Regulation and Development Act (RERA) 2016 proves to be a revolutionary Act. It is introduced to boost the investment in the real estate sector and also to protect home buyers' interests. The Act encourages fair practices in the Real Estate Sector and aims to improve transparency. The Act applies to new projects as well as the projects under construction (which were to be registered before 31st July 2017). Commercial and Residential projects are included under this act as well as Real estate agents or brokers are also included under the umbrella Moreover, the developers will have to submit the project layout, government approvals and land title status the regulatory authority. Failing to do so will result in penalty in the form of fine or imprisonment or both, depending upon the severity. The Real Estate Sector was in a desperate need for such a transparent system to improve the market sentiment and to preserve the customer's investments. The Bill also mandates buyers to pay their payments to developers within the stipulated time, failing which suitable action can be taken against them.

The GST (Goods and Service Tax) Bill was approved in the Lok Sabha on March 29, 2017, with four supplementary Legislations

i)The Central GST Bill, 2017

ii) The Integrated GST Bill, 2017

iii) The GST (Compensation to States) Bill, 2017

iv) The Union Territory GST Bill, 2017.

The GST has changed the entire scenario of the indirect taxation system in India. It is considered as the biggest ever tax reformation since 1947. GST unifies all the indirect taxes under one umbrella and created a smooth national market. The main objective behind implementing GST is to avoid duplication of taxes and thus focus on one nation one tax. By 2020 the India Real Estate Sector is expected to grow 12% annually. In Real estate sector, a huge percentage of each project expenditure goes unrecorded in the books earlier . GST has helped cut down this percentage due to cloud storing of invoicing. Real estate sector also has benefited with new tax law having a positive effect on all ancillary industries.

2. Rise and fall of the real estate sector since liberalization

This sector has been facing a lot of issues primarily from real estate developers for the past years. Major problems include:

- Lack of Transparency and Accountability
- Delay in Construction and Delivery of Flats
- Incorrect information given by the developers through the advertisements and brochures during booking related to area/size of the property and other details, etc.

These problems have led to issues such as low investment ratio and buyer confidence, unaffordable property rates in the recent years, a lot of properties are left unsold, liquidity crisis, etc. For initial few years the sector saw a steady in flow of foreign investments. However, the system remained opaque with lack of accountancy on the flow of funds, misuse of investor's money, and infusion of black money.

In order to show more activities in their annual reports the Developers were engaging themselves into detrimental practices like diverting the buyer's money towards creating massive land banks. The projects had to be stalled and developers defaulted on deadlines after the money for construction activities ran out. Buyers started defaulting their loans when they failed to get their property on time. New projects kept coming up especially in the metro cities but eventually the customers started losing their interest in the purchase of property due to the loop holes in the Real Estate Sector, which left the Real Estate Sector stand still for some time.

3. Need for study

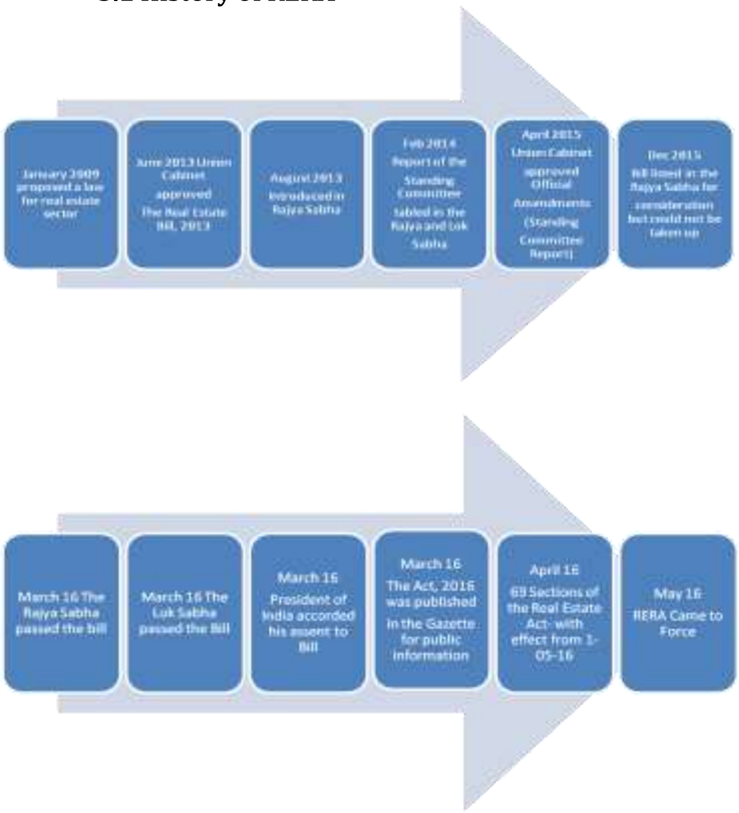
1. Real Estate is an important part of any economy. The Real Estate Sector aims to be one of the most globally recognized sectors. In India, real estate is stated to grow at 30% over the next decade and is the second largest employer after agriculture. This sector comprises of four sub sectors: - a) Housing b) Hospitality c) Retail and d) Commercial. The growth of this real estate sector is well complemented by the growth of the corporate environment and the demand for office spaces as well as urban and semi-urban accommodations. Among the 14 major sectors, the construction industry ranks third in terms of direct, indirect and induced effects in all sectors of the economy
2. It is accountable for an extensive part of its development investment, advancement of the nation's infrastructure stand & major originators of trade and industrial activity. The economy of a country is highlighted by its infrastructural growth.
3. The real estate sector has strong connections with various industries such as tiles, paints, fittings & fixtures, cement & steel etc. If the real estate sector declines, there will be adverse effects on all other industries related to this sector.
4. RERA being a new act needs to be studied thoroughly so that the real estate sector prospers and also preserves the motive of its implementation.
5. The interest of buyers in the real estate sector needs to be maintained as the market depends on the consumers; hence their interest on this sector is a major concern. A lot of apartments are left unsold for the past few years due to incremented prices.

