CREDAI-MCHI

Ref. No. MCHI/PRES/19-20/157 March 13, 2020

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13/03/2020

To,

(1) Shri Praveen Pardeshi (I.A.S.)
Municipal Commissioner
Municipal Corporation of Greater Mumbai
Mumbai – 400 001

(2) Shri P. Velrasu (I.A.S.)
Additional Municipal Commissioner
Municipal Corporation of Greater Mumbai
Mumbai - 400001

(3) Shri Ramesh Pawar
Dy. Municipal Commissioner (Assessment tax)
Municipal Corporation of Greater Mumbai
Mumbai – 400 001

<u>Sub:-</u> **Coercive steps adopted by Assessment & Collection Department for recovery of property taxes from builders/developers.**

Grant of installments for clearing the outstanding Taxes till final disposal of SLP No. 17009 of 2019 by the Hon'ble Supreme Court.

Respected Sir,

We, the undersigned are registered body of the Builders/Developers in Mumbai city. As you are aware, the entire economy of our country is going through a massive slump and there is recession everywhere. It has been a double whammy for the builders / developers since on one hand it has been hit by the bankers levying exorbitant interest and on other hand there is huge inventory pending since there is lack of buyers.

The levy of the LUC has been exorbitant and beyond affordability of any developer, and that is the reason, why across the entire city, more than 90% of the developers are not able to pay this levy. Besides the levy itself being exorbitant, the problem has compounded by lack of sale and availability of the funds. This kind of most unreasonable levy at the level unheard in the entire country, needs to be rationalised, and should be brought down to reasonable level.

The builders/developers are more particularly aggrieved by the taxes imposed by the Assessment & Collection department (A&C Department) for open land/land under construction. The percentage of taxes has also being exorbitantly revised from 01/04/2015 more particularly for Land under construction as per the Capital Value rules. Also, from 01/04/2010 onwards, Rule 20 of Capital Value rule has become the biggest impediment for the builders since MCGM takes into consideration the element of F.S.I./ T.D.R. into consideration for assessing the plot of land, whereby the developers are assessed in the multiples of F.S.I. to be consumed at the stage of Land under Construction. This Rule is not only against the cardinal principles of Rating which states that assessment should be ***'Rebus sic-stantibus'*** (i.e. as is where is

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basis) but also defies logic since Plot of land is assessed in the multiples of FSI/TDR which is nothing but the potential of land being assessed instead of the actual land. This rule 20 of Capital Value rules for the year 2010 & 2015 was inter alia agitated by the Petitioners/Developers in W.P. No. 2592 of 2013 and Ors. wherein, the Division Bench of the Bombay High Court vide judgment dated 24/04/2019 was pleased to struck down rules 20, 21 & 22 of Capital Value rules for the years 2010 & 2015.

The aforesaid judgment was challenged by MCGM in the Apex court by filing SLP No.17009 of 2019 and vide Order dated 29/07/2019, the Hon'ble Supreme Court was pleased to stay the judgment dated 24/04/2019 of the Bombay High Court by continuing the interim order dated 24/02/2014 (of the Bombay High Court) regarding payment of 50% taxes till final disposal of SLP. However, even if one has to pay 50% of the demand, then also most of the developers will not be able to afford.

In most of the cases, A&C department has started taking coercive steps like attachment etc. without disposal of the complaints filed by the complainants thereby demanding 50% payment of property taxes. It is our humble submission that looking at the massive recession and lack lustre demand in the real estate market, your good self is requested to grant payment installment facility so as to enable the developers to deposit 50% property taxes out of the total demand, subject to an undertaking from the concerned developers. It will not be out of place to mention that the Maharashtra Housing Area Development Authority (MHADA), Slum Rehabilitation Authority (SRA) have issued circulars granting various installment facilities to the developers for payment of premium/charges on account of the slump in the economy, the necessary copy of the circular is enclosed herewith (**<u>Annexure – 1</u>**). We therefore, request you to extend similar concessions to the cash starved builders in payment of property taxes so as to remain afloat in this depressed market. This will not only alleviate the hardships faced by the developers but also enable the MCGM to recover the property taxes. Also, the developers will be saved from the hanging sword of attachment/ auction by getting payment facility and also from selling the unsold stock to the prospective buyers since the builders are unable to sell the flats /units in the property which is attached by MCGM.

