

Implications of RERA and GST on Construction Sector in Maharashtra

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ABSTRACT

The real estate industry serves as a catch-all for addressing a nation's housing and infrastructural needs. It significantly improves five sub-divisions, including dwellings, infrastructure, shopping, lodging, and business. As a common practice across the nation, the real estate industry lacked professionalism, uniformity, and consumer protection. A new era in the Indian real estate industry has been assured with the introduction of the Real Estate Regulator Bill (RERA), which was approved by the Indian Parliament in March 2016. This measure, which was approved by the Indian parliament, creates a more open, accountable, and reliable framework for the construction industry, with a primary focus on the real estate market for selling and buying homes. The newly implemented Goods and Services Tax (GST) 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

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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.

Need for Study: -

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.

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.

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.

RERA being a new act needs to be studied thoroughly so that the real estate sector prospers and preserves the motive of its implementation.

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.

Objectives:

1. To analyze the Impact of RERA on Real estate sector.
2. To assess the taxation system based on GST for the construction industry.
3. To analyze the effect of GST on the Indian real estate sector.
4. To propose statements that can be added to the systems would benefit to both the parties.

2. Materials And Method

Methodology: -

a) Data Collection:

The primary data will be obtained from the literature.

The secondary data will gather through a questionnaire survey targeted at some contractors, clients, and consultants in construction projects.

A questionnaire will assess the perceptions of clients, consultants, and contractors on the relative importance of causes and effects of factors in the construction industry and the responses will be recorded.

b) Factors considered for Questionnaires content-

Factors related to schedule of the project.

Economic factors

Factors related to owner-client.

Factors related to consultant of the project.

Factors related to contractor of the project.

Factors which are related to material, manpower and equipment.

External factors.

RERA

The significant ways in which RERA has been helpful are:

- All projects have to be registered with RERA.

All residential and commercial real estate projects to register with the Real Estate Regulating Authority. Where the area of land involved is more than 500 sq. meters or eight apartments. Moreover, the builders also have to submit details such as layouts, sanctioned plan, the exact location of the project with a clear demarcation of land, number of garage space and area, carpet area, etc. Once the builder gets the clearance from the RERA, they can advertise and sell the property.

- Regular updates on construction progress

The buyers can now check online to have a clear idea of the project they want to invest in. According to RERA, the builders have to upload the project details every quarter, where they have to mention the number and types of flats sold, completion schedule and the documents associated with the proceedings in case of litigation.

- Standardization of sale agreement

Previously, the sale agreements were done in a way where the homebuyers would have had to pay fines. But any fault on the side of the promoters did not attract any penalties. Now, as per the RERA norms, the sale agreement will include every minute detail. Such as the date of possession of the flat, the internal development works and external development works, construction details along with specification, etc. so that the homeowners do not have to pay any penalties or charges later on.

- Proper calculation of Carpet Area

The carpet area is calculated in three ways: the carpet area, built-up area, and super built area. Therefore, this leads to a misunderstanding between what the homebuyers would pay for and what they would get. Now, as per the RERA provisions, the builders must disclose the area of the apartment. But according to the carpet area (the area between four walls) and not the super built area. Likewise, the price quoted for the flat should also be as per the carpet area.

- Defect Liability period of Five years

As per the RERA norms, the builder or the developer has to rectify all sorts of structural defects. And any issues caused due to the poor quality of construction equipment used for five years. Therefore,

the builder has to compensate for any issues related to sub-quality products and construction defects. If the builder does not rectify the defects or pays any compensation, the homebuyer can opt for RERA complaint registration.

- Failure to give complete possession on time.

In case the builder is unable to give possession on time, he is liable as per the RERA norms. It states to pay back the entire amount of the homebuyer in case he wants to leave the agreement. However, if the homebuyer wants to stay in the agreement, then, the builder has to pay interest for every month of the delay till one receives the possession.

