

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

Chief Executive Officer

Ref. No. MCHI/CEO/17-18/113

January 08, 2018

Sub: A request to address the issue of incorrect Stamp Duty/Market value adjudication by Stamp Offices for slums vested on privately owned lands which is resulting in failure to achieve the basic goal of the Slum Rehabilitation Authority as well as the objective of the Hon'ble Prime Minister Shri. Narendra Modiji of "Housing for All by 2022".

Ref: (1) *Order of Revenue and Forests Department addressed at Mantralaya, Mumbai - 400 032 ("Department"), under Section 9 of the Bombay Stamp Act, 1958 (Bom. LX of 1998) ("Stamp Act"), bearing No. STP.1096/4565/CR-915/M.1 dated 19th December 1997 ("1997 Order"); and*

(2) *Order of "Department" under Section 9 of the "Stamp Act", bearing No. 2002/941/C.R. 217/M.1 dated 4th March 2008 ("2008 Order"), in supersession of the "1997 Order".*

Dear

As you are aware, 45% of slum encroached lands in Mumbai are privately owned and all such lands are subjected to submission of a registered Conveyance/Sale Deed or Development Agreement by the developer, before SRA considers sanction of S.R. schemes.

In context to the above subject, our members seek your kind attention to the contravention and breach of the rules of natural justice, read with, the need for private participation for development of slums that have developed/arisen after the supersession of the "1997 Order" vide the "2008 Order" of the "Department", defeating in totality the purpose of the Maharashtra Slum Area (Improvement, Clearance and Re-development) Act, 1971 ("Slum Act"), its Preamble and the Draft National Slum Policy ("Policy"). The basic reason to include private participation for development of slums was to ensure strict compliance of the rules for rehabilitation of slums in the lands encroached upon by slum/hutment dwellers. In consideration whereof, the Developer becomes entitled to certain financial/commercial rights and/or right in area, inclusive of reductions and/or deductions thereof concerning financial liability / taxes / levies / duties / fees payable to concerned authorities/ Government.

"1997 Order" read with Clause 'C' sub-clause (12) of the "Policy" along with the Preamble to the "Slum Act", clearly and absolutely achieved the basic purpose of need for development of slums through a Developer by private participation, in the form of encouragement through profits/advantages /benefits by either monetary consideration and/or area and/or reductions/deductions in taxes/duties/levies/cesses/etc. payable to the Government and/or concerned authorities, with respect to the concerned slum property being developed. In sharp contrast and in utter contradiction of this aforesaid, the "2008 Order" cancels the said reductions/deductions in the taxes/duties/levies/cesses/etc. payable to the Government and/or concerned authorities, resulting in the very defeat of the concept of private participation for development of slums.

The main objectives of the Policy encourages upgrading and improvement approach in all slums to provide them with better living conditions by establishing a framework for "*involving all stakeholders*" for the efficient and smooth implementation of the Policy objectives and

strengthening the legal and policy framework to facilitate the process of slum development and improvement on sustainable basis.

Present Scenario:

Prior to Registration of all privately owned slum lands transactions, Adjudication is required to be done by Department of Stamps for assessing Fair Market Value (FMV). FMV or the transaction Price, whichever is higher is considered for calculation of stamp duty by the IGR as well as assessment of Income Tax payable by Land Owners and Developers, under the Income Tax Act. Fair market value assessment by department of Stamps is done under the following procedure:

1. FSI of 3 is considered for slum density up to 650 T/H to assess maximum development potential of this land;
2. Number of slum dwellers times 30 sq. mtrs. is determined as built up area of rehabilitation for the scheme. Area in proportion to rehabilitation area (1:1 in suburbs) is considered as sale area;
3. Sale area is multiplied by Ready Reckoner Rate (prescribed for open UN-encroached lands) to determine Sale Potential of this plot;
4. Rehabilitation construction Cost is determined using prevailing Construction cost of RR;
5. Fair market Value is determined by deduction of Rehab construction Cost from Sale Potential of this plot.

Above calculation method does not consider the ground realities of the slum encroached land such as:

- Buildable/Non Buildable reservations in place like schools, hospitals, retail markets, PG, RG, DP Roads and their effect on rehabilitation of existing slum dwellers on subject land;
- Proximity of Airport, water bodies, other planning restrictions, which can affect severely FSI utilization on site due to height and other restrictions;
- Higher Slum Density making Rehabilitation in situ difficult;
- Effect of all above on excess TDR generation and realistic valuation of TDR which impacts scheme profitability;
- Apart from rehabilitation construction costs no other deductions for all legitimate costs associated with slum scheme implementation like SRA Deposit, Infrastructure Charges, Development Charges, Scrutiny Fees, Staircase Premium, OS deficiency, Labour Welfare Cess, Project management Services, Architect fees, Site Infrastructure costs and Rents payable to slum dwellers during construction period are considered in this valuation;
- No effort is done by the Valuation department to assess during valuation, if it is a nascent early stage slum or slum rehab scheme has been sanctioned by way of issuance of LOI, IOA, and CC etc.

