SITUATIONAL ANALYSIS OF REAL ESTATE SECTOR IN INDIA, 2017 IN REGARD WITH BENAMI PROHBTION ACT, 2016, DEMONITIZATION AND GOODS AND SERVICE TAX, 2017

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INTRODUCTION

The term 'real estate' is defined as land, including the air above it and the ground below it, and any buildings or structures on it. It is also referred to as realty. It covers residential housing, commercial offices, trading spaces such as theatres, hotels and restaurants, retail outlets, industrial buildings such as factories and government buildings. Real estate involves the purchase, sale, and development of land, residential and non-residential buildings. The main players in the real estate market are the landlords, developers, builders, real estate agents, tenants, buyers etc. The activities of the real estate sector encompass the housing and construction sectors also."[1]

Real Estate is one of the most major sectors in the world and it lays down the foundation of growth and development in a country. While on one hand it is responsible for catering to the needs of individuals by providing infrastructure to various business and corporate giants; assuring adequate housing for the developing population and; by improving the quality of life by constructing various leisure centers. Whereas on the other hand real estate sector is an industry in itself and is responsible for providing employment to various stakeholders such as builders, architects, labor, etc. The growth of this sector goes hand in hand with the growth of

[1] Chapter 7.6, Tenth Plan Document, Planning Commission, available at http://planningcommission.nic.in/plans/planrel/fiveyr/10th/volume2/v2_ch7_6.pdf

corporate business environment and housing sector as demand for urban and semi-urban homes and spaces increase with its growth and vice versa.

In India, real estate is the second largest employer after agriculture[2] and is expected to grow at the rate of 30% by the next decade. It is forecasted that the Indian real estate market is projected to reach US $ 180 billion by 2020.[3] Various turn of events have taken place in the country recently within past one year which has greatly impacted the real estate sector both in the short run and long run and there are legislations in place for the future as well which will continue impacting the real estate under the current regime of the BJP government at the centre. These events include the passing of the Real Estate (Regulation and Development) Bill in 2016 and the Real Estate (Regulation and Development) Act (hereinafter referred as RERA) which came in force from 1st May, 2017; Demonetization of high currency notes in November, 2016; The Benami Act, 2016 which came in force; and finally the Goods and Service Tax Act (GST) applicable from July, 2017. These major events are undoubtedly supposed to change the face of the activities in the real estate sector drastically as well as the means of conducting them. Although the intention of these legislations is to remove all the malpractices and to ensure compliance and transparency in the real estate sector but the implementation of these laws is also a major challenge which if not done properly may lead to aggravate the problems more.

REAL ESTATE (REGULATION & DEVELOPMENT) ACT, 2016

The long title of RERA is an apt summary describing what the act is about, hereby produced below:

"An Act to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions,

[2]http://pib.nic.in/newsite/PrintRelease.aspx?relid=137670
[3]https://www.ibef.org/industry/real-estate-india.aspx

directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto."[4]

The act came in full force on 1st May, 2017 and mainly focuses and directs these following points:

- Mandatory registration of all the commercial and residential projects: Every Real Estate project, ongoing or prospective, and where the land is over 500 square meters or includes eight apartments or more must be registered with the Real Estate Regulatory Authority under Section 3 of the RERA. The application process for such registration must be in accordance with Section 4 of RERA where certain prerequisite documents such as the authenticated copy of the approvals, development plan, location details, sale deed of land, details of the enterprise of the promoter, the location plan, past projects undertaken by the promoter are required for the identifying and determining that all the legitimate compliances are done by the promoter of the project. Also other details of the project such as the details of the people associated with the project such as architects, engineers, agents, contractors, etc. must be disclosed. Thus, after satisfying that all the details are provided the Authority can give registration to the real estate project under Section 5. The authority also has the power to revoke any such registration granted later upon any complaint or suo-moto under Section 7 of RERA, if the promoter indulges in any practice which is prohibited by the provisions of the Act. Apart from this every real estate agent must deal with only registered projects and they must also obtain registration under section 9 of RERA.
- Establishment of a State Real Estate Regulatory Authorityin every state along with Appellate tribunals for timely redressal of disputes: The appropriate governments of the respective states are directed under Section 20 of the RERA to form their respective Real Estate Regulatory Authority and such authority will be a body corporate having perpetual succession and a common seal. Section 31 of RERA prescribes that any aggrieved person may file a complaint with this Authority or the adjudicating officer against any promoter or developer or a real estate agent. Section 32 of RERA lays down various functions of such authorities for promotion of the real estate sector. The