- Approval from the homebuyer for any alterations to the sanctioned plan

In case the builder wants to make any alterations in the flat for which a person has already paid, then, he needs approval from the homebuyer. Moreover, if the builder wants to bring alterations in the project's entire layout and common area, he needs to have approval from the 2/3rd number of total buyers.

- Grievance Redressal

RERA complaint can be lodged in case any buyer, developer or promoter has any complaint concerning the project. The associated state real estate regulatory department will take initiative to solve the case within tenure of 60 days. If any of the parties is not satisfied with RERA's decision, they may file a complaint with the Appellate Tribunal within the next 60 days. One can also appeal to the High Court and Supreme Court if he is not pleased with the decision passed by the Appellate Tribunal.

RERA has also been a welcome step in the real estate sector as it has worked to bring accountability and transparency in this sector. With RERA, homebuyers who have filed a complaint against a builder can check the RERA complaint status online.

RERA Regulations for the Real Estate Industry

The following are some of the RERA regulations that developers must follow:

- RERA registration is required for projects that are larger than 500 square meters or have more than eight apartments.
- Builders are required to deposit up to 70% of the revenue received from homebuyers in banks via checks.
- The RERA website must be updated at every stage of the project's development.
- Under RERA, all builders must use the same model sale agreement.

Responsibility of promoter

- To obtain the completion certificate or the occupancy certificate, or both.
- To obtain the lease certificate, where project is developed on a leasehold land.
- For providing and maintaining the essential services, on reasonable charges, till the taking over of the maintenance of the project by the association of the allottees.
- Enable the formation of an association or society or cooperative society or federation of the allottees, under the laws applicable.
- Execute a registered conveyance deed in favour of the allottee.

Pay all outgoings until he transfers the physical possession of the project to the allottee or the associations of allottees.

GST

GST Rate for Construction Materials

Several construction materials like cement, sand, tiles, bricks, and so on are used while constructing any building. Therefore, an appropriate taxation structure was implemented to govern the pricing of these items. Additionally, the HSN (Harmonized System of Nomenclature) Code segregates these building materials and other construction commodities into numerous chapters.

However, GST on building construction materials varies depending on the item used. Here's a closer look at them.

GST on Sand: Chapter 26 of the HSN Code regulates all indigenous sands, except metal-bearing sands, regardless of colour and subject to a set 5% GST charge. Additionally, a GST rate on construction of 18% is applicable to all naturally occurring bitumen and asphalt, sands, asphaltites, bituminous oil shale and tar sands, and asphaltic rocks.

GST on Bricks: Bricks used as construction materials are subject to various GST rates that are mentioned below.

- Building bricks and bricks made of siliceous rock or fossilized meals are subject to a 5% GST.
- Fly ash and sand lime bricks are subject to a 12% GST.
- Building bricks and blocks, as well as products made of cement, artificial stone, or concrete such as flagstones, tiles, and concrete bricks, are eligible for 28% GST.
- Other than those made of siliceous fossil fragments or comparable silicate minerals rock, refractory bricks, blocks, tiles, and equivalent refractory ceramic construction goods are subject to an 18% GST.
- Slabs, glass paving blocks, bricks, squares, tiles, and other pressed or molded glass articles, glass cubes, and other glass small wares (for mosaics or similar decorative purposes), leaded lights, panels, multicellular or foam glass in blocks, shells, or similar forms are subject to a 28% GST.

GST on Gravel and Crushed Stone: The GST rate on gravel pebbles and different types of stones are as follows.

- Pebbles, gravel, broken and crushed stones of the sort typically used as concrete aggregates for roads, railroad ballast, or other uses are subject to a 5% GST rate.
- Other than these, limestone flux, limestone, and other calcareous stone of a sort needed to make lime or cement also fall under this category and are subject to a 5% GST.

GST on Marble and Granite Blocks: Blocks made of marble and granite is subject to a 12 % GST. However, other than blocks, granite, marble, and travertine are liable to a GST rate of 28%.

