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Rajnikant Ajmera
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Late Babubhai Majethia

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Prakash Baviskar

Ref. No. MCHI/PRES/18-19/153

February 18, 2019

To,

Shri Anil Kawade (IAS)

Inspector General of Registration & Controller of Stamps

Department of Registration & Stamps

Government of Maharashtra

Pune.

Sub : Stamp Duty payable on Instruments executed for purpose of Rehabilitation of slum dwellers as per the Slum Rehabilitation Scheme under Maharashtra Slum Areas (IC&R) Act, 1971 in respect of properties situated within city of Mumbai District & Mumbai Suburban District.

- Issuance of Clarification in respect of Govt. order no.STP.1096/4565/CR-915/M-1, dtd.19/12/1997 read with order no. Mudrank.2002/941/CR-217/M-1, dtd.4th March, 2008 issued by Revenue & Forest Department, Govt. of Maharashtra.

Respected Sir,

Firstly, we would like to express our sincere gratitude for hearing us on the subject matter on 11/01/2019. With reference to the discussions of our team held with your good selves during said meeting, we would like to submit as under:

1. Based on the report of study group of experts set up by the State Govt. under Chairmanship of Shri. Dinesh K. Afzulpurkar, then Chairman of Bombay Port Trust dtd.20/07/1995 & with a view to provide decent permanent accommodation to the hutment dwellers in Mumbai, the State Govt. of Maharashtra vide its notification dtd.01/04/1998 published in official Gazette of Govt. of Maharashtra dtd. 09.04.1998 has sanctioned & notified General Slum Rehabilitation Scheme for implementation Slum Rehabilitation Scheme of Mumbai, as per the provisions of section 3(B) of Maharashtra Slum Areas (IC&R) Act, 1971. The fundamental principle behind the said scheme is to consider land underlying slum as a "Resource" for implementation of the Slum Rehabilitation Scheme.

To facilitate effective implementation of the said Slum Rehabilitation Scheme, Govt. of Maharashtra vide order dtd.19/12/1997 issued by Revenue & Forest Department, has reduced Stamp duty chargeable under Article 5 (g-a), 25 & 36 in Schedule-I to the Bombay Stamps Act, 1958, on the instruments executed for purpose of rehabilitation of slum dwellers as per the Slum Rehabilitation Scheme under Maharashtra Slum Areas (IC&R) Act, 1971 in respect of properties situated within city of Mumbai District & Mumbai Suburban District, to Rs.100/- (Rupees One hundred only). Copy of the above said order dtd.19/12/1997 is attached herewith for ready reference (Annexure-I). Accordingly, the said order dtd.19/12/1997 was implemented & reduced amount of stamp duty of Rs.100/- was applied while registering the instruments such as Conveyance Deed, Development Agreement, Deed of Assignment etc. in respect of land occupied by slums.

2. Subsequently, the State Govt. has issued explanation in respect of the said order dtd.19/12/1997 vide order dtd.04/03/2008 issued by Revenue & Forest Department, Govt. of Maharashtra. Copy of the said order

dtd.04/03/2008 is attached herewith for ready reference (Annexure-II). We understand that, the said explanation was issued by the Govt. with a view to clarify that, reduction of Stamp duty as per the above-mentioned order dtd.19/12/1997 shall not be applicable to the instruments executed in respect of free sale component under the Slum Rehabilitation Scheme. However, the phrase, "any other instrument of the developer" in the said order dtd.04/03/2008 led to the interpretation that, the benefit of reduced stamp duty as per order dtd.19/12/1997 shall not be applicable to the instruments such as Conveyance Deed, Development Agreement, Deed of Assignment etc. executed in respect of land occupied by slums for implementation of the Slum Rehabilitation Scheme & the office of the Stamp Collectors while carrying out adjudication of such instruments, are calculating stamp duty on such instruments at market rate considering the permissible higher FSI under Slum Rehabilitation Scheme. Therefore, undue hardship is caused in implementation of the Slum Rehabilitation Scheme.

3. With reference to the representations made by the developers association earlier to the Slum Rehabilitation Authority & the State Govt. in this regard, the CEO (SRA) has also taken up this issue with your office as well as with the State Govt. In the letter of CEO (SRA), CEO (SRA) has annexed the list of instruments which are executed while implementing Slum Rehabilitation Scheme which need to be considered for levy of stamp duty at reduced rate as per order dtd.19/12/1997 issued by Govt.
4. Until 10/04/2008, the public land occupied by slums owned by State Govt. including authorities of State Govt. such as MHADA, MMRDA etc. & Municipal Corporation was allowed to be utilized for implementation of the Slum Rehabilitation Schemes by sparing the said land on lease at nominal lease rent of Rs.1001/- for every 4000 sq.mtr land or part thereof. Thereafter, the State Govt. has decided to recover premium at the rate of 25% of the ASR for developed land for sparing public land for implementation the Slum Rehabilitation Scheme by private developers. Thus, State Govt. has decided to value the lands occupied by slums at the rate of 25% of the ASR for developed land. The Slum Rehabilitation Authority vide its letter no. SRA/LA/opinion/07/08, dtd. 07/01/2008 had sought opinion from Hon'ble Advocate General regarding certain provisions relating to the Slum Rehabilitation Scheme in Mumbai. Query no. 3 of the said letter of SRA pertains to parity of public land & private lands while undertaking Slum Rehabilitation Schemes. The said query no.3 & opinion of Hon'ble Advocate General thereon is reproduced hereunder for ready reference.