[4] Long Title, Real Estate (Regulation and Development) Act, available at http://www.indiacode.nic.in/acts-in-pdf/2016/201616.pdf

authority is also obligated to undertake various other functions apart from being a dispute redressal authority which are prescribed under section 34 of RERA such as registration and regulation of real estate projects; maintenance of records and database with all the information and list of promoters who have defaulted or whose registration has been revoked for public viewing; ensuring that all the compliances are duly made by the promoters and developers and; to perform other functions which the act prescribes in the interest of real estate sector.

- <u>Protection of buyers against any exploitation by the promoter, developer or real estate agent:</u> This has been ensured by inserting penal provisions to ensure that the developers comply with timely completion and handover of the projects to the consumers. The punishments, offences and the adjudication process are dealt in Chapter VIII of RERA. The punishments includes imprisonment of up to 3 years if the promoter continues to violate section 3 i.e. the registration of real estate project and if he furnishes wrong information then he may be liable to pay up to 5 % of the cost of the project. Chapter III including Sections 11 to 18 of the RERA lays down further duties and functions which the promoter is obligated to perform in which he has to obtain all the requisite certificates such as the completion certificate or the occupancy certificate; reveal all the legal documents such as sanctioned plans and deeds to the allottee at the time of booking; publish website and intimate its address in the prospectus; be responsible for providing and maintaining essential services of the project; enable the association or formation of a society or a co-operative society; pay all outgoings and local taxes. Other Obligations of the promoter include publishing true facts in the prospectus or advertisement; entering into a valid written agreement of sale before taking any advance or application fee from the consumer; carrying out project in adherence with the sanctioned plans and project specifications; Obtaining appropriate insurance of the real estate projects as specified by the appropriate government; Returning the amount of advance along with compensation to the consumer if the promoter is not able to give possession of the flat or the building to the consumer on the date specified.Any consumer can reach and file a complaint with the Real Estate Regulatory Authority if any promoter lacks in fulfilling his obligations or duties mentioned above.

- Cessation of malpractices: Delay in the projects which was one of the major problems in the pre-RERA era will now be penalized under RERA. Earlier the developers or the promoters had no liability if the project they promised was delayed. Also, they were under no obligation whatsoever to give any explanation to the buyers of the property if the project they promised was delayed but now they have much compliance under the act to follow and accountability towards the consumers. Also the consumers can demand their money back along with the interest and their rights have been safeguarded.[5]Activities such as diversion and misappropriation of the money taken by the sellers in advance from the buyers for a particular project by using such money in starting other projects and delaying the said project for which the money was taken would come to halt now. Certain provisions such as making a project specific separate bank account and mandatorily putting seventy percent of the money collected from the buyers into that account will ensure that. Also, the said money in the separate bank account will only be used for the construction purposes and that too will be under surveillance as the accounts of the builder are to be mandatorily audited by a chartered accountant every six months.[6] Also, the developer is required to intimate the buyer and obtain his written consent before making in the alteration of any plans.[7] This has been done to ensure that the buyers are protected from any unwanted surprises at the time of getting the possession which was a prevalent malpractice earlier.

Therefore RERA is a full package and an angel for the buyers or consumers who have been exploited and deceived numerous times previously by the developers of the project and the intention of RERA is to ensure proper functioning of the real estate sector. Thus, the act is a welcoming move and a sigh of relief for the consumers as accountability and transparency is ensured and guaranteed with the promise of better governance in the real estate sector. The prospective effect and impact of implementation of RERA may include the following:

1. Reduction in the supply of projects for short term: Increased compliance cost may delay the launch of new projects as the developers will not start any project until all the approvals are met and the developers ability and willingness to initiate any new real estate project is forecasted to be reduced immediately after implementation of

[5]Section 18, RERA
[6] Section 4 (2) (l) (D), RERA
[7] Section 14 (2) (1), RERA

RERA.[8]Unorganized real estate developers may be wiped out of the market after RERA, thereby adding to supply issues.

