Impact of GST on Construction Industry

Ashish D Jagtap[1], Prof. N.N.Morey[2]
[1, 2] Dept of Civil(Construction & Management),
[1, 2] B.S.Collage of Engineering & Research Pune,M.S.India

Abstract- *It is a commonly known fact that the construction sector is the one where cash transactions play a pre dominant role. Even the educated people, prefer to do it more with liquid cash than by going in for explicit bank loans. The GST implementation is part of the government's tax reform programme to increase the capability, effectiveness and transparency of tax ministration and management. Building materials and land acquisition costs are the major construction cost components which are affected due to GST implementation.*

The main objective is to find the impact of GST on construction industry in India

Keywords- GST, Impact on Construction Industry, Impact of GST in Real Estate

I. INTRODUCTION

Goods and Services Tax (GST) is an indirect tax levied in India on the sale of goods and services. Goods and services are divided into five tax slabs for collection of tax - 0%, 5%, 12%, 18% and 28%. Petroleum products and Alcoholic drinks are taxed separately by the individual state governments. There is a special rate of 0.25% on rough precious and semi-precious stones and 3% on gold. In addition a cess of 22% or other rates on top of 28% GST applies on few items like aerated drinks, luxury cars and tobacco products.

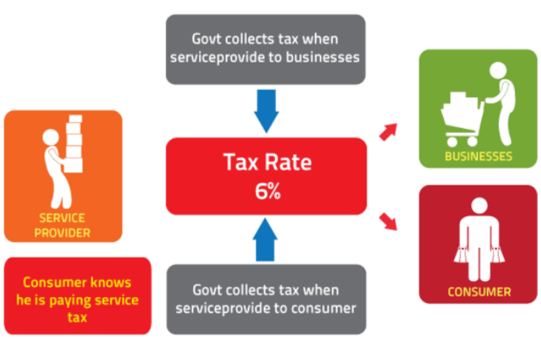

Fig 1. GST Flow

The tax came into effect from July 1, 2017 through the implementation of one hundred and first amendment by the Government of India. The tax replacedexisting multiple cascading taxes leviedby the central and state governments. The tax rates, rules and regulations are governed by the Goods and Services Tax Council which comprises of finance ministers of center and all the states. GST simplified a slew of indirect taxes with a unified tax and is therefore expected to dramatically reshape the country's 2 trillion dollar economy.

II. FORMATION

The reform process of India's indirect tax regime was started in 1986. In May 2016, the LokSabha passed the Constitution Amendment Bill, paving way for GST. Finally in August 2016, the Amendment Bill was passed. State and Union Territory GST laws were passed by all the states and Union Territories of India except Jammu & Kashmir, paving the way for smooth rollout of the tax from 1 July 2017. The Jammu and Kashmir state legislature passed its GST act on 7 July 2017, thereby ensuring that the entire nation is brought under an unified indirect taxation system. There was to be no GST on the sale and purchase of securities. That continues to be governed by Securities Transaction Tax (STT).

III. LAUNCH

The Goods and Services Tax was launched at midnight on 1 July 2017 by the President & Prime Minister of India.

IV. TAXATION SCHEME

The single GST (goods and service taxes) replaced several former taxes and levies which included: central excise duty, services tax, additional customs duty, surcharges, state-level value added tax and Octroi.Other levies which were applicable on inter-state transportation of goods have also been done away with in GST regime. GST is levied on all transactions such as sale, transfer, purchase, barter, lease, or import of goods and/or services. India adopted a dual GST model, meaning that taxation is administered by both the Union and State Governments. Transactions made within a single state are levied with Central GST (CGST) by the Central Government and State GST (SGST) by the State governments. For inter-state transactions and imported goods or services, an Integrated GST (IGST) is levied by the Central Government. GST is a consumption-based tax/destinationbased tax, therefore, taxes are paid to the state where the goods or services are consumed not the state in which they were produced. IGST complicates tax collection for State Governments by disabling them from collecting the tax owed to them directly from the Central Government. Under the previous system, a state would only have to deal with a single government in order to collect tax revenue.

4.1HSN code in GST

HSN (Harmonized System of Nomenclature) is an 8-digit code for identifying the applicable rate of GST on different products as per CGST rules. If a company has turnover more than 1.5 Cr but up to 5 Cr then they need to mention the 2 digit HSN code while supplying goods on invoices. If turnover crosses 5 Cr then they shall mention the 4 digit HSN code on invoices.