As a result of non-application of mind by Stamps authorities as indicated above, the Adjudicated value determined by Stamps Authority works out:

- a. 8 to 10 times higher than the actually agreed market rate of privately owned slum land between buyer and the seller;

- b. Identical vacant lands e.g. if 2 plots are situated within the same zone, one plot is vacant whereas the other plot is encroached upon by slums, the adjudication value of the slum plot is higher than the same vacant land. Which is absurd and thus severely affects implementation of S.R. Schemes;

I would further like to draw your kind attention on the following issues:

1. Firstly, the "2008 Order" levies reduced stamp duty of Rs. 100/- (Rupees One Hundred Only) with respect to "only rehabilitation of residential slum dwellers and this reduction in stamp duty is not made available for commercial slum premises and also not for any other instrument of the Developer". Stamp Duty Authorities relying on this "2008 Order" arrive at market value on the basis of maximum permissible Floor Space Index ("FSI") viz. 2.5/3 FSI as per Regulation 33 (10) of Development Control Regulations of Greater Mumbai, 1991, increasing the market value three - fold, despite there being no inherent value of the slum property. In contrast thereto, it is pertinent to note that State Government pays Rs. 100/- (Rupees One Hundred Only) to the Owner/Interested Party deducting there from an amount of Rs. 40/- (Rupees Forty Only) towards property taxes, per tenement, for a period of 60 (sixty) months to the concerned Owner/Interested Party, aggregating the total amount receivable by such Owner/Interested Party, meager and trivial, when it acquires property under Slum Act. It is therefore requested that this discrepancy in the calculation of consideration between valuation in case of private participation and government acquisition should be brought in consonance with each other, since they absolutely defeat the rules of natural justice and good conscience, resulting in the "2008 Order" being arbitrary, unreasonable and unjust.
2. Secondly, as per the Income Tax Act sections 56 & 50C, Income Tax authorities rely on the calculation of Stamp Duty authorities for determining tax payable by the Purchaser as well as the Owner/Seller, for determining value of the concerned slum property. Registered documents of the Owner/Interested Party with the Developer concerning development of slum property mention the amount/s paid/to be paid to the Owner/Interested Party.
3. Thirdly, Urban Development Department, Government of Maharashtra has vide Order bearing no. TPB 4305/897/CR145/08/UD /11 dtd: 16th April 2008 for the first time introduced Land Premium payable by the Developer/Co-Operative Housing Society at the rate of 25% of the Ready Reckoner value in respect of all S.R. Schemes proposed to be undertaken on lands owned by Government, Semi-Government Undertakings and Local Bodies. It is pertinent to note that the aforesaid Land Premium is chargeable on the Land/Plot area and not on FSI available for the S.R. Scheme.

I therefore request you to kindly consider our prayer relating to Market value and Stamp Duty calculations on privately owned slum lands, which in our opinion may be done in any manner enumerated below:

1. As per the "1997 Order" at Rs. 100 and cancel the "2008 Order";
2. As per sections 14 & 17 of the Slum Act i.e. 60 times net average monthly income of Rs. 100, resulting in valuation of Rs. 6,000 per slum structure;
3. As per Section 1.11 of Appendix - IV of DCR 33(10) i.e. at the rate of 25% of the Ready Reckoner on the Land/Plot area;

Therefore, I would like to request you to inform all the concerned to examine and resolve our issues/grievances to enable us to absolutely comply with the provisions of the "Slum Act", its Preamble and the "Policy" as also for our benefit.

Yours

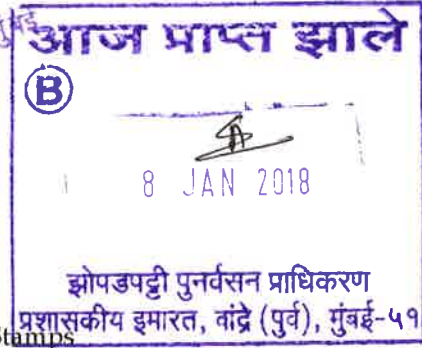


(S. S. Hussain)

To,
Shri Manu Kumar Srivastava (I.A.S.)
Principal Secretary
Revenue, Stamp Duty & Registration
Government of Maharashtra,
Mantralaya, Mumbai - 400 032.

8/1/18
लिपिक,
प्रधान सचिव (महसूल)
महसूल व वन विभाग,
मंत्रालय, मुंबई

CC to:
(1) Shri Deepak Kapoor (I.A.S.)
Chief Executive Officer
Slum Rehabilitation Authority
Bandra (E),
Mumbai - 400051.



(2) Shri Anil Kawade (IAS)
Inspector General of Registration & Controller of Stamps
Department of Registration & Stamps,
Government of Maharashtra
Pune.

Encls.:

- (1) Order of Revenue and Forests Department addressed at Mantralaya, Mumbai- 400 032, under Section 9 of the Bombay Stamp Act, 1958 (Bom. LX of 1998), bearing No. STP.1096/4565/CR-915/M.1 dated 19th December 1997.
- (2) Order of Revenue and Forests Department addressed at Mantralaya, Mumbai- 400 032 under Section 9 of the Bombay Stamp Act, 1958 (Bom. LX of 1998), bearing No. 2002/941/C.R. 217/M.1 dated 4th March 2008.
- (3) Urban Development Department, Government of Maharashtra has vide Order bearing no. TPB 4305/897/CR145/08/UD /11 dtd: 16th April 2008.
- (4) Extract of Relevant provision of the Income Tax Act, 1961.