2. Timely completion of ongoing projects: RERA will trigger timely completion of ongoing projects by the developers with the penalties involved for delay and increased rights given to the consumers.
3. Increased competitiveness between Grade A and Grade B developers: As all the details of the developer will be easily accessible to the consumers regarding all the past projects undertaken by him, the developers will thrive to build and maintain their reputation in the market for their survival due to increased transparency, thereby finishing their construction projects effectively and efficiently.[9]
4. Increased prices: The real estate prices are expected to go up due to increased compliance cost by the developers. Also, the burden will now be on the developers and increased pressure of timely delivery. The pressure will be transferred to the contractors who will demand higher prices the result of which will be increase in prices of the project the burden of which will fall upon the consumers.[10]

There have been some major legislations and decision that our Government has taken over the period when RERA has come in force and which majorly affect the real estate sector directly. Some major legislations being Benami Transactions and Goods Service Tax July, 2017 and the decision by our Prime Minister, Demonetization in November 2016. These major decisions and legislations are likely to impact the sector in terms of its development, growth, prices, and supply and transaction volumes. These above three mentioned major factors shall be explained one by one in order to analysis the impact on real estate in the current situation.

BENAMI TRANSACTION PROHIBITION (AMENDMENT) ACT, 2016

The Benami Transactions (Prohibition) Act, 2016 (Benami Act) was enacted in 1988 that prohibited benami transactions and the right to recover property held benami. The amendment

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[8]Link available athttp://www.business-standard.com/article/markets/should-you-invest-in-realty-as-rera-comes-into-effect-117050200326_1.html

[9] How RERA will impact organized commercial real estate sector, Link available athttp://www.financialexpress.com/money/how-rera-will-impact-organised-commercial-real-estate-sector/649151/

[10]Will RERA impact real estate prices, http://economictimes.indiatimes.com/wealth/real-estate/will-rera-impact-real-estate-prices/articleshow/58577393.cms

act 2016 was passed by the parliament in August, 2016 which came into force from 1st November, 2016.

A "Benami Transaction" is defined under Section 2 (9) of the The Benami Transactions (Prohibition) Amendment Act, 2016 to include transactions or arrangements:

(A) where a property is transferred to, or is held by a person, but any other person has paid the consideration for such property which is held for the immediate or future benefit, direct or indirect, of the person who has provided the consideration; or

(B) in respect of a property carried out or made in a fictitious name; or

(C) in respect of a property where the owner of the property is not aware of, or, denies knowledge of, such ownership; or

(D) in respect of a property where the person providing the consideration is not traceable or is fictitious;

The definition has certain exceptions laid down as follows which exclude some transactions to be categorized under a "benami transaction" when the property, consideration for which has been paid by known sources:-

(a) is held by Karta, or a member of a Hindu Undivided Family, for his own benefit or the benefit of the family

(b) is held by a person in fiduciary capacity of another person such as trustee, executor, partner, director of a company, etc.

(c) is held by an individual in the name of his/her spouse or child.

(d) is held by an individual in the name of his brother, sister, lineal ascendant or descendant and the individual appears as joint owner in any document, or

(e) any transaction involving the allowing of possession of any property to be taken or retained in part performance of a contract referred to in section 53Aof the Transfer of Property Act, 1882

Section 2(8) of the Benami Act defines a "benami property" to include "any property which is the subject matter of a benami transaction and also includes the proceeds from such property" and section 2 (10) defines a "benamidar" who is a person or a fictitious person, in whose name the benami property is transferred or held and includes a person who lends his name. The central government shall confiscate any property, which is subject matter of benami transaction.[11]The minimum penalty for entering into any such Benami transactions 1 year imprisonment which can extend upto 7 years of imprisonment along with a fine which may extend to 25% of the fair market value of the property which the offender shall also be subject to.[12] Also, any person who furnishes false information on any such regard shall be liable for imprisonment for not less than 6 months.[13]

Therefore, there is no doubt with regards to the intention of the legislators that bringing in the Benami Act into force, they intend to indirectly target those properties which have been purchased with unaccounted money source of which is unknown and thus strict punitive liabilities have been sanctioned. Real estate being a sector where huge chunks of black money has been circulated which is untraceable, Benami act is a new light which will render those properties infructuous where such unaccounted money has been used as consideration and if the defaulters are traced they would be penalized.

