GST in Realty: Building Blocks or Stumbling Stones?

When GST was implemented on 1 July 2017, it set the foundation for a monumental tax structure that continues to be constructed, piece-by-piece, reshaping India's economic landscape. While the real estate sector, a cornerstone of the Indian economy, has been adapting to GST, the journey has unveiled a mix of opportunities and challenges, which we have captured through this article.

The Brighter Facet: GST's Positive Ripples in Real Estate

Simplified tax structure

Prior to GST, the real estate sector grappled with various taxes like VAT, service tax, and stamp duty, along with various rules and conditions for claiming the CENVAT credit, leading to a complex tax regime. GST streamlined this by bringing most of these under a single umbrella, reducing the need for developers and buyers to adhere to various laws.

Increased transparency

The Input Tax Credit (ITC) mechanism under GST ensures that developers pass on the benefits of tax credits to buyers, leading to a reduction in the overall cost of properties and increasing transparency in pricing. Despite changes in taxation and eligibility for the ITC, authorities were vigilant in ensuring that the benefits of rate reduction reached buyers. They provided multiple GST levy options during the transition period to guarantee that these advantages were appropriately passed on.

Boost to affordable housing

The government's decision to levy a lower GST rate of 1% for affordable housing (without ITC) has given a significant boost to this segment, aligning it with the national mission of 'Housing for All.'

Bringing structure to the informal sector

One of the notable benefits of GST in real estate is its role in making the sector more structured. Previously, transactions involving unregistered entities often escaped the tax net, leading to a parallel informal economy.

With the implementation of the reverse charge mechanism upon purchase of certain materials from unregistered persons beyond a certain threshold, the tax base broadened while simultaneously encouraging compliances, thereby reducing the prevalence of informal transactions and contributing to a more organized and accountable real estate sector.

The Flip Side: Hurdles of GST in Real Estate

Limited ITC benefits

The restrictions on availing ITC on certain construction materials and services have diluted the cost-saving potential of GST for developers, indirectly impacting property prices, which are ultimately borne by the buyer.

Complexity in compliance

Despite the initial promise of simplicity, the real estate sector faces certain challenges in day-to-day compliances due to complex rules, frequent amendments, and varying interpretations, leading to confusion and increased compliance costs. The necessity for state-wise registrations, project-specific monitoring, credit reversals, and the restriction on cross-state utilization of ITC are among the perplexing issues that continue to concern the industry. The mandate of obtaining registration as an Input Service Distributor (ISD) could further trouble the industry players who are operating across India.

No GST on land

The exclusion of the land component from GST calculations has led to ambiguity in determining the actual tax liability, as various jurisdictions/locations follow different valuation mechanisms to determine the land value.

Stamp duty still persists

The continued existence of stamp duty, a state levy, alongside GST, contradicts the objective of a single-tax regime and adds to the cost burden of buyers.

Complexities in Joint Development Agreements (JDAs) and Transfer of Development Rights (TDRs)

The GST structure for JDAs remains complex, leading to confusion and disputes. The quest to resolve the enigmatic dilemma of classifying TDRs as either a 'supply of services' or 'supply of land' continues to spark heated debates and courtroom confrontations, with no clear resolution on the horizon. Despite hopes for simplification with GST being introduced, these challenges continue to complicate collaborative project execution.

Conclusion

The rights and wrongs of GST in the real estate sector are intertwined, reflecting the teething troubles of a transformative tax reform. From an industry expert's viewpoint, the real estate sector's journey under GST can still be treated as an under-construction plot. While it has been the endeavor of lawmakers to bring in a certain level of uniformity and transparency (which has occurred to a large extent), there still persists a darker side which leaves room for further improvements and refinements. One such bigger and bolder move could be integrating stamp duty within the ambit of GST, paving the way for a 'truly' unified tax regime in real estate.

As the sector continues to adapt and evolve, the focus should be on striking a balance that fosters growth, affordability, and transparency, ultimately benefiting both developers and buyers in the long-run.

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