Order

**REVENUE AND FORESTS DEPARTMENT
Mantralaya, Mumbai - 400 032**

No. Mudrank.1097/4001/CR-682/M-1.

Dated 10th September, 1997

In exercise of the powers conferred by clause (a) of section 9 of the Bombay Stamp Act, 1958, (Bom. LX of 1958), the Government of Maharashtra, having satisfied that it is necessary to do so in the public interest, hereby remits with effect from the 13th day of August, 1997 in the whole State of Maharashtra, the stamp duty chargeable under the said Act in respect of affidavits filed or to be filed by any person for making any statement in answer to any notice issued by the Commission of Inquiry of Shri Justice S.D. Gundewar, appointed by the Government of Maharashtra under Government Notification, Home Department (Special), No. FIR.1097/Ghatkopar/CR.320/SPL.2, dated the 16th July 1997.

Order

**REVENUE AND FOREST DEPARTMENT
Mantralaya, Mumbai - 400 032**

No. STP. 1096/4565/CR-915/M-1

Dated the 19th December, 1997

In exercise of the powers conferred by clause (a) of section 9 of the Bombay Stamp Act, 1958, (Bom. LX of 1958), the Government of Maharashtra having satisfied that it is necessary to do so in public interest, hereby reduces the stamp duty chargeable under Article 5 (g-a), 25 and 36 in Schedule I appended to the said Act, on the instruments executed for the purpose of rehabilitation of slum dwellers as per the Slum Rehabilitation Scheme under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (Mah. XXVIII of 1971) in respect of properties situated within the city of Mumbai District and Mumbai Suburban District to Rs. 100 (Rupees One Hundred only).

Order

**REVENUE AND FORESTS DEPARTMENT
Mantralaya, Mumbai - 400 032**

No. STP. 1097/2301/CR 358/M-1

Dated the 19th December, 1997

In exercise of the powers conferred by clause (a) of section 9 of the Bombay Stamp Act, 1958, (Bom. LX of 1958), (hereinafter referred to as "the said Act") the Government of Maharashtra hereby remits in the whole State, the stamp duty chargeable under the said Act, in respect of agreements including hypothecation and mortgage deeds executed by the persons in respect of loans received by them from the Khadi and Village Industries Commission, New Delhi or by the branches of the Commission constituted under the Khadi and Village Industries Commission Act, 1956, (61 of 1956).

Order

**REVENUE AND FORESTS DEPARTMENT
Mantralaya, Mumbai - 400 032**

No. Mudrank. 1096/2905/CR-681/M-1.

Dated the 9th March, 1998

In exercise of the powers conferred by clause (a) of section 9 of the Bombay Stamp Act, 1958 (Bom. LX of 1958), the Government of Maharashtra, having satisfied that it is necessary

development and development of slum areas Schemes under the Jawaharlal Nehru National Urban Renewal Mission, to an amount of rupees one hundred, on the following conditions, namely:—

Condition.

(1) To avail the benefit of reduction in stamp duty as per this notification, it is necessary for the developer or beneficiary to append the certificate issued by the concerned implementation officer to the instrument.

(2) The concession given in stamp duty shall be recovered, with penalty, in case of breach of any of the conditions of the above said Schemes.

5. **Order under Section 9(a) of the Bombay Stamp Act, 1958, dated the 28th November, 2007. (remits 50 per cent stamp duty, chargeable under the Article 36A - Leave & Licence Agreement in Schedule I)**

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 28th November, 2007

*(M.G.G., Extraordinary No. 223, Part IV-B, at Page No. 1754,
dated the 28th November, 2007)*

No. Mudrank. 2007/UOR-31/C.R. 341/M-1. - In exercise of the power conferred by clause (a) of section 9 of the Bombay Stamp Act, 1958 (Bom. LX of 1958), the Government of Maharashtra, being satisfied that it is necessary to do so in the public interest, hereby remits 50 per cent stamp duty, chargeable under Article 36A in the Schedule I appended to the said Act on the instruments of Leave and License Agreement relating to the Show Room No. 3 and 5 admeasuring approximately 4100 sq.ft. and 1330 sq.ft. marked as A3 open area in the building known as 'Arcadia' situated at 195, Back Bay Reclamation, Nariman Point, Mumbai, executed between Mr. Ashok K. Tejuja, Mrs. Nirmala Ashok Tejuja and The Federal Republic of Germany.

6. **Reduction in Stamp Duty : Slum Rehabilitation Scheme : Available only to Slum Dwellers/Tenements (Commercial purposes in SRS)**

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 4th March, 2008

Order

No. Mudrank. 2002/941/C.R. 217/M-1. - In exercise of the powers conferred by clause (a) of section 9 of the Bombay Stamp Act, 1958 (Bom. LX of 1958), and in Supersession of the Government Order, Revenue and Forests, Department No. STP. 1096/4565/C.C. 915/M-1, dated the 19th December, 1997, the Government of Maharashtra, being satisfied that it is necessary so to do in the public interest, hereby reduces the stamp duty chargeable under Articles 5(g-a), 25 and 36 in Schedule I appended to the said Act, on the instruments executed for the purpose of rehabilitation of slum-dweller, as per the Slum Rehabilitation Scheme under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (Mah. XXVII of 1971), in respect of the properties situated in the areas mentioned in column (2) of the Schedule appended hereto, to rupees one hundred.