GST on Cement: GST on construction materials like all varieties of hydraulic cement, including Portland cement, slag cement, aluminous cement, super sulphate cement, and similar cement, are entitled to a 28% GST.

GST on Iron and Steel: Construction materials made of iron such as blocks, wire, rolls, and rods are taxable to an 18% GST.

GST on Tiles: The GST rate on different types of tiles is as follows.

- Taxes on earthen or roofing tiles are 5%.
- Plastic wall or ceiling coverings come in rolls or in the shape of tiles and are susceptible to a 28% GST.
- Taxes on bamboo floor tiles are 18%.
- The GST rate on construction materials is 28% for boards, panels, tiles, blocks, particles, chips, sawdust, and any wood debris that has been aggregated with cement, plaster, or other mineral binders.
- Boards, panels, sheets, tiles, and other similar items made of plaster or composed of plaster are subject to a 28% GST.
- The GST rate for concrete, cement, or synthetic stone tiles is 28%.
- The GST rate is 28% for ceramic flooring blocks, support or filler tiles, and similar items.
- Ceramic mosaic cubes, hearth or wall tiles, ceramic flags and paving, and finishing ceramics are subject to a 28% GST.
- Glazed ceramic mosaic cubes, hearth, pavement, and wall tiles, as well as similar items, are subject to a 28% GST.

GST Rate for Interiors Used in Construction

Apart from construction materials, Goods and Services Tax is also applicable on items used for interiors during building construction. Here's a closer look at them.

1. Copper Wire: In accordance with Chapter 85 of the HSN Code, a GST of 28% will be charged on shielded wire and cable. It also covers electrical machinery and equipment, as well as their components and accessories, sound recorders and reproducers, television image and sound recorders and reproducers.

2. Wallpapers: Wallpapers that are used for interiors attract 28% GST.

3. Paint and Varnish: The GST rate on paints and varnishes made from synthetic polymers or naturally occurring polymers that have undergone chemical modification is 28%. Grafting putty, resin cement, glaziers' putty, caulking compounds, other mastics, painters' fills and non-refractory surfacing preparations used for indoor walls, ceilings, floors, and other surfaces, are also subject to a 28% GST tax.

4. Interior Goods: Locks and padlocks are entitled to an 18% tax. The GST rate on base metal mountings, fittings, and similar items used for windows, doors, stairways, furniture, or blinds is 28%.

5. Bathroom Fittings: The GST rate on bathroom fittings is as follows

- Sanitary fixtures including washbasins, ceramic sinks, wash basin pedestals, bathtubs, bidets, flushing cisterns, water closet pans, urinals, and similar items are subject to a 28% GST.
- A GST charge of 28% is applied to iron and steel sanitary ware and components thereof.
- The GST rate is 28% for conduits, ceramic pipes, pipe fittings, and guttering.
- Fittings for tubes or pipes made of plastic, copper, aluminum, iron, nickel, or steel are subject to GST at a rate of 18%.

Impact of GST on Construction Sector

The new tax regime has created a huge impact on the construction sector. Following are a few highlighted points that you must be aware of.

- For properties that are currently being built, the GST rate is 5% without the benefit of an Input Tax Credit (ITC).
- The GST rate without ITC is one% for reasonably priced homes, defined as those with a price of lesser than Rs. 45 Lakhs.
- Commercial real estate is subject to a 12% GST rate with ITC advantages.
- Transportation of products carrying building material that includes the cost of gasoline will now be subject to a 12% GST.

3. Results And Discussion

Questionnaire Survey of Client, Contractors, and Developers regarding their opinion about RERA and GST and calculated Relative Importance Index.