4. Objectives

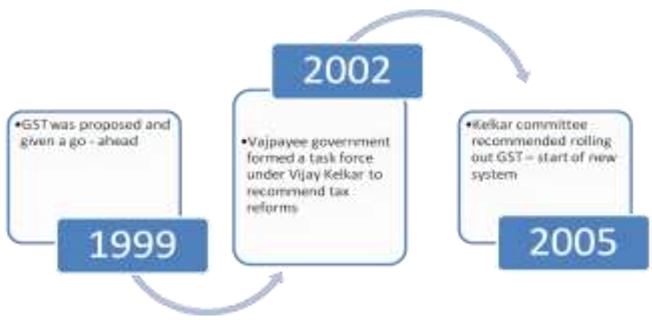
- To explore the MahaRERA act.
- To analyze the Impact of RERA on Real estate sector.
- To study the taxation system based on GST for the construction industry.
- To analyze the effect of GST on the Indian real estate sector.
- To propose any other statements, that can be added to the systems, which would prove beneficial to both the providers and consumers.

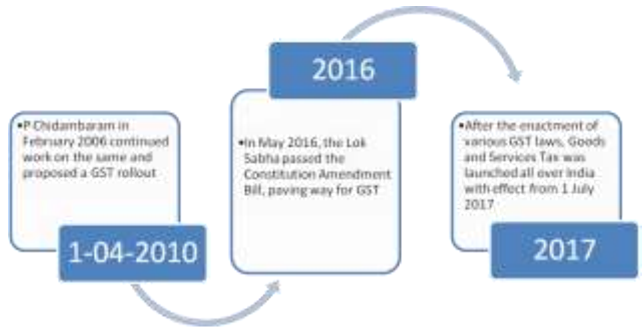
5. History

5.1 History of RERA



5.1History of GST





6. Literature Review

Gurnam Chand stated from this literature that it can be quoted that demonetization has signaled an end of an era of cash transactions in Indian Real Estate. Conclusions from the paper were that consumer is the king again – With the reduction of unaccounted cash, the end user would be the prime focus of attention for builders and developers. Black Money out, technology in – Over the years, some firms have been developing propriety technology to bring in a fair and easy payment system for real estate transactions.

Shripad S. Merchant, Rajesh Pednekar studied the state wise dilutions and violations of the various provisions of The Real Estate Act (RERA) 2016 passed by the Parliament came to a conclusion that Central Government has to come out with clear directives to achieve the objective behind the law.

Anuraag P Iyer, Samar Singh Rajput studied and mentioned that many parts of the provisions are matters over which the Union are not holding exclusive jurisdiction they need to be brought to light and an effective solution needs to be implemented.

Niraj Dhar Dubey, Dr Devesh Kumar, aims at understanding the effect of taxes that were levied earlier and effect of GST on Real Estate in the present scenario. GST along with the present changes in the real estate sector may slow down the growth in the short run but in future, these changes will be beneficial for the growth of the sector.

