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Rajni S. Ajmera
Late G. L. Raheja
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Late Babubhai Majethia

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Ashit Shah

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Prakash Baviskar

Ref. No. MCHI/PRES/17-18/011

September 11, 2017

To,
Hon'ble Shri Devendra Fadnavis,
Chief Minister,
State of Maharashtra,
Mantralya,
Mumbai - 400 032

o/c
मुख्यमंत्री सचिवालय
महाराष्ट्र शासन
मंत्रालय, मुंबई ४०० ०३२
दिनांक ११/०९/१७

Subject : Representation regarding modifications required to be done in Section 80-IBA of the Income Tax Act to give real boost to Affordable Housing

Respected Sir,

- Maharashtra Chamber of Housing Industry (MCHI)**, Society registered under the Societies Registration Act, 1860 and under the Bombay Public Trust Act, 1950. MCHI is a recognized association having as its members, various firms and/or companies engaged in the business of development and redevelopment of immovable properties, who provide the majority of the housing (exceeding 90%) in and around the city of Mumbai. MCHI is well known for initiating and successfully espousing the cause of its members at various forums, Government, Urban Local bodies, etc. As a founder member of Confederation of Real Estate Developers' Association of India (CREDAI), MCHI's grasp of the real estate market is profound.
- We would like to bring to your kind notice the matter relating to amendment that is required to be made in Section 80-IBA of the Income Tax Act remove requirement of the date of approval (or the date of first approval) being after 1st day of June 2016 to give real boost to Affordable Housing for the following reasons :-
 - Projects which were first approved prior to 1st June 2016 are being amended by the Developers to make the project Affordable as per the eligibility criteria as also meet with the requirements of being eligible for benefit u/s 80IBA of the Income Tax Act
 - In case of large project where there is balance development still pending can still be amended by the developers to make it Affordable provided there is incentive available in the form of tax free benefit available to such projects under section 80IBA of the Income Tax Act

This will require the following amendment in section 80-IBA of the Income-tax Act [as inserted by section 44 of the Finance Act, 2016 with effect from 1st April 2016 and subsequently amended by the Finance Act, 2107 with effect from 1st April 2017],

With effect from the 1st day of April, 2017

(a) in sub-section (2), –

(i) in clause (a), the words “after the 1st day of June, 2016, but” shall be deleted and the words “and the project has commenced on or after the 1st day of June, 2016” shall be added at the end;

(ii) clauses (b)(i), which reads as “where the approval in respect of a housing project is obtained more than once, the project shall be deemed to have been approved on the date on which the building plan of such housing project was first approved by the competent authority; and” shall be deleted;

(iii) clauses (b)(ii) shall read without number (ii).

3. For ease of reference of your goodselves, we annex hereto provisions of Sec 80IBA introduced by the Finance Act 2016 with effect from 1st April 2016 and as amended by the Finance Act 2017 with effect from 1st April 2017.
4. We humbly request your goodselves to kindly recommend and take up the matter with the Hon’ble Finance Minister to make necessary and suitable amendments with effect from 1st April 2017 in Section 80-IBA of the Income-tax Act as mentioned above and oblige.
5. We would be happy to furnish respond to any queries that you may have or clarifications that you may require with regard to the subject matter hereof.

Our humble request:-

1. Kindly recommend and take up the matter with the Hon’ble Finance Minister to make necessary and suitable amendments with effect from 1st April 2017 in Section 80-IBA of the Income-tax Act as below so that all the Affordable Housing Projects that have started or shall start on or after 1st June 2016 but have first of the approval date prior to 1st June 2016 shall also be eligible for benefit under section 80IBA of the Income Tax Act:

With effect from the 1st day of April, 2017

(a) in sub-section (2), –

(i) in clause (a), the words “after the 1st day of June, 2016, but” shall be deleted and the words “and the project has commenced on or after the 1st day of June, 2016” shall be added at the end;

(ii) clauses (b)(i), which reads as “where the approval in respect of a housing project is obtained more than once, the project shall be deemed to have been

approved on the date on which the building plan of such housing project was first approved by the competent authority; and" shall be deleted;

(iii) clauses (b)(ii) shall read without number (ii).

2. A meeting be granted to our office bearers to explain need and justification of the above requested amendment to give real boost to Affordable Housing.