Questionnaire Survey

RERA

Table 1. RERA- Questionnaire Survey

| Sr. No. | Question | 0% | 25% | 50% | 75% | 100% |
|---------|--|----|-----|-----|-----|------|
| 1 | Rate the necessity of RERA on the given scale. | | | | | |
| 2 | Benefits of RERA can be rated as | | | | | |
| 3 | Does RERA influences speed of work in positive manner. | | | | | |
| 4 | Does RERA influence cash flow positively. | | | | | |
| 5 | How you rate the sales process designed by RERA | | | | | |
| 6 | Is RERA hurdle in growth of construction industry. | | | | | |
| 7 | Penalty clause in RERA impacts construction progress. | | | | | |
| 8 | Rate the registration process of RERA based on complexity. | | | | | |
| 9 | Transparency in construction business is increase on application of RERA | | | | | |
| 10 | How much do you think communication between buyer and seller become more transparent, healthy and reliable after RERA? | | | | | |
| 11 | After application of RERA dispute resolution between buyer and seller become faster. | | | | | |
| 12 | Rate the positive impacts of RERA on construction industry. | | | | | |
| 13 | Your Statements/ Suggestions/ Additions concerning improvement in current Act. | | | | | |

GST

Table 2. GST- Questionnaire Survey

| Sr. No. | Question | 0% | 25% | 50% | 75% | 100% |
|---------|--|----|-----|-----|-----|------|
| 1 | Rate the necessity of GST. | | | | | |
| 2 | Benefits of GST can be rated as | | | | | |
| 3 | After GST there is increase in demand of construction material. | | | | | |
| 4 | Because of aftereffect of GST application there wiping out of small builders. | | | | | |
| 5 | Has application of GST affected land acquisition cost. | | | | | |
| 6 | Complication in process has increased the difficulties in making payments. | | | | | |
| 7 | Has GST affected the interest rates on bank loan | | | | | |
| 8 | Unskilled labours lost job because of GST application. | | | | | |
| 9 | Is their increase duplicate billing due to application of GST | | | | | |
| 10 | Because of GST process complications there is delay in procurement of material. | | | | | |
| 11 | Whether there is delay in completion of work as the aftereffects of GST application? | | | | | |
| 12 | Rate the overall positive impact of GST on construction industry. | | | | | |
| 13 | Your Statements/ Suggestions/ Additions concerning improvement in current Act. | | | | | |

Questionnaire Survey of Client, Contractors, and Developers regarding their opinion about RERA and GST and calculated Relative Importance Index.