Explanation.— The reduction of stamp duty shall be permissible only in respect of instruments relating to the tenements allotted to the slumdweller for residential purpose as per the Slum Rehabilitation Scheme and shall not be permissible to the instruments

relating to the transfer of tenements to the persons other than slum-dwellers or tenements used for commercial purpose of any other instrument of the developer.

SCHEDULE

Serial Number	Areas as per the Slum Rehabilitation Scheme under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (Mah. XVIII of 1971) in respect of the city of	
(1)	(2)	
1.	Mumbai Municipal Corporation area	82
2.	Pune Municipal Corporation area	83
3.	Thane Municipal Corporation area	84
4.	Nashik Municipal Corporation area	85
5.	Kalyan Municipal Corporation area	86
6.	Solapur Municipal Corporation area	87
7.	Nagpur Municipal Corporation area	88
8.	Kolhapur Municipal Corporation area	89
9.	Aurangabad Municipal Corporation area	90
10.	Amravati Municipal Corporation area	91
11.	Pimpri-Chinchwad Municipal Corporation area	92
12.	Sangli-Miraj and Kupwad Municipal Corporation area	93
13.	Navi Mumbai Municipal Corporation area	94
14.	Nanded-Waghala Municipal Corporation area	95
15.	Ulhasnagar Municipal Corporation area	96
17.	Malegaon Municipal Corporation area	97
18.	Dhule Municipal Corporation area	98
19.	Mira-Bhayandar Municipal Corporation area	99
20.	Akola Municipal Corporation area	100
21.	Jalgaon Municipal Corporation area	101
22.	Ahmednagar Municipal Corporation area	102
23.	Khamgaon Municipal Council area	103
24.	Yavatmal Municipal Council area	104
25.	Akot Municipal Council area	105
26.	Achalpur Municipal Council area	106
27.	Kamthi Municipal Council area	107
28.	Gondia Municipal Council area	108
29.	Chandrapur Municipal Council area	109
30.	Ballarpur Municipal Council area	110
31.	Wardha Municipal Council area	111
32.	Hinganghat Municipal Council area	112
33.	Bhandara Municipal Council area	113
34.	Nandurbar Municipal Council area	114
35.	Bhusawal Municipal Council area	115
36.	Amalner Municipal Council area	116
37.	Chalisgaon Municipal Council area	117
38.	Shrirampur Municipal Council area	118
39.	Satara Municipal Council area	119
40.	Karad Municipal Council area	120

Serial Number	Areas as per the Slum Rehabilitation Scheme under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (Mah. XXVIII of 1971) in respect of the city of
(1)	(2)
41.	Ichalkaranji Municipal Council area
42.	Barshi Municipal Council area
43.	Pandharpur Municipal Council area
44.	Jalna Municipal Council area
45.	Latur Municipal Council area
46.	Udgir Municipal Council area
47.	Manmad Municipal Council area
48.	Parbhani Municipal Council area
49.	Beed Municipal Council area
50.	Parli-Bajinath Municipal Council area
51.	Osmanabad Municipal Council area
52.	Nalasopara Municipal Council area
53.	Ambejogai Municipal Council area
54.	Ratnagiri Municipal Council area
55.	Pusad Municipal Council area
56.	Hingoli Municipal Council area
57.	Malkapur Municipal Council area
58.	Buldhana Municipal Council area
59.	Kulgaon-Badlapur Municipal Council area
60.	Parvel Municipal Council area
61.	Virar Municipal Council area
62.	Khopoli Municipal Council area
63.	Palghar Municipal Council area
64.	Navaghar-Manikpur Municipal Council area
65.	Lonawala Municipal Council area
66.	Baramati Municipal Council area
67.	Islampur Municipal Council area
68.	Phaltan Municipal Council area
69.	Kopergaon Municipal Council area
70.	SaNgamner Municipal Council area
71.	Shirpur Warwade Municipal Council area
72.	Chopada Municipal Council area
73.	Basmat Municipal Council area
74.	Anjangaon Surji Municipal Council area
75.	Shegaon Municipal Council area
76.	Karanja Municipal Council area
77.	Vani Municipal Council area
78.	Bhadrawati Municipal Council area
79.	Washim Municipal Council area
80.	Ambarnath Municipal Council area

Maharashtra Regional & Town
Planning Act, 1966.

Directives under section 37(1)
and section 154 of the
Maharashtra Regional and Town
Planning Act.

GOVERNMENT OF MAHARASHTRA
Urban Development Department
Mantralya Mumbai 400 032.
Dated the 16th April 2008.