In view of the above we request as follows:

1. The tax to be collected should be restricted to 50% of the demand raised, which shall be payable in installments as follows:
   A. 15% on or before 31st March 2020
   B. 10% on or before 30th September 2020
   C. 15% on or before 31st March 2021
   D. 10% on or before 30th September 2021.

Payments already made till date to be taken into consideration for calculating the above installment amounts.

However, if any building is required to obtain OC then entire 50% of the tax demand for that particular building shall be paid on or before issue of the OC by the developer and the NOC of assessment department shall be given based on the payment of the 50% of the demand raised.

Consequential relief be given as follows:

1. we request you to cancel the attachment orders issued to the properties for non-payment of 50% taxes by granting them installments as above
2. to give water connections and approvals to all in light of the above request.

Thanking you,

Yours Sincerely,
For CREDAI-MCHI

Nayan A. Shah
President

Bandish Ajmera
Hon. Secretary

Encl.: As above

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झोपडपट्टी पुनर्वसन प्राधिकरण

SLUM REHABILITATION AUTHORITY

CIRCULAR

No. CEO/SRA/4598
Date : 06.08.2019

Subject: Request for expeditious grant of development permissions (IOA & CC) simultaneously & for relaxation in the payments of premium/ charges/ fees/ development charges etc.

1. Government of Maharashtra/India is keen in bringing in ease in doing business. As well as, there is a continuous flow of representations from stake holders to SRA administration claiming threat to viability of SR schemes. One of such representation was received from stakeholders organisation CREDAI-MCHI on 11th July 2019.

2. The said representations received from stakeholders were deliberated amongst HOD's/Officers of SRA administration, the one received on 11th July 2019 was profoundly mulled in the intent and spirit of provisions of clause 6.17 of Regulation No.33 (10) of Development Control and Promotional Regulations (DCPR) 2034, regards exercising powers to implement SR Schemes viz–a–viz their viability looking to the slump experienced in Real Estate Financial conditions and the provisions of DCPR, 2034.

3. Considering the representations from stake holders, Intimation of Approval (IOA) and Commencement Certificate upto Plinth/Stilt height shall be given simultaneously looking to the provisions of Regulation No. 10 of DCPR, 2034 and other laws in force provided

प्रशासकीय इमारत, प्रो. अनंत काणेकर मार्ग, वांद्रे (पूर्व), मुंबई – ४०० ०५१.
दूरध्वनी : २६५६ ५८००, २६५९ ०४०५ / १८७९, फॅक्स : ०२२–२६५९ ०४५७, ई–मेल : info@sra.gov.in

mandatory conditions in DCPR, 2034 are complied with at the time of such a grant of IOA & Plinth/Stilt height CC simultaneously for Rehab Buildings, such as

i) Obtaining demarcation of roads as per Regulation No. 10 (3) (iv) (h) of DCPR, 2034 from competent department of MCGM in advance,

ii) Applicable clearance from Assessment department of MCGM,

iii) Payment of development charges /premiums /development cess /offsite infrastructure charges/ fees etc. as per Regulation No. 10 (7) of DCPR, 2034 in addition to the development permission fee & security deposit as per Regulation No.10 (3) (x) & (xi) of DCPR, 2034,

iv) One time payment of 'Pest Control charges' to MCGM as per circular issued by MCGM,

v) Workmen's compensation policy,

vi) Submission of remarks from empanelled SWD/road & Fire Consultants (till submission of NOC from CFO of MCGM, in case CFO NOC is submitted, no such remarks shall be essential)

vii) Self certification for cutting /transplanting of existing trees,

viii) Suitable RUT

4. Considering the viability of SR Schemes, interest shall not be charges on the deferred payments provided time schedule as per policy circular in force is adhered, provided further the

requests for refund or adjustment of interest paid earlier, shall not be entertained.

This circular will come into effect immediately and should be followed scrupulously.

Chief Executive Officer
Slum Rehabilitation Authority