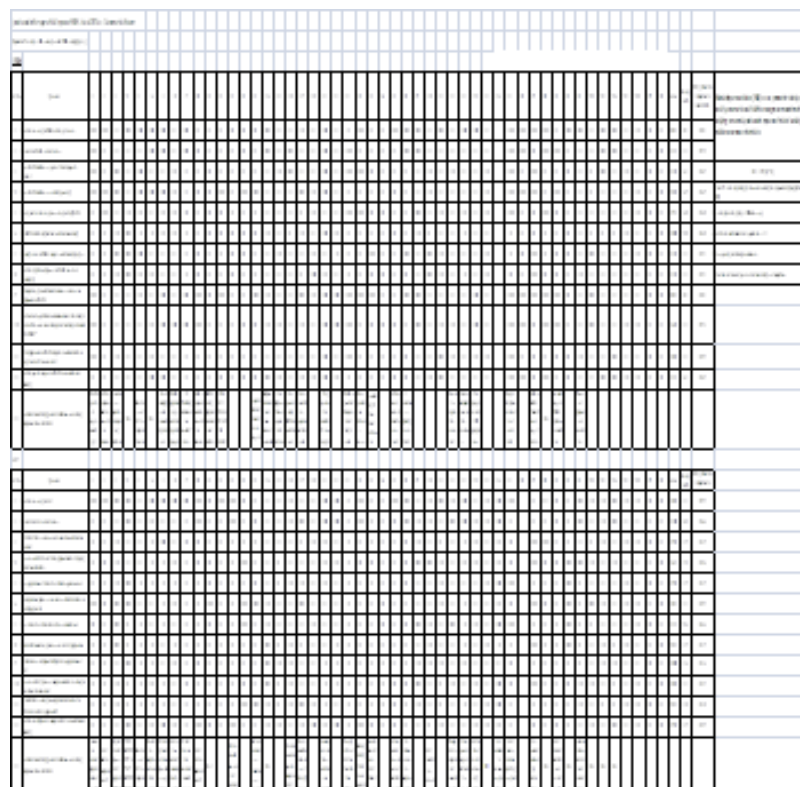


Figure 1. Questionnaire Survey of Client, Contractors, and Developers regarding their opinion about RERA and GST and calculated Relative Importance Index

Recommendations - RERA

1. Make government agencies accountable for the delay in granting approvals Single-window disbursal of all regulatory approvals.
2. Mechanism required to monitor fund transfer from an escrow account for land acquisition clearly define 'structural defects and fix liability on to the developer.
3. Set timeline for allottees to communicate opinion on layout changes.
4. Both Centre and state must collectively resolve any future conflict arising out of RERA implementation
5. This Act shall exclude Registration for Smaller Projects up to 20,000 Sqft
6. The purpose of the act is good, but the list of compliances is too long and too complicated for small scale a Registration Process is need to faster and REA dispute resolution process is very poor.
7. Building information module system to be added for more clarity and advance working.

Recommendations GST

1. The GST rate on composite supply of works contract for residential real estate should be reduced with Input Tax Credit benefit.
2. Higher GST rates on goods for residential real estate are quite prohibitive. Accordingly, either GST rate on these goods may be reduced to 12% or residential real estate projects may be allowed refund of ITC in the form of 'inverted duty structure' together with refund of input services as well.
3. The exemption is restricted to only industrial units or for setting up infrastructure for financial service sector. Similar benefits should be extended to land allotted to nonprofit institutions, educational institutions, hospitals, or similar institutions where outward supply is exempt from GST.
4. The service by developers under SRA should be considered as construction service to society members / tenants / landowner and be charged at full rate of tax only on cost of construction and not land. Tax cost borne by the Developer on the construction service provided to SRA / Society under the SRA and Redevelopment project respectively, should be allowed as credit as the said cost is incurred by the Developer for the purpose of earning the revenue from the sale building Input Tax Credit towards the construction expenses incurred for the units to be given to existing occupants without consideration.
5. The adjustment of procurement of inputs and input services should be permitted for the entire duration of the project instead on each financial year basis.
6. Rates should reduce as it directly impacts end user and concept of affordable housing is hampered.
7. GST compliances and application on joint development projects are very high and complicated. This is giving rise to fake invoices, bogus entries etc. therefore it should be revised.

4. Conclusion

- a) Homebuyers now know about RERA, which acts as a regulator. They will not be victims of any loopholes laid by promoters or developers. A RERA will serve justice to all parties, even if they fall victim to malpractice. However, homebuyers are still advised to be alert. And have thorough knowledge when signing a contract with a builder.
- b) Tax treatment as applicable to the construction industry has always been complicated both under an erstwhile indirect taxation law and under current GST law.

Originally, under GST effective rate of 12% was introduced and made applicable to construction industry, which was later on rationalized by introducing a concessional effective rate of 8% in the case of affordable housing projects.

In terms of India's tax history, the GST system marks a turning point. It has undoubtedly made the tax system simpler, but moving forward will require ongoing innovation and a cooperative approach.

- c) The GST is basically an indirect tax that brings most of the taxes imposed on most goods and services, on manufacture, sale and consumption of goods and services, under a single domain at the national level. In the present system, taxes are levied separately on goods and services.

The GST is a consolidated tax based on a uniform rate of tax fixed for both goods and services and it is payable at the final point of consumption. At each stage of sale or purchase in the supply chain, this tax is collected on value-added goods and services, through a tax credit mechanism.

- d) 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.

- e) All in all, RERA and 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.

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