ORDER

No. TPB 4305/897/CR-145/08/UD/11:

Whereas the Government of Maharashtra vide Notification of Urban Department No. DCR-1090/RDP/UD-11 dated 20th February, 1991 has sanctioned the Development Control Regulation for Greater Mumbai, 1991 (hereinafter referred to as "the said Regulations") under section 31 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as "the said Act") to come into force with effect from 25th March 1991:

And whereas Government of Maharashtra vide Notification of Housing and Special Assistance Department No. SRP 1095/CR-37/Housing cell dated 16th December, 1995 had appointed "Slum Rehabilitation Authority" (hereinafter referred to as "the said Authority") under Maharashtra slum Areas Act, 1971, which is also a Planning Authority for the purpose of slum rehabilitation in Brihan Mumbai;

And Whereas, the Government of Maharashtra vide Notification of Urban Department No. DCR 1095 1095/1209/CR-273/95/UD-11, dated 15th October, 1997 which appeared in Maharashtra Government Gazette, dated 15th October, 1997 at page 104 to 133-A has sanctioned the modification in Regulations 33(10) and 33(14) of the said Regulations for effective implementation of Slum Rehabilitation Scheme which came into force with effect from 15th October, 1997;

And whereas, the Government of Maharashtra vide Notification of Urban Development Department No. DCR 1095/1209/CR-273/95/UD-11 dated 30/11/2002 has further modified Regulation 33(10) under section 37(2) of the said Act;

And whereas, the Government has declared Housing Policy wherein some changes in existing slum Rehabilitation Policy are also envisaged vide para 7.2 of Housing Policy. As per the integrated Housing and Slum Development Programme (IHSDP) of Government of India, Minimum floor area of the dwelling unit should not be less than 25 sq.mt. of floor area.

And Whereas, as per Regulation No. 11 of DCR 33(10), this public land under Slum Rehabilitation scheme can be leased out to society/Association of purchaser/Developer on certain lease terms. It has been decided to charge premium to the developer/society for implementing Slum Rehabilitation Scheme on the public land;

And whereas, after considering all the above facts and circumstances Government find it necessary that to implement the Slum Rehabilitation Policy effectively it will be necessary to make some modification in prevailing regulations of said Regulations;

Now, therefore in exercise of the powers vested under section 37(1) of the said Act read with provisions contained in section 154 of the said Act, Government is pleased to issue the following directions.

DIRECTIONS

- A) The said Authority shall initiate modifications as more specified in schedule attached herewith.
- B) The said Authority shall publish the requisite notice inviting suggestions/objections over the said modification within a period of 90 days from the date of issue of this order.
- C) After completing the legal procedure as laid down under section 37(1) of the said Act, the said modification proposal shall be submitted to the Government for final sanction.
- D) Pending sanction to these modifications by the Government under section 37(2) of the said Act, the aforementioned modifications shall come into effect forthwith.

By order and in the name of the Governor of Maharashtra

(AbhirajGirkar)
Under Secretary to Government.

The chief Executive Officer,
Slum Rehabilitation Authority,
GrihaNirmanBhavan,
Bandra (E),
Mumbai 400 057.

Copy to:

- 1) The Additional Chief Secretary (Revenue) Revenue & Forest Deppt., Mantralaya, Mumbai.
- 2) The Metropolitan Commissioner, MMRDA, Bandra(E), Mumbai.
- 3) The Municipal Commissioner, Municipal Corpn. Of Gr. Mumbai, MahapalikaMarg, Fort Mumbai 400 001.
- 4) The Chief Executive Officer, MHADA Bandra (E), Mumbai 400 057.
- 5) The Director of Town Planning Maharashtra State, Pune.
- 6) The Deputy Director of Town Planning Greater Mumbai, Mumbai.
- 7) The Chief Engineer (DP), Municipal Corporation of Greater Mumbai
- 8) Select file (UD-11)

SCHEDULE

(Accompaniment to Government Order No. TPB 4308/897/CR-145/08/UD-11 dated 16th April, 2008)

1. Carpet Area of residential tenements:
"20.90 sq.mt." area shall be modified and replaced by "25.00 sq.mt." appearing in Regulation 1.1 and 1.2 of Appendix IV of Regulation 33(10).

2. In-situ FSI for Slum Rehabilitation Scheme:
"2.50" shall be modified and replaced by "3.00" and "3.00" shall be changed and replaced by "4.00" in Regulation 3.7 and 3.8 of Appendix IV of Regulation 33(10).

3. Premium in respect to lands of public ownership:
The title of regulation No. 1.11 of Appendix IV of Regulation 33(10) shall be changed as "Premium for ownership and terms of lease".

Also following provision shall be added after the existing provisions of Regulation 1.11 of Regulation 33(10).

"In addition to above, the Developer/Co.op. Housing society shall pay premium at the rate of Twenty five percent in terms of Ready Reckonor in respect of Slum Rehabilitation Scheme proposed to be undertaken on lands owned by Government , Semi-Government Undertaking and Local Bodies".

(Abhiraj Girkar)
Under Secretary to Government

⁸⁷*Explanation 1.*—For the purposes of this section, "net worth" shall be the aggregate value of total assets of the undertaking or division as reduced by the value of liabilities of such undertaking or division as appearing in its books of account :

Provided that any change in the value of assets on account of revaluation of assets shall be ignored for the purposes of computing the net worth.

