

Ref. No. MCHI/PRES/19-20/648

August 27, 2020

To,

Dr. Nitin Kareer (I.A.S.)

Additional Chief Secretary (Revenue)

Registration and Stamp Duty,

Revenue & Forest Department

Government of Maharashtra,

Mantralaya, Mumbai - 400 032

Sub: Clarification with regard to 63-1A of the Maharashtra Tenancy and Agricultural Lands Act, 1948.**Re : 1) Our letter dated 15th June, 2020.**

Respected Sir,

We refer to our letter dated 15th June, 2020. Further to the said letter, we have to state that by Notification dated 1.1.2016, the provisions of Section 63-1A of Maharashtra Tenancy and Agricultural Lands Act, 1948 came to be amended. Pursuant to the said amendment, the relevant provisions of Section 63-1A now read as under:

63-1A. (1) Notwithstanding anything contained in section 63, it shall be lawful for a person to sell land, without permission of the Collector, to any person who is or is not an agriculturist and who intends to convert the same to a bona fide industrial use or for Integrated Township Projects, as the case may be, where such land is located within,--

(i) the agricultural zone of a draft or final Regional Plan or draft or final Town Planning Scheme, as the case may be, prepared under the Maharashtra Regional and Town Planning Act, 1966 or any other law for the time being in force, and plans or schemes and the development control regulations or rules framed under such Act or any of such laws for the time being in force permit industrial use of land; or

(ii) the area where no such plan or scheme as aforesaid exists or :

(iii) the area taken over by a private developer for development of an Integrated Township Project. Provided that, where such purchase of land is for bona fide industrial use, it shall be subject to the condition that such land shall be put to bona fide industrial use within a period of five years from the date of purchase :

Provided further that, after the expiry of the aforesaid period of five years, an extension of time not exceeding further five years may be granted by the Collector on payment of non-utilization charges at the rate of two per cent. of the market value of such land per annum, where such market value is calculated as per the Annual Statement or Rates published under the Bombay Stamp (Determination of True Market Value of Property) Rules, 1995, as applicable on the date of grant of such extension of time :

Provided also that, if the purchaser fails to put the land to bona fide industrial use within a period of five years or, where non-utilization charges as aforesaid have been paid, within a total period of ten years, then the Collector shall resume such land after giving one month's notice to the said defaulting purchaser, and the land so resumed by the Collector shall vest in the Government, free from all encumbrances, and shall first be offered to the original land holder by way of grant, on the same tenure on which it was initially held by such land holder before its sale for such bonafide industrial use and at the same price at which it had been sold by the original land holder for such bona fide industrial use :

Provided also that, if the original land holder fails to accept the offer to purchase the said land within a period of ninety days from the date of receipt of such offer from the Collector or having accepted such offer, fails to deposit with the Collector the required amount within a further period of ninety days, such land shall be auctioned for any use consistent with and permissible under the Development plan or Regional plan or Town Planning Scheme, as the case may be, if any, sanctioned under the Maharashtra Regional and Town Planning Act, 1966 or any other law for the time being in force; and in both the cases, the defaulting purchaser shall only be entitled to compensation equal to the price at which such land had been purchased by him, and the Collector shall remit such compensation to the defaulting purchaser within a period of ninety days from the date of receipt of payment under the said auction :

Provided also that, the purchaser who fails to put the land to bona-fide industrial use within five years from the date of the purchase, and is on the date of coming into force of the Maharashtra Tenancy and Agricultural Lands Laws (Amendment) Act, 2004 holding such land without having been put to the bona-fide industrial use, shall be permitted to put such land to the bona-fide industrial use within the remaining period from the total period of fifteen years, subject to the condition that,

(a) In the land purchased under sub-section (1) was held by the seller as the Occupant Class-II, such purchaser land holder shall pay an additional amount equal to 48 per cent. of the price for which it was originally purchased and three times of an annual assessment of non-agricultural tax payable under the Maharashtra Land Revenue Code, 1966 as a non-utilisation tax per year;

(b) if the land purchased under sub-section (1) was held by the seller as the Occupant Class-I, such purchaser land holder shall pay an amount equal to three times of an annual-assessment of the non-agricultural tax payable under the Maharashtra Land Revenue Code, 1966 as a non-utilisation tax per year :

Provided also that the provisions of this sub-section shall not apply to the areas notified as the Eco-sensitive zone by the Government of India;

Provided also that, where the land being sold is owned by a person belonging to the Scheduled Tribe, such sale of land shall be subject to the provisions of sections 36 and 36A of the Maharashtra Land Revenue Code, 1966 and of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974.