The Benami Act is supposed to have a large positive impact on the real estate sector due to following reasons:

1) Boost in investment: The implementation of the Benami Act will bring in clarity on titles and transparency which will further attract well informed and more confident investors who will not hesitate in investing. This will be helpful for the economy as well with increased investment and transparency prohibiting corrupt practices.[14][15]

2) Will save time, money and unnecessary litigation: When there will be clarity on titles, many disputes related to ownership of a particular property such as multiple ownerships or false ownerships will automatically cease resulting in saving of time, money and energy and will help in avoiding unnecessary litigation.

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[11] Section 8, Benami Act
[12] Section 53, Benami Act
[13] Section 54, Benami Act
[14]http://www.thehindu.com/todays-paper/tp-features/tp-propertyplus/What%E2%80%99s-in-the-Benami-Act/article17286785.ece
[15]Impact of new benami transactions act on Real Estate, Link available at http://realty.economictimes.indiatimes.com/realty-check/impact-of-new-benami-transactions-act-on-real-estate/1745

3) Boost in buyers confidence: The buyer of the property will be genuinely more interested in purchasing a particular property if its ownership and title is known and all the papers and documents with regards to the property is well known.

4) Lender Confidence: The lenders will not hesitate in raising loans as there will be no risk of the loans converting into bad debts thus boosting the sector, development and overall economy.

DEMONETIZATION

November 8, 2016 a historic decision by our Honorable Prime Minister Narendra Modi on scrapping of Rupees 500 and 1000 notes i.e. cease them from circulating in the country and shall be no more be accepted as legal tender[16]. This sudden decision of demonetization by our Prime Minister was taken in order to scrap/ remove or reduce the black money and counterfeit notes from the market.

Cash is the most preferred mode of payment in India merely less than half of population use the electronic and card i.e. banking channels as mode of payment. This decision has caused an adverse impact and effect on the Indian commerce, trade, unbanked and informal economy. Trade including agriculture, fishing and informal sector as well as workers who are employed through cash payment mode have been disrupted by this decision. But though the decision was met with some immediate public anger due to mismanagement in the early stages, it likely achieved its objective over the period, by restricting the circulation of black money, scrapping counterfeit notes that are majorly used in illegal activities like terrorist funding etc.

Real Estate Sector in India is cash centric, with high concentration of corruption, black money and tax evasion activities. With demonetization decision in effect, the sector has come to standstill, property prices are hitting the ground, and circulation of cash is limited and restricted in the market. One of immediate effect of demonetization has been the real estate sector that has observed immediate ripples, in 2012 a white paper was release by the Ministry of Finance about contribution of Indian real estate sector towards the GDP of the country amounting to 11% of total GDP and as per latest report the black money constitutes 20% of the GDP and the

[16]http://moderndiplomacy.eu/index.php?option=com_k2&view=item&id=2253:demonetization-and-its-impact-on-indian-economy&Itemid=137

real estate sector holds around 50% of the black money, therefore it remains the worst hit sector by the decision where most transaction happen in cash[17].

Real estate sector is multifaceted market with a lot of factor influencing its growth and functioning, there has been a data analysis of effect on the sector in regard to prices, interest rates and transaction volumes. There has been a 4% fall in the prices in aggregate post demonetization. The brokers or builders are no more offering cash discounts. There has been structural fall in prices as now there is limited time frame for buy and sale and the transaction are no more in cash.

The supply of properties post demonetization has dropped by 11% for sale. When the budget level is separated and studied for different properties ranges, data suggests, that properties up to the range of 50 lakhs had observed a 7% drop in comparison to properties worth 1 crore that observed a 17% drop due the large amount cash transactions in higher budget properties. Therefore if any increase in supply by owners wanting to dispose of their properties in present market would lead to downward pressure on the property prices but other way a drop in supply isn't a good impact either because prices would rise to the peak. And a recent trend in sector shows that most of the owners have been the end users than investors who would have traded their properties. Thought the sellers in market continue to exist, post the demonetization there hasn't been any entry of new sellers in the market in comparison to trend before the demonetization.