Explanation 2.—For computing the net worth, the aggregate value of total assets shall be,—

(a) in the case of depreciable assets, the written down value of the block of assets determined in accordance with the provisions contained in sub-item (C) of item (i) of sub-clause (c) of clause (6) of section 43;⁸⁸[***]

⁸⁹[(b) in the case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as a deduction under section 35AD, *nil*; and

(c) in the case of other assets, the book value of such assets.]

⁹⁰[Special provision for full value of consideration in certain cases.

⁹¹50C. (1) Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted or assessed ⁹²[or assessable] by any authority of a State Government (hereafter in this section referred to as the "stamp valuation authority") for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed ⁹²[or assessable] shall, for the purposes of section 48, be deemed to be the full value of the consideration received or accruing as a result of such transfer.

Following provisos shall be inserted to sub-section (1) of section 50C by the Finance Act, 2016, w.e.f. 1-4-2017 :

Provided that where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same, the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer:

Provided further that the first proviso shall apply only in a case where the amount of consideration, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of the agreement for transfer.

87. *Explanation 1* and *Explanation 2* substituted for *Explanation* by the Finance Act, 2000, w.e.f. 1-4-2000. Earlier *Explanation* was inserted by the Finance Act, 1999, w.e.f. 1-4-2000.

88. Word "and" omitted by the Finance (No. 2) Act, 2009, w.e.f. 1-4-2010.

89. Substituted, *ibid*. Prior to its substitution, clause (b) read as under :
"(b) in the case of other assets, the book value of such assets."

90. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

91. For relevant case laws, see Taxmann's Master Guide to Income-tax Act.

92. Inserted by the Finance (No. 2) Act, 2009, w.e.f. 1-10-2009.

(2) Without prejudice to the provisions of sub-section (1), where—

- (a) the assessee claims before any Assessing Officer that the value adopted or assessed ^{92a}[or assessable] by the stamp valuation authority under sub-section (1) exceeds the fair market value of the property as on the date of transfer;
- (b) the value so adopted or assessed ^{92a}[or assessable] by the stamp valuation authority under sub-section (1) has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court,

the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clause (i) of sub-section (1) and sub-sections (6) and (7) of section 23A, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall, with necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Assessing Officer under sub-section (1) of section 16A of that Act.

⁹³[*Explanation 1*].—For the purposes of this section, “Valuation Officer” shall have the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

⁹⁴[*Explanation 2*.—For the purposes of this section, the expression “assessable” means the price which the stamp valuation authority would have, notwithstanding anything to the contrary contained in any other law for the time being in force, adopted or assessed, if it were referred to such authority for the purposes of the payment of stamp duty.]

(3) Subject to the provisions contained in sub-section (2), where the value ascertained under sub-section (2) exceeds the value adopted or assessed ⁹⁴[or assessable] by the stamp valuation authority referred to in sub-section (1), the value so adopted or assessed ⁹⁴[or assessable] by such authority shall be taken as the full value of the consideration received or accruing as a result of the transfer.]

⁹⁵[**Fair market value deemed to be full value of consideration in certain cases.**

50D. Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined, then, for the purpose of computing income chargeable to tax as capital gains, the fair market value of the said asset on the date of transfer shall be deemed to be the full value of the consideration received or accruing as a result of such transfer.]

^{92a} Inserted by the Finance (No. 2) Act, 2009, w.e.f. 1-10-2009.

⁹³ *Explanation* renumbered as *Explanation 1*, *ibid*.

⁹⁴ Inserted, *ibid*.

⁹⁵ Inserted by the Finance Act, 2012, w.e.f. 1-4-2013.

*F.—Income from other sources***Income from other sources.**

(1) Income of every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in section 14, items A to E.

In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes, shall be chargeable to income-tax under the head "Income from other sources", namely :—

- (i) dividends ;
- (i) [(ia) income referred to in sub-clause (viii) of clause (24) of section 2;]
- (i) [(ib) income referred to in sub-clause (ix) of clause (24) of section 2;]
- (i) [(ic) income referred to in sub-clause (x) of clause (24) of section 2, if such income is not chargeable to income-tax under the head "Profits and gains of business or profession";]
- (i) [(id) income by way of interest on securities, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";]
- (ii) income from machinery, plant or furniture belonging to the assessee and let on hire, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";
- (iii) where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is

(from p. 1.408)

- | | |
|---|------------|
| (iv) Forests | Form O-4 |
| (v) Mines and quarries | Form O-5 |
| (vi) Stocks, shares, debentures, securities, shares in partnership firms and business assets including goodwill but excluding those referred to in any other item in this Table | Form O-6 |
| (vii) Machinery and plant | Form O-7 |
| (viii) Jewellery | Form O-8 |
| (ix) Work of art | Form O-9 |
| (x) Life interest, reversions and interest in expectancy | Form O-10. |

Substituted for "Wealth-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

See also Letter [F.No. 40/29/67-IT(A-I)], dated 22-5-1967 (Salary of M.P.), Circular No. 371, dated 21-11-1983 and Circular No. 409, dated 12-2-1985 (Interest on cumulative deposit schemes), Circular No. 3-D(XXXI-20), dated 30-3-1967 (Gross dividend is taxable) and Circular No. 18/2015, dated 2-11-2015 (Interest from non-SLR Securities of banks). For details, see Taxmann's Master Guide to Income-tax Act.