(2) If, the land being purchased under sub-section (1) is held by Occupant-Class II, the purchaser shall pay to the Collector, an amount equal to two per cent of the purchase price, in case the purchase of land is for bona-fide industrial use and fifty per cent. of the purchase if the purchase of land is for Integrated Township Project within one month of the execution of the sale-deed irrespective of the tenure of such land. This payment shall be in lieu of any nazarana or such other charges which may otherwise be payable by such Occupant-Class II by or under the provisions of the Maharashtra Land Revenue Code, 1966. In addition, the purchaser of such land shall pay the non-agricultural assessment as may be levied by the Collector under sections 67 and 115 of the Maharashtra Land Revenue Code, 1966 :

Provided that, if such purchaser fails to deposit such amount within one month, then such purchaser shall pay to the Government an amount equal to seventy five per cent. of the purchase price or the market value of the land as per the Annual Statement of Rates of that year, whichever is higher.

(3) The person purchasing the land under sub-section (1) for conversion thereof for a bona fide industrial use, or for Integrated Township Project, as the case may be give intimation of the date, on which the change of user of the land commenced, within thirty days from such date, to the collector.

(4) If the person fails to inform the Collector within the period specified in sub-section (3), he shall be liable to pay in addition to the non-agricultural assessment which may be leviable by or under the provisions of the Maharashtra Land Revenue Code, 1966 such penalty not exceeding twenty times the amount of non-agricultural assessment as the Collector may, subject to the rules, if any, made by the State Government in this behalf, direct.

(5) If the person purchasing the land under sub-section (1) for conversion thereof for a bona fide industrial use, fails to utilize the said land for bona fide industrial use, fully or partly, and wants to sell the same before the expiry of the total specified period of ten years, he may, subject to the payment of non-utilization charges specified in the second proviso to sub-section (1), be permitted by the Collector to do so for the remaining period out of the specified period of ten years from the date of original purchase, subject to the following conditions, namely :--

(i) where the said land is to be sold for bona fide industrial use, the transferor shall have to deposit with the Collector the transfer charges at the rate of twenty-five per cent. of the market value of such land as per the current Annual Statement of Rates;

(ii) where the said land is to be sold for any non-agricultural purpose other than the bona fide industrial use, which is consistent with the draft or final Development plan or Regional plan or Town Planning Scheme, if any, made under the Maharashtra Regional and Town Planning Act, 1966 or any other law for the time being in force, the transferor shall have to deposit with the Collector conversion charges equal to fifty per cent. of the market value of such land as per the current Annual Statement of Rates and in case of Occupant Class-II land, an additional amount equal to forty-eight per cent. of the price at which such land was originally purchased, in lieu of the nazarana.

-----Explanation.-- For the purposes of this section,--

(a) the expression "bona fide industrial use" means the activity of manufacture, preservation of processing of goods, or any handicraft, or industrial business or enterprise, carried on by any person, 1 [or the activity of tourism within the areas notified by the State Government as the tourist place or hill station,] and shall include construction of industrial buildings used for the manufacturing process or purpose, or 2 [power projects and ancillary industrial usage like research and development units pertaining to bona fide industrial use, godown, canteen, office building of the industry concerned], or providing housing accomodation to the workers of the industry concerned, or establishment of an industrial estate including a co-operative industrial estate, service industry, cottage industry, gramodyog units or gramodyog vasahats.

(aa) "Integrated Township Project" means the Integrated Township Project or projects under the Regulations framed for development of Integrated Township by the Government under the provisions of the Maharashtra Regional and Town Planning Act, 1966 or any other law for the time being in force.

(b) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Maharashtra under article 342 of the Constitution of India and persons, who belong to the tribes or tribal communities, or parts of, or groups within, tribes or tribal communities specified in Part IX of the Schedule to the Order made under the said article 342, but who are not resident in the localities specified in that order who nevertheless need the protection of this section (and it is hereby declared that they do need such protection) shall, for the purposes of this section, be treated in the same manner as members of the Scheduled Tribes.

(Emphasis supplied)

A perusal of the aforesaid provisions of Section 63-1A of the Act clearly establish that it is not necessary for the purchaser of an agricultural land, setting up an ITP, to be agriculturist. Section 63-1A does not provide for any time limit either for purchasing the land for ITP or for that matter for completing the development thereof. Development of Integrated Township is a time consuming and continuous process which depends upon various factors including population growth, ability to procure contiguous pieces and parcel of land, changes in rules and regulations relating to the development and time taken to complete development of large township. The time limit mentioned in the provision only applies to bonafide industrial user, hence considering the same the Government has made the above provision in the Section 63-1A.

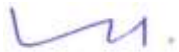
While the provisions of Section 63-1A are amply clear, we humbly request that you will be kind to confirm that the time limit mentioned under 63-1A is not applicable either for purchase of land for ITP and or for development of ITP. To read it otherwise will be contrary to the provisions of Section 63-1A also the intent of the Government of Maharashtra to promote development of ITPs in the State of Maharashtra.

In view of the above, we have to humbly pray and request your good self to clarify:-

- a. There is no specific time limit either for purchase of land or development of Integrated Township project.

Thanking you,

Yours Sincerely,
For CREDAI-MCHI



Nayan A. Shah
President



Bandish Ajmera
Hon. Secretary