There has been shift from Buying' to Renting in the present scenario at a Pan-India Level which has been about 7% where consumers are looking for more rental options than buying options for the interim period to defer their purchases in order to understand the change in supply and price accordingly. The present ration buyer to renters is 1:1.6 from 1:1.1 that clearly depicts in the increase in the demand for renting the properties than buying them[18].

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[17]http://www.motilaloswal.com/article.aspx/1156/The-Impact-of-Demonetization-on-Real-Estate

[18]http://blogs.timesofindia.indiatimes.com/vantage-point/demonetisation-and-its-impact-on-real-estate/

The effect of demonetization on primary and secondary market in regard to the residential units has been question of worry with scarcity of cash, less number dealers and consumer preferences having undergone a change.

The Secondary market has seen considerable effect with circulation of cash restricted, it has thrown away a large segment of buyers considering the nature of transactions in this sector, which has in turn resulted in reduction of prices that would attract buyers benefitting them in long term. But till the time there is reduction in prices takes place in the market, the sector would suffer considerably.

Primary market consists on majorly ready to move in accommodations and new projects for development and this market is mostly funded by the banking channel and financial institutions as it involves huge and larger amount of money unlike secondary market. This market hasn't faced as much as negative impact as secondary market as buyers shall come back to the market to invest in properties and with demonetization the banks and financial institution are offering better interests rates for home loans which encourages the investment in the market among consumers. Therefore with better interest rates by the banks the developers and dealers to increase demand would offer better prices and discounts to the end user to maintain the demand as well their position in the market[19].

GOODS SERVICE TAX (GST)

In India real estate sector has undergone major change in terms of tax application with RERA and the 'Housing for all' initiative, Indian government still does not have single input tax system functioning, therefore tax for different sectors vary from each other , in accordance with state government rules and regulations such as VAT (value added tax). Such variation is observed as state governments impose various taxes on works contract, land, property which is a state subject, such a method has often created a confusion and chaos in management for issue of double taxation. In India, after the IT Industry it is the Real Estate that is the largest employment provider[20].

Then we had the Good and Service Tax perhaps one of the most revolutionary law reform on taxation over the decades in our country. It's likely to remove the issue of cascading effect and conflicting tax structure that are existing until the GST is in force until July 01, 2017 and it is

[19] http://indianexpress.com/article/business/business-others/real-estate-demonetisation-measuring-the-impact-4473331/

[20] http://www.financialexpress.com/money/how-gst-will-impact-real-estate-sector-going-forward/691421/

said to have a grave impact on Indian economy whether it has positive or negative is subject to its application. GST is a single indirect tax that is said to apply on all goods and services across and within the country removing the Value added tax – Central State Tax system of inter and intra state taxation regime and its effect and implementation shall take another 2-3 years in order to observes its impact on the economy.

Though GST has been announced and so have its tax rates but its application and functioning in area of real estate and construction industry is still in confusion[21]. The tax as under GST is at 12% but it not single tax @12% that shall effect it, it shall also include the computation of abatement under the service tax regime and also input tax credit available in order to know the real incidence on the developers and builders[22].

GST will bring transparency in the system, as unlike VAT or Service tax which is taxed at various level for goods and services on different contractors with excise duty and octroi charges, GST has single taxation rule all over and clear on whom it is charged and who is liable to pay the charge and who shall collect

As under the GST with finalization of tax rates for Construction and Real Estate under it, the Construction and Infrastructure a composite supply of works contract is @ 18% with full input tax credit given even though it is higher in comparison to previous or current tax rates but in regard to nature of work in the construction industry, it is in the form of works contract where until now there existed overlapping of goods tax and services tax. According to an expert from Corporate Sector Ratings, ICRA Ltd., Mr. Shubham Jain, "Despite a higher rate, the sector is likely to benefit under GST regime from the availability of input tax credit. As under the current tax regime the benefit of input tax paid is not fully available, the benefits arising out of input tax credit on the raw-materials available under the GST regime would result in an overall neutral tax incidence for construction services." But in case of ongoing construction projects the GST may raise costs and prices due to eventuality involved in the factor and contract renegotiation but in time that may settle too.