Thanking you

Yours faithfully,
For CREDAI-MCHI



Mayur Shah
President



Domnic Romell
Hon. Secretary



S. S. Hussain, I.A.S. (Retd.)
Chief Executive Officer

Copy to:
Hon'ble Shri Arun Jaitly
Finance Minister
Ministry of Finance,
Government of India
North Block,
New Delhi - 110 001

Shri Sushil Chandra,
Chairman,
Central Board of Direct Taxes,
Department of Revenue,
Ministry of Finance,
Government of India,
New Delhi - 100 001

✓ **Shri Shantilal Kataria, President,**
CREDAI - Maharashtra (Mumbai),
Rajgir Chambers,
Opp Old Custom House,
Fort, Mumbai - 400 001

Shri Jaxay Shah, President,
CREDAI - National
PHD House, 5th Floor,
Siri Institutional Area,
August Kranti Marg,
Hause Khas,
New Delhi - 110 016



Annexure

Sec 80IBA introduced by the Finance Act 2016 with effect from 1st April 2016 and as amended by the Finance Act 2017 with effect from 1st April 2017 (with the words highlighted in grey colour that are requested to be deleted/added)

80-IBA. (1) Where the gross total income of an assessee includes any profits and gains derived from the business of developing and building housing projects, there shall, subject to the provisions of this section, be allowed, a deduction of an amount equal to hundred per cent of the profits and gains derived from such business.

(2) For the purposes of sub-section (1), a housing project shall be a project which fulfils the following conditions, namely: –

- (a) *the project is approved by the competent authority ~~after the 1st day of June, 2016, but~~ on or before the 31st day of March, 2019 and the project has commenced on or after the 1st day of June, 2016;*
- (b) *the project is completed within a period of five years ~~three years~~ from the date of approval by the competent authority:*

Provided that, –

- (i) *~~where the approval in respect of a housing project is obtained more than once, the project shall be deemed to have been approved on the date on which the building plan of such housing project was first approved by the competent authority; and~~*
- (ii) *the project shall be deemed to have been completed when a certificate of completion of project as a whole is obtained in writing from the competent authority;*
- (c) *the carpet area ~~built-up area~~ of the shops and other commercial establishments included in the housing project does not exceed three per cent of the aggregate carpet area ~~built-up area~~;*
- (d) *the project is on a plot of land measuring not less than –*
 - (i) *one thousand square metres, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the distance, measured aerially, of twenty five kilometres from the municipal limits of these cities; or*

- (ii) *two thousand square metres, where the project is located in any other place;*
- (da) *the project is the only housing project on the plot of land as specified in clause (d);*
- (e) *the carpet area ~~built-up area~~ of the residential unit comprised in the housing project does not exceed –*
 - (i) *thirty square metres, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai ~~or within the distance, measured aerially, of twenty-five kilometres from the municipal limits of these cities;~~*
or
 - (ii) *sixty square metres, where the project is located in any other place;*
- (f) *where a residential unit in the housing project is allotted to an individual, no other residential unit in the housing project shall be allotted to the individual or the spouse or the minor children of such individual;*
- (g) *the project utilises –*
 - (i) *not less than ninety per cent of the floor area ratio permissible in respect of the plot of land under the rules to be made by the Central Government or the State Government or the local authority, as the case may be, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai ~~or within the distance, measured aerially, of twenty five kilometres from the municipal limits of these cities, or~~*
 - (ii) *not less than eighty per cent of such floor area ratio where such project is located in any place other than the place referred to in sub-clause (i); and*
- (h) *The assessee maintains separate books of account in respect of the housing project.*

(3) Nothing contained in this section shall apply to any assessee who executes the housing project as a works-contract awarded by any person (including the Central Government or the State Government).

(4) Where the housing project is not completed within the period specified under clause (b) of sub-section (2) and in respect of which a deduction has been claimed and allowed under this section, the total amount of deduction so claimed and allowed in

one or more previous years, shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the period for completion so expires.

(5) Where any amount of profits and gains derived from the business of developing and building housing projects is claimed and allowed under this section for any assessment year, deduction to the extent of such profit and gains shall not be allowed under any other provisions of this Act.

(6) For the purposes of this section, –

- (a) "carpet area" shall have the same meaning as assigned to it in clause (k) of section 2 of the Real Estate (Regulation and Development) Act, 2016 ~~"built up area" means the inner measurements of the residential unit at the floor level, including projections and balconies, as increased by the thickness of the walls, but does not include the common areas shared with other residential units, including any open terrace so shared;~~*
- (b) "competent authority" means the authority empowered to approve the building plan by or under any law for the time being in force;*
- (c) "floor area ratio" means the quotient obtained by dividing the total covered area of plinth area on all the floors by the area of the plot of land;*
- (d) "housing project" means a project consisting predominantly of residential units with such other facilities and amenities as the competent authority may approve subject to the provisions of this section;*
- (e) "residential unit" means an independent housing unit with separate facilities for living, cooking and sanitary requirements, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.*