

S. S. Hussain I.A.S. (Ex)

Chief Executive Officer

Ref. No.: MCHI/CEO/16-17/107

January 13, 2017

Sub: Demand of Royalty/Penalty on Excavation of Extracted Earth not applicable**Ref: Order dated December 3, 2014, passed in C.A. No. 10717 of 2014
Arising out of SLP No. (C) No. 33002 of 2010 & others**

Dear

MCHI-CREDAI and its Units are an Association of Real Estate Developers in MMR region, who always strive for common cause and serve for common purpose, i.e., to benefit people at large by providing housing/homes.

We would like to bring to your notice and inform that The Hon'ble Division Bench of Supreme Court, on 3rd December, 2014, passed an order in SLP (c) No. 33002 of 2010, filed by Promoters and Builders Association Pune, along with other SLPs.

The issues challenged in the SLP was, "The Excavation activity even for the purpose of laying foundation of the building would still attract rigours of sec. 48 (7) of the Maharashtra Revenue Code", which also indicate that the aforesaid provision of the code, extraction of the minerals by any person without assignment of any right by the State Government make such person liable to penalty.

The Hon'ble Supreme Court opined that, "what is the purpose of extraction or excavation? That is to be seen? When an excavation is done only to undertake to lay down the foundation of the building and the extracted earth was not used commercially but was redeployed in the building operation, can't be termed as violation of sec. 48(7) of Maharashtra Land Revenue Code."

We would like to bring to your notice that the excavation by Developer/Builder is done for the foundation purpose only and the builders developers are not doing any business by the selling of the soil, but are redeploying in the building operations, in the light of the above and the order passed by the Hon'ble Supreme Court, we would request you to consider the same and the Royalty not to be charged from the Developers/Builders. We would therefore request that the order/instructions be given to the Tahilsadar/ Collector who are harassing the Developer/Builder by charging the Royalty, and questioning them and also delaying their process, under the above circumstances not to charge the Royalty in the light of the order passed by the Hon'ble Supreme Court.

Thanking you in anticipation.

Yours

**S. S. Hussain**Encl: Copy of Order dt. 3rd December, 2014

To
Shri Manu Kumar Shrivastava (I.A.S.)
Principal Secretary
Revenue Department
Govt of Maharashtra
Mantralaya, Mumbai

13/1/17
लिपिक

प्रधान सचिव (महसूल)
महसूल व वन विभाग,
मंत्रालय, मुंबई