[21]http://economictimes.indiatimes.com/wealth/real-estate/how-will-gst-impact-the-indian-real-estate-sector/articleshow/58588312.cms
[22]http://economictimes.indiatimes.com/wealth/real-estate/how-will-gst-impact-the-indian-real-estate-sector/articleshow/58588312.cms

With Real Estate in specific, the construction properties shall be categorized as a service supply and will be liable to be taxed under GST. But the properties whose construction is complete and selling process has commenced they shall be exempt from application of GST and no change in stamp duty and registration charges in regard to the same categories for sale will be levied. The GST rate for construction of building for sale to the consumer shall be @ 12% that shall be included in the sale value, according to ICRA. However, the impact of these higher rates under the GST may vary from state to state because of variance in their tax structure due to VAT and Service tax applicable now.[23]

In order to understand the GST impact we first have to look into Residential Real Estate and the various taxes that are presently applicable on residential real estate such as

1. Service tax: if an under construction property is purchased service tax shall be charged by the developer which is payable to the central government and prior to 2010 no such charge existed. The reason being that works contract includes both value of land and value of service therefore service tax is liable to be charged but due to the complexities involved it was avoided. Hence prior to 2010 rules of service tax wasn't explicitly applicable to the residential properties but later in finance act 2010 it was declared as deemed service and liable for service tax accordingly, where only ¼ of the cost was deemed service tax and rest as cost of unit of land.
2. Value Added Tax- purchase of under construction property a certain amount of additional VAT is payable in specific state and VAT otherwise is also chargeable to under construction property which is payable to State Government. VAT unlike the above Service tax has uniform method of calculation or imposition every state has its own VAT system and some do not charge VAT at all like Uttar Pradesh. Calculation is cumbersome process it requires proper maintenance of accounts and book and input credit system understanding.
3. Stamp Duty- Stamp duty is charged by the state government and like VAT it also varies from state to state in case of registration of sale agreement under real estate transactions

[23]http://www.indiainfoline.com/article/news-top-story/gst-impact-on-construction-real-estate-gst-impact-little-change-in-net-effective-tax-rates-on-construction-and-real-estate-sectors-icra-117052500675_1.html

How does GST impact the above three tax laws?, firstly VAT and Service Tax shall completely be ruled out by central application of GST and in case of stamp duty it shall remain untouched and unchanged as it is not under the purview of GST regime.

But there comes a major issue in GST with scrapping of VAT and Service Tax ,in real estate transactions the impact cannot be analyzed only by the tax charged but for actual impact analysis there are two important components to be considered while dealing with GST impact on Real Estate sector. The components are, first abatement incases of under construction residential unit provided to the consumers and other is the GST rate itself where confusion still persists between @ 12% or @ 18%.[24]

Currently in market scenario the developers and builders pay VAT and Service Tax on goods and services respectively but input credit is allowed due to which as per the current practice the end consumer i.e. the buyers have the burden of paying tax which adds up to the cost of the residential unit but with GST it's likely that input credit is available and there is reduction in costs to be paid by the buyer in longer run. GST is clear that the dealers and builders in real estate sector where sale is undertaken before the actual sale of the residential unit shall be treated as two different transactions this is under the purview of the GST with free flow of credit. Stamp duty and registration charges are not affected with GST mechanism therefore state shall continue to receive its revenue under it and also additional revenue in case above where two separate transactions are carried on including the rental revenues and assignments rights[25].

The system functioning is more complex than it seems, where firstly the stages of development or completion of different residential projects vary from each other and then there must have been already a sum paid towards VAT and Service tax and secondly one major setback in regards to the current situation is that GST does not provide for input tax credit in cases of goods provided under works contract which likely means there is less cost reduction unlike the

[24]http://www.hindustantimes.com/real-estate/real-estate-sector-awaits-clarity-on-gst-likely-to-be-taxed-at-the-rate-of-12-or-18/story-nWJiNc2EdrEJE6iGrJs8pJ.html
[25]http://www.forbesindia.com/blog/economy-policy/model-gst-laws-not-at-all-rosy-for-the-real-estate-sector/

prediction of GST. Therefore with implementation of GST it is likely that costs and prices will increase for the residential units[26].