For relevant case laws, see Taxmann's Master Guide to Income-tax Act.

1. Inserted by the Finance Act, 1965, w.e.f. 1-4-1965.

2. Inserted by the Finance Act, 1972, w.e.f. 1-4-1972.

3. Inserted by the Finance Act, 1987, w.e.f. 1-4-1988.

4. Inserted by the Finance Act, 1988, w.e.f. 1-4-1989.

inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head "Profits and gains of business or profession";

⁹⁵[(iv) income referred to in sub-clause (xi) of clause (24) of section 2, if such income is not chargeable to income-tax under the head "Profits and gains of business or profession" or under the head "Salaries";]

⁹⁶[(v) where any sum of money exceeding twenty-five thousand rupees is received without consideration by an individual or a Hindu undivided family from any person on or after the 1st day of September, 2000⁹⁷[but before the 1st day of April, 2006], the whole of such sum]

Provided that this clause shall not apply to any sum of money received—

(a) from any relative; or

(b) on the occasion of the marriage of the individual; or

(c) under a will or by way of inheritance; or

(d) in contemplation of death of the payer; or

⁹⁸[(e) from any local authority as defined in the *Explanation* to clause (20) of section 10; or

(f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or

(g) from any trust or institution registered under section 12AA.]

Explanation.—For the purposes of this clause, "relative"⁹⁹ means—

(i) spouse of the individual;

(ii) brother or sister of the individual;

(iii) brother or sister of the spouse of the individual;

(iv) brother or sister of either of the parents of the individual;

(v) any lineal ascendant or descendant of the individual;

(vi) any lineal ascendant or descendant of the spouse of the individual;

(vii) spouse of the person referred to in clauses (i) to (vi);]

¹[(vi) where any sum of money, the aggregate value of which exceeds fifty thousand rupees, is received without consideration, by an individual or a Hindu undivided family, in any previous year from any person or

95. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996.

96. Inserted by the Finance (No. 2) Act, 2004, w.e.f. 1-4-2005.

97. Inserted by the Taxation Laws (Amendment) Act, 2006, w.r.e.f. 1-4-2006.

98. Inserted by the Finance Act, 2007, w.r.e.f. 1-4-2005. Earlier clauses (e) to (g) were inserted by the Taxation Laws (Amendment) Act, 2006, w.e.f. 13-7-2006.

99. For the meaning of the expression "relative", see Taxmann's Direct Taxes Manual, Vol. 3.

1. Inserted by the Taxation Laws (Amendment) Act, 2006, w.e.f. 1-4-2007.

persons on or after the 1st day of April, 2006² [but before the 1st day of October, 2009], the whole of the aggregate value of such sum:

Provided that this clause shall not apply to any sum of money received—

- (a) from any relative; or
- (b) on the occasion of the marriage of the individual³; or
- (c) under a will or by way of inheritance; or
- (d) in contemplation of death of the payer; or
- (e) from any local authority as defined in the *Explanation* to clause (20) of section 10; or
- (f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or
- (g) from any trust or institution registered under section 12AA.

Explanation.—For the purposes of this clause, “relative” means—

- (i) spouse of the individual;
 - (ii) brother or sister of the individual;
 - (iii) brother or sister of the spouse of the individual;
 - (iv) brother or sister of either of the parents of the individual;
 - (v) any lineal ascendant or descendant of the individual;
 - (vi) any lineal ascendant or descendant of the spouse of the individual;
 - (vii) spouse of the person referred to in clauses (ii) to (vi);
- [(vii) where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1st day of October, 2009,—

(a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

[(b) any immovable property,—

- (i) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;
- (ii) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration:

² Inserted by the Finance (No. 2) Act, 2009, w.e.f. 1-10-2009.

³ For the meaning of the term “individual”, see *Taxmann’s Direct Taxes Manual Vol. 3*.

⁴ Substituted by the Finance Act, 2013, w.e.f. 1-4-2014. Prior to its substitution, sub-clause (b), as substituted by the Finance Act, 2010, w.r.e.f. 1-10-2009, read as under :

“(b) any immovable property, without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;”

Provided that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of this sub-clause:

Provided further that the said proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by any mode other than cash on or before the date of the agreement for the transfer of such immovable property;]

- (c) any property, other than immovable property,—
- (i) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;
 - (ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration :

Provided that where the stamp duty value of immovable property as referred to in sub-clause (b) is disputed by the assessee on grounds mentioned in sub-section (2) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (15) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of sub-clause (b) as they apply for valuation of capital asset under those sections :

Provided further that this clause shall not apply to any sum of money or any property received—

- (a) from any relative; or
- (b) on the occasion of the marriage of the individual; or
- (c) under a will or by way of inheritance; or
- (d) in contemplation of death of the payer or donor, as the case may be; or
- (e) from any local authority as defined in the *Explanation* to clause (20) of section 10; or
- (f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or
- (g) from any trust or institution registered under section 12AA; *[or]*

Following clause (h) shall be inserted after clause (g) of second proviso to clause (vi) of sub-section (2) of section 56 by the Finance Act, 2016, w.e.f. 1-4-2017 :