4.2Rates

The GST is imposed at variable rates on variable items.Some industries and products were exempted by the government and remain untaxed under GST, such as dairy products, products of milling industries, fresh vegetables & fruits, meat products, and other groceries and necessities. Check posts across the country were abolished ensuring free and fast movement of goods. The Central Government had proposed to insulate the revenues of the States from the impact of GST, with the expectation that in due course, GST will be levied on petroleum and petroleum products. The central government had assured states of compensation for any revenue loss incurred by them from the date of GST for a period of five years. However, no concrete laws have yet been made to support such action. GST council adopted concept paper discouraging tinkering with rates.

V. GOODS AND SERVICES TAX NETWORK (GSTN)

As per the government website on GST, "Goods and Services Tax" Network (GSTN) is a nonprofit organization proposed to be formed for creating a website / platform for all the concerned parties related to the GST, namely stakeholders, government and taxpayers to collaborate on a single portal. When up and running, the portal is supposed to be accessible to the central government which allows it to track down every transaction on its end while taxpayers are advertised to have the ability of connecting this to their tax returns. However its efficacy and efficiency is yet to be tested. The known authorized capital of GSTN is □10 core (US$1.6 million) in which Central Government holds 24.5 percent of shares while the state government holds 24.5 percent and rest with private banking firms for smooth running of the transactions.

VI. RELEVANT CHANGES TO PONDER UPON

6.1Availability of Input Tax Credit for Construction of Immovable Property

Under the current tax regime, CENVAT Credit on inputs used for construction of a building or a civil structure or any part thereof is restricted, however, the CENVAT Credit of input services and capital goods is permitted. It is imperative to mention here that Section 17 (d) of the Central Goods and Services Tax Act, 2017 ("CGST Act, 2017") restricts the Input Tax Credit (ITC) of goods (inputs and capital goods both) and input services only in the event when the goods and services are being used for construction of an immovable property (other than plant and machinery) by a taxable person on his own account including construction of such immovable property for furtherance of business. Therefore, it can be inferred that ITC is not restricted when goods and services are being used by a taxable person in the same line of business. Hence, under the GST regime builders/ developers would be eligible to take ITC on inputs which was earlier restricted.

6.2Increase in cost of property

The Humble Supreme Court in the case of K Raheja Development Corporation vs. State of Karnataka (2005) 141 STC 298 (SC) upheld by the larger bench in Larsen &Tourbo Ltd vs. state of Karnataka (2013) 65 VST 1 (SC) para 101, Para 115 of the said order clarified that activity of construction undertaken by the developer would be works contract only from the stage the developer enters into a contract with the flat purchaser. The value addition made to the goods transferred after the agreement is entered into with the flat purchaser can only be made chargeable to tax by the state Government. However, this is overturned in the GST regime by virtue of clause 5(b) of Schedule II in which it is mandatory to pay the entire consideration after occupation or completion certificate to avail exemption from GST. Meaning thereby in the construction linked payment cases GST is loveable on the full value of sale irrespective of the stage of construction status.

6.3*Impact on working capital in case of supplies from unregistered persons*

If the registered person purchases goods or procures services from any unregistered supplier then as per Section 9(4) of the CGST Act, 2017 he would be required to pay GST from his own pocket under reverse charge mechanism in a month and would be eligible for ITC on the same in next month.

VII. TAXABILITY OF TRANSFER DEVELOPMENT RIGHTS (TDR)

7.1 Transfer of land development rights by the landowner to the builder/ developer:

TDRs being a benefit arising from the land, thus the same shall be considered as a benefit arising out of an immovable property as defined under Section 3(26) of General Clause Act, 1987, therefore the same is neither taxable under the Service Tax Law nor taxable under VAT regime. Now, as per entry no. 5 of the Schedule –III to the CGST, 2017, only sale of land and building is neither supply of goods nor supply of services. Thus, it needs to be clarified by the Government whether the benefit arising out of such land and building would be covered under the ambit of entry no. 5 of the Schedule –III to the CGST, 2017.

7.2 Construction service provided by the builder/developer

The builder/developer receives consideration for the construction service provided by him from two categories of service receivers: i. from landowner, in the form of land/development rights:- In this case the builder/ developer has already received the consideration in the form of transfer of development rights prior to the issuance of completion certificate by the competent authority, therefore the same is taxable under Section 66E of Finance Act 1994. ii. from other buyers:-In this case, if the builder/ developer receive any consideration prior to the issuance of completion certificate by the competent authority, then the same is taxable under Section 66E of Finance Act 1994 and if the entire consideration is received after the issuance of completion certificate by the competent authority, then the transaction is not taxable. In the GST Regime, the provisions pertaining to the taxability of TDRs are in pari-materia with the current law, therefore TDRs would be taxable as explained herein above.
Under GST regime, the definition restricts Works Contracts only in relation to immovable properties. Such contracts are expressly stated as services under Schedule II of the CGST Act, 2017.