Query No.3:

Whether right of land owner will prevail over the right of Co-op. Hsg. Society of occupants/Developers appointed by the Co-op. Hsg. Society of occupants/N.G.O appointed by the CHS of occupants for implementation of the scheme in respect of land belong to public authorities of the State Government of Maharashtra, where proposal have already been received on or before 31/01/2006; from various developers appointed by the Co-op. Hsg. Society of slum dwellers or Co-operative Hsg. Society of slum dwellers itself or N.G.O?

Answer to query no.3

No. Under the law as it stands today, all persons who are entitled to put up a proposal for redevelopment of slum land stand on an equal footing for the purposes of D.C Regulations 33(10). The land owner has no special rights and the law does not permit him to override a proposal for redevelopment from any of the other eligible persons mentioned in the preamble/opening words of Appendix-IV and they all stand on an equal footing with the land-owning authority. The DCR including Appendix-IV being delegated legislation amount to a legislative mandate to this effect. The pending proposal are required to be processed as per the judgment of the Hon'ble Division Bench in Awdesh Tiwari V/s. CEO (SRA) reported in 2006(5) BCR 772.

Thus, private land occupied by existing slums are at par with public land occupied by slums & therefore the private lands occupied by slums needs to be valued on equal footing with the public land occupied by slums which are valued by the State Govt. at 25% of the ASR of developed land.

5. We would like to further state that, the provisions of Slum Rehabilitation Schemes formulated by Govt. u/s 3(B) of Slum Act, provides for obligatory participation of the land holders & occupants of the area declared as Slum Rehabilitation Area. In the event, the private land owners do not come forward for undertaking redevelopment as per Slum Rehabilitation Scheme or do not co-operate with the society of occupiers of slum area for implementation of Slum Rehabilitation Scheme, there is provision under section 14 of the Slum Act for compulsory acquisition of the private land occupied by slum for the purpose of implementation of the Slum Rehabilitation Scheme. In such case, the owner of the land is entitled for compensation equal to 60 times monthly rent of the hutments on said land. The said amount of compensation is meagre & not even close to the value as per 25% of ASR.
6. Slum Rehabilitation Scheme is a self-financed scheme which works on the principle of cross subsidization. The free-sale component is not generated as inherent FSI potential of the land like open lands having inherent FSI potential. There are huge costs on account of rent, expenses on site on several different heads.
7. We would like to respectfully submit that, valuation of slum occupied lands by office of the Stamp Collectors considering permissible higher FSI is unreasonable & it severely affects implementation of the Slum Rehabilitation Scheme. Due to valuing the slum occupied land at unreasonably high value, implementation of the Slum Rehabilitation Schemes becomes unviable. Due to this the instruments for transfer of slum occupied lands/ development agreements in respect of slum occupied lands etc. are not registered. This has resulted in stalling Slum Rehabilitation Schemes resulting in blocking of huge revenue to the Govt. on account of stamp duty & registration charges on instruments executed in respect of free-sale component which otherwise would have been earned by the Govt. through implementation of Slum Rehabilitation Schemes on private land occupied by declared & notified slums. In Mumbai, the private land occupied by slums is estimated to be around 1.2 crore sq.mtrs. Considering average Land ASR rate (as per ASR

2018) of Rs.50,000/- per sq.mtr., the value of the said land would be Rs.60,000/- crores & amount of stamp duty calculated at the rate of 6% on the basis of 25% of the said land value would be Rs.900/- crores. Besides, the amount of stamp duty on instruments in respect of free-sale areas which are valued at full market value will be exponentially high. In case of a single Slum Rehabilitation Scheme with 100 free-sale units of an average area of 500 sq.ft. on a one-acre slum affected plot, with an average residential sale unit ASR rate of Rs.100,000/- per sq.mtr., the stamp duty @6% works out to Rs.2.79 crores. Effectively, from 3000 acres of privately held slum affected land, the government stands to gain approximately Rs.8,400/- crores in Stamp Duty from the free-sale component. Overall, the estimated stamp duty collection of the Government is likely to be no less than Rs.9,000/- crores.

Sir, we would like to request you to kindly consider levy of stamp duty by adopting value of the land at 25% of the ASR for developed land on instruments such as Conveyance Deed, Development Agreement, Deed of Assignment for transfer /assignment /development rights executed in respect of private lands occupied by slums for the purpose of implementation of the Slum Rehabilitation Scheme & necessary report in this regard may kindly be submitted to the State Govt.

Thanking you,

Your sincerely,
For CREDAI-MCHI



Nayan A. Shah
President



Bandish Ajmera
Hon. Secretary



Sanjiv S. Chaudhary MRICS
Chief Operating Officer

Latest & Important Notification of The Bombay Stamp Act, 1958

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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 23th 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 slumdwellers 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 slumdweller 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. XXVIII of 1971) in respect of the city of
(1)	(2)
1.	Mumbai Municipal Corporation area
2.	Pune Municipal Corporation area
3.	Thane Municipal Corporation area
4.	Nashik Municipal Corporation area
5.	Kalyan Municipal Corporation area
6.	Solapur Municipal Corporation area
7.	Nagpur Municipal Corporation area
8.	Kolhapur Municipal Corporation area
9.	Aurangabad Municipal Corporation area
10.	Amravati Municipal Corporation area
11.	Pimpri-Chinchwad Municipal Corporation area
12.	Sangli-Miraj and Kupwad Municipal Corporation area
13.	Navi Mumbai Municipal Corporation area
14.	Nanded-Waghala Municipal Corporation area
15.	Ulhasnagar Municipal Corporation area
17.	Malegaon Municipal Corporation area
18.	Dhule Municipal Corporation area
19.	Mira-Bhayandar Municipal Corporation area
20