Ms. Shalini R, Dr. Mahua Biswas aims at studying the impact of GST on construction. They stated that cost of under construction residential unit will increase post GST Implementation.

Dr. Ansuman Sahoo, Anasuya Swain, this paper is an analysis of the impacts and implications of GST on industrial sectors. It is noted that, buoyed by the success of GST, more than 140 countries have introduced GST in some form or other and is fast becoming the preferred form of indirect tax in the Asia Pacific region.

7. RERA – Real Estate Regulatory Act

The Real Estate Regulatory Bill (RERA) was first proposed in 2013 to end this vicious circle of industrial malpractices related to residential and commercial properties. In order to protect interest of the consumers, the Act puts in certain operational rules for real estate developers which will cultivate an environment of trust and efficiency in the sale and purchase of property. The bill mandates every state to establish a Real Estate Regulatory Authority and Appellate Tribunal by April 2017, which are now already set up and working accordingly. The tribunal oversees the registration of all projects over 500 sq m or 8 Apartments. Similarly, it is also responsible for solving buyer and sellers' disputes in case of breach of contract.

8. GST : Goods And Service Tax

Goods and Service Tax seeks to transform India with "One Nation, One Market, One Tax" principle and all signs indicate that India's Real estate Sector won't be left out of the transformation. The real estate sector is one of the most pivotal and emerging sectors of the Indian economy. It is the largest employment generating industry after agriculture. It contributes an average of 5-6 percent to the GDP and is expected to grow at 30 percent compounded annually. GST is expected to have a positive impact and outcome on the industry as a whole and is expected to simplify the taxation compliance.

9. Methodology

This includes the Methodology that has been used to carry out the dissertation work. The General data for the dissertation was first collected and then Literature Review was done by studying the Research work of other authors. The study is performed by studying the case study of a residential project

10. Case Study

This Case Study is of a Residential Building (Low Housing Scheme). The Total Projects have 5 Phases in which Phase 1,2,3 and 4, have 3 Towers each and Phase 5 includes Shops.

Phase 1 – Wing A, B and C (30 flats/wing)

Phase 2 – Wing D, E and F (30 flats/wing)

Phase 3 – Wing G, H and I (30 flats/wing)

Phase 4 – Wing J, K and L (30 flats/wing)

Phase 5 – Shops

Wherein in this Case Study Particularly we will consider the details for Phase 1 and study the same in relation with the Project aspects.

Project Name: DREAMSHELTER – PHASE 1

Organization Name: Dream Shelter Developers LLP

Office Address: The Exchange, Near Ved Mandir, Trimbak Road, Nasik.

Registration No: P51600017815

Proposed Date of Completion: 31/03/2022

Project Type: Residential Project

Project Address : Gut No 4469/1-2, 4472/1, Chunchale Shivar, Near Indian Oil Petrol Pump, Satpur Ambad Link Road, Nasik - 422101.

Total Building Count: 3

Sanctioned Buildings Count: 3

Proposed But Not Sanctioned Buildings Count: 0

Area of 1BHK flats – 425 sqft BuiltUp

Conclusions Drawn From The Case Study:-

1.As the area of land to be developed in this project is greater than 500 square metre and it lies in Maharashtra, therefore the project had to be registered under MahaRERA.

2.As RERA was altogether a new concept, the consumers were least aware about it in the initial phase. Time was consumed in understanding RERA and its registration process.

3.The accountability of a project has increased due to the implementation of RERA. The promoter has maintained a separate escrow account in the SBI, Nasik. 70% of the amount collected is maintained in this account. The Finance required can be withdrawn from this account only after showing the percentage completion certificates from his engineer, architect and CA. Also, this amount cannot be used up by the promoter for any other project. If any malpractices are followed, the promoter is liable to pay penalties.

4.Due to RERA, we can see a high degree of transparency in terms of the documents for e.g.

-The title of the land on bond paper and stating that the land is free from encumbrance and is marketable.

-The Commencement certificate issued by authority, in this case NMC.

-The sanctioned plans and layout with detailed area statements, open spaces etc.

-The land use certificate i.e N.A certificate issued by the Collector, Nasik.

-The environmental clearance certificate under the Environmental Protection Act, 1986.

- Proforma of allotment letter and agreement for sale.

5. Consumers assume that RERA is beneficial for them. This is true to a certain extent but they forget the fact that if they are unable to make any timely payment, they have to bear heavy penalties as well. The consumer has to pay an interest of 2% in excess of the standard rate specified by SBI.