Currently, no abatements or exemptions have been notified in this respect.The value of taxable supply shall be transaction value except in case of supplies to related persons where valuation rules shall be applied.

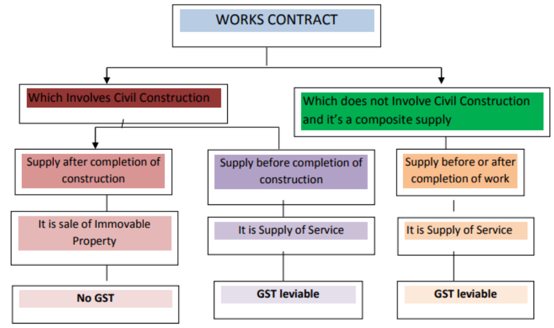

Fig 2: depicting taxability of works contract

In the absence of such tax exemptions and concessions, there is a possibility of a significant increase in project costs.

VIII. REVERSAL OF ITC UNDER WORKS CONTRACT

If the builder has a project in which there are 1000 flats. However due to market conditions or for any other reason he is able to sell only 800 flats till the time he receives the completion certificate. In this case, he will have to reverse the credit taken on the balance 200 units as upon receipt of completion certificate, these flats would become building. And would be covered under entry no 5 of schedule III of the CGST Act, 2017. In this scenario, he may be liable to pay interest on such reversal of credits for the period starting from the date of completion certificate till the date of actual reversal at the prescribed rates

IX. OTHER RECEIPTS

There may be various receipts which the builder usually receives from its customers like transfer charges, holding charges, cancellation charges, legal charges for registration purpose etc. These receipts are taxable under GST. Under the current tax regime, interest on delayed payments by customers is exempt from service tax, however, under the GST, such interest is considered as part of consideration and would be subject to tax.

X. IMPACT OF RESTRICTING ITC BENEFIT FOR ASSETS FOR LEASE

Under clause (d) and (e) of subsection (5) of section 17 of CGST Act, 2017, a supplier who construct the building, flat, dwelling unit, independent floor or shop etc. either through works contractor or on his own for the purpose of letting out / leasing for consideration, will not be able to take any credit of taxes charged on input and input services used in the construction of such buildings, flats etc. due to specific restriction. Though letting of these building etc. for commercial purpose is taxable but benefit of input tax credit is not extended which is against the principal of Value added based tax. It will results into increased cost of constrictions and higher rents of such commercial properties.

XI. TRANSITIONAL CHALLENGES UNDERGST

In construction industry stock in hand comprise of the following namely:

- Building Raw Material and Components
- Land Stock
- Transfer Development Right Stock
- Work in progress
- Stock in Trade –Flats /Finished Products

Section 140 of the CGST Act, 2017 provides for transitional provisions in relation to credit of Eligible duties in respect of inputs held in stock or inputs contained in semi-finished or finished Goods held in stock on the appointed day.

XII. CONCLUSION

1. An out of the box approach to the various technological option of doing the work has emerged to counter act the cost effect of GST
2. Builders as well as the other agencies working in this sector have started a panel working on the untouched areas of working on the principles of construction management & risk management of the projects having huge significance in the construction society
3. However, concerns remain w.r.t the taxability of TDRs when the development rights are being transferred to builder/ developer and seamless credit availability of ITC to a constructor/ developer/ works contractor.
4. There is a pressing need for the Government to look into these issues in more detail to avoid any ambiguity which might affect the economic environment of the country.
5. Overall GST is helpful for the development of Indian economy as well it will be very much helpful in improving the gross domestic product of the country

REFERENCES

[1] S.Ramesh Kumar, P.R.Naveen, K.V.Guru, Impact Of Demonetisation And Gst On Construction Industry, IRJET Volume: 05 Issue: 03 Mar-2018

[2] ArpitShailesh, Dr.Taruna, A study on impact of goods and services tax on Indian economy: A key tax reform, IJCMR,Volume 2; Issue 10; October 2016; Page No. 76-80

[3] Rajkumar CA, Adukia S. A Study On Proposed Goods And Services Tax [GST] Framework In India, available at http://taxclubindia.com/simple/rajkumar.pdf

[4] GirishGarg. Basic Concepts and Features of Good and Service Tax in India. 2014.