There are different perspectives that people look for in GST application in Real Estate, in case its buyer's perspective that the major element would be the GST rate in purchase of residential units, in expectation that the rate will be moderate and transactions shall fall under lower rates. Model GST does predict positive impact on the buyers where they shall be benefited from introduction of GST.

Then in case of construction i.e. under construction activity or works contract which are considered as deemed ' supply of services' major benefit is that the double taxation of VAT + Service Tax is scrapped and tax is charged on whole amount of contract this results in cost reductions for buyers and as well as dealers who deal with such contract who pay service charge to the Centre and VAT to the state, then the over above duties and charged of excise and octroi are all scrapped that reduces the burden on dealers and encourages free flow of goods intra and interstate without any hindrance. But at the same time, input credit is not been allowed under GST to works contract[27], this is not much to negative side since now the tax is paid on whole contract and there exists no overlapping credits may not be even be required to be given. With developer's perspective , law is made simple for them, complexities that existed previously have been removed with just one single tax that is charged, there exists no composition scheme no differentiation of taxes in terms of goods and services and different rates of tax to be followed to operate at different states. In the Real estate transactions, free flow of credit has served a huge benefit to it, except a restriction in case of works contract for development of commercial and retail project. The cost impact maybe slightly higher under GST than it was previously under the combined rate of VAT and Service tax.

Tax regime for joint developments and SEZs is still unclear as GST has presumed them as 'supply of service' but still there exists slight uncertainty in terms of land valuation, development rights, land related transactions, on supply of goods and services in SEZ areas, as GST has not given any specific consideration to these factors. Such exclusion under GST in

[26]http://realty.economictimes.indiatimes.com/realty-check/here-s-how-gst-will-impact-the-real-estate-sector-in-india/1740
[27]https://www.wallsnroof.com/blog/gst-a-positive-impact-on-real-estate/

regard to joint development projects and SEZs projects would create confusion in terms of application of tax rates and also demotivate investment and projects in the SEZ areas.

CONCLUSION

With above analysis and study of RERA, 2016 and the impact of BENAMI transactions 2016, Demonetization and Goods Service Tax, 2017 on the Indian Real Estate Sector we can derive a conclusion, though these laws have just taken birth and they shall take their own time precisely 2-3 years when these laws would potentially impact the economy as whole and as well this particular segment of the market. The probable market impact could be derived from the above situational analysis of all the major legislations in regard to RERA, 2016 that would likely provide us an insight of benefits as well the contingencies that we may have to foresee and prepare for such situations.

With the RERA, 2016 coming into force the major benefits that economy would observe are the Disciplinary approach in real estate sector, imposition of accountability on the dealers, builders as well as end users, transparency in transaction and tax implication, sector with clear provisions for registration, check for malpractices, statutory authority for relief and grievances to be addressed has made it an organized sector now, buyers and consumers are given more protection under the act, there is check on black money and corruption subsisting in the sector.

GST being introduced there is a single tax regime that will apply in India; GST is easy to administer and function. But there seems to be varied views on effect on real estate depending on perspective it is seen and observed. The views may vary from developer to a consumer to the government and to the builders. There still a requirement of more clarity to be provided to understand clear effect on the sector as a whole. Though act has addressed the key issues of sector by making single input tax and provision of input credits but several issues in case of complex real estate transaction has been left open and instilled confusion in such a case.

In case of Benami prohibition Act, 2016 corruption through such transaction is now controlled and monitored, tax avoidance can be checked. Benami prohibition shall help to reduce unnecessary litigations in regard to title and as well as tax implications.

An overall disadvantage with such legislations is firstly it shall increase the Government's compliance cost for implementation of the above legislations. A gestation period precisely 2-3 years shall need in order to laws to set in and function. With the RERA, 2016 the burden has shifted on to the developers and builders. These legislations specially with demonetization that has scrapped a major chunk of black money from the economy will lead to a short term recession causing inconvenience to the public.

Overall with so many provisions for each specific activity and transactions under different legislations, will increase compliance costs initially to the government and public as well. This increase in compliance cost will in turn increase prices (specific the real estate sector). Now with such clear provisions of liability and responsibility the Government burden is increased to effectively implement these legislations.