6.The promoter has also provided the specifications of the materials used. This will help ascertain the quality of the project. If the promoter is not using the specified materials, he is again liable to penalties and the consumers can claim it.

7.The cost of the apartment is based on the carpet area and not the built up area. After the occupancy certificate is issued, the total price will be recalculated to verify any change in the specifications. In case the there is a reduction in final carpet after completion of construction, the developers will be liable to pay a refund, with interest within 45 days.

8.The defects liability period has increased from 3 years to 5 years, hence the promoter has to take care of the property up to 5 years from handing over the project.

11. Conclusion

1.Due to implementation of RERA, the major victim of the real estate sector is the developer/ promotor now. The transactions will not go unaccounted. The real estate sector has become more competitive. The status of Indian real estate is expected to rise. Indian real estate is improving towards global standards and practices.

2.For ready possession projects, only the construction cost i.e. the material cost and labour cost affect the cost of a property. Other indirect taxes (service tax, value added tax, GST) are not applicable, where as for new projects the new taxes are applicable.

11.1 Impact of RERA on Construction and Real Estate sector

1.All new projects are required to be registered with the RERA regulating authority which will help providing greater transparency to the customers. If a developer fails to register the property, he is liable to pay up to 10% of the project cost as a penalty to the regulating authority.

2.The promoter cannot Launch or advertise the project before registration with RERA of the concerned state.

3.It is binding upon the Promoter / Builder to Increase assertion on the timely completion of projects and hand over the same to the consumer.

4.RERA clearly specifies that the developer is liable to repair and responsible for any structural defects for next 5 years from the date of handover. This will prove to increase the quality of construction.

5.If there are any additions of alterations other than the approved plans, the allottees will be informed and the consent of 2/3rd allottees about this shall remain mandatory.

6.Sale agreement to be registered as specified and mentioned by RERA, this will enhance standardization of the Sale Agreement.

7.The Promoter / Builder cannot accept deposit or advance over 10% of cost without executing agreement to sell.

8.Since the project completion burden will be crucial, it is possible that the developer may transfer this risk to contractor and hence the liquidated damages clause would become more effective.

9.The Developers have to put aside 70% of the amount received from the consumers in a dedicated escrow account linked to the project. This will be binding for developers to use allocated funds for the specific project and prevent them from diverting the booking money to invest in their other projects.

10.If any Promoter / Builder fails to follow the RERA act or any of its rules and regulations, they are liable for legal actions by the regulating authority.

11.Most importantly, as developers will be held responsible for their project details, they will have to be more keen on ensuring that false promises are not made to the consumers.

11.2 Impact of GST on Construction and Real Estate Sector

1.GST rates on Real Estate - Currently, the sale of land and buildings have been kept out of the ambit of GST but it is expected to be taxed within a period of a year. Construction of land and building will benefit from the rates declared for cement, bricks, and iron under GST.

2.Cement will be taxed at the rate of 28% under GST. It is higher the current average rate of tax around 23-24% but a lot of additional taxes charged over the average rate would be subsumed under GST. Iron rods and pillars used in the construction of buildings is charged at the rate of 18% which is similar to the current average rate of 19.5%.Bricks used in the construction of buildings and houses is taxed under GST at the rate of28% except for the rate of ceramic building bricks which is kept under 5%. Currently, all bricks except the ceramic bricks are charged an average tax rate of 25-26% inclusive of all state and central level taxes.

3.In Real estate sector, there is a huge percentage of each project expenditure goes unrecorded on the books currently. GST will cut down this percentage due to cloud storing of invoicing. Real estate sector will also benefit with new tax law having a positive effect on all ancillary industries.

4.The biggest takeaway is that GST is a simple tax that applies to the overall purchase price. All properties under construction will be charged at 12 percent of the property value. This excludes stamp duty and registration charges. For completed properties, the earlier provisions will continue and buyers will pay no indirect tax on sale of ready-to-move-in properties.

5.Impact on developers - Previously, developers were liable to pay customs duty, central excise duty, VAT, entry taxes, etc. on construction material costs. They also had to pay a 15 percent tax on services like labour, architect fees, approval charges, legal charges, etc. Eventually, this tax burden was transferred to the buyer.

6.Under the new regime, however, the changes in construction costs are not as difficult. For instance, cement will now be taxed at the rate of 28 percent under GST earlier. This is higher than the current average tax rate of approximately 23-24 percent, but a lot of additional taxes charged over the average rate will now be subsumed under GST.

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