- (h) *by way of transaction not regarded as transfer under clause (vi) or clause (vid) or clause (vii) of section 47.*

5. The italicised word shall be inserted by the Finance Act, 2016, w.e.f. 1-4-2017.

(ii) as may be substantiated by the company to the satisfaction of the Assessing Officer, based on the value, on the date of issue of shares, of its assets, including intangible assets being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature,

whichever is higher;

(b) "venture capital company", "venture capital fund" and "venture capital undertaking" shall have the meanings respectively assigned to them in clause (a), clause (b) and clause (c) of ¹⁴[Explanation] to clause (23FB) of section 10;]

¹⁵(vii) income by way of interest received on compensation or on enhanced compensation referred to in clause (b) of section 145A;]

¹⁶((x) any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if,—

(a) such sum is forfeited; and

(b) the negotiations do not result in transfer of such capital asset.]

uctions.

7. The income chargeable under the head "Income from other sources" shall be computed after making the following deductions, namely :—

(i) in the case of dividends, ¹⁸[other than dividends referred to in section 115-O,] ¹⁹[or interest on securities], any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such dividend ²⁰[or interest] on behalf of the assessee ;

²¹((ia) in the case of income of the nature referred to in sub-clause (x) of clause (24) of section 2 which is chargeable to income-tax under the head "Income from other sources", deductions, so far as may be, in accordance with the provisions of clause (va) of sub-section (1) of section 36 ;]

Substituted for "Explanation 1" by the Finance Act, 2013, w.e.f. 1-4-2013.

Inserted by the Finance (No. 2) Act, 2009, w.e.f. 1-4-2010.

Inserted by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015.

See also Circular No. 156, dated 23-12-1974 (Fees paid under Ceylon Exchange Control Law), Circular No. 594, dated 27-2-1991 (*Ad hoc* deduction to agents other than insurance agents), Circular No. 648, dated 30-3-1993 (*Ad hoc* deduction to insurance agents) and Circular No. 677, dated 28-1-1994 (*Ad hoc* deduction to agents of mutual funds). For details, see Taxmann's Master Guide to Income-tax Act.

For relevant case laws, see Taxmann's Master Guide to Income-tax Act.

1. Inserted by the Finance Act, 2003, w.e.f. 1-4-2004.

2. Inserted by the Finance Act, 1988, w.e.f. 1-4-1989.

3. Inserted, *ibid*.

4. Inserted by the Finance Act, 1987, w.e.f. 1-4-1988.

- (ii) in the case of income of the nature referred to in clauses (i) and (iii) of sub-section (2) of section 56, deductions, so far as may be, in accordance with the provisions of sub-clause (ii) of clause (a) and clause (c) of section 30, section 31 and ²²[sub-sections (1) ²³[***] and (2)] of section 32 and subject to the provisions of ²⁴[section 38];
- ²⁵[(iii) in the case of income in the nature of family pension, a deduction of a sum equal to thirty-three and one-third per cent of such income or ²⁶[fifteen] thousand rupees, whichever is less.
- Explanation.*—For the purposes of this clause, “family pension” means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death ;]
- (iii) any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose²⁷ of making or earning such income;
- ²⁸[(iv) in the case of income of the nature referred to in clause (viii) of sub-section (2) of section 56, a deduction of a sum equal to fifty per cent of such income and no deduction shall be allowed under any other clause of this section.]

²⁹[***]

Explanation.—[Omitted by the Finance Act, 1988, w.e.f. 1-4-1989.]

Amounts not deductible.

³⁰58. ³¹[(1)] Notwithstanding anything to the contrary contained in section 57, the following amounts shall not be deductible in computing the income chargeable under the head “Income from other sources”, namely :—

(a) in the case of any assessee,—

(i) any personal expenses of the assessee ;

³²[(ia) any expenditure of the nature referred to in sub-section (12)³³ of section 40A ;]

22. Substituted for “sub-sections (1) and (2)” by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.
23. “(1A)” omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1988.
24. Substituted for “sections 34 and 38”, *ibid*.
25. Inserted by the Finance Act, 1989, w.e.f. 1-4-1990.
26. Substituted for “twelve” by the Finance Act, 1997, w.e.f. 1-4-1998.
27. For the meaning of the term “purpose”, see *Taxmann’s Direct Taxes Manual*, Vol. 3.
28. Inserted by the Finance (No. 2) Act, 2009, w.e.f. 1-4-2010.
29. Proviso omitted by the Finance Act, 1994, w.e.f. 1-4-1995. Prior to its omission, proviso was inserted by the Finance Act, 1976, w.e.f. 1-6-1976 and later on substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1989.
30. For relevant case laws, see *Taxmann’s Master Guide to Income-tax Act*.
31. Inserted by the Finance Act, 1968, w.e.f. 1-4-1968 and is deemed always to have been there *vide* section 3 of the Income-tax (Amendment) Act, 1972.
32. Inserted by the Finance Act, 1985, w.e.f. 1-4-1986.
33. Sub-section (12) of section 40A was omitted by the Finance Act, 1992, w.e.f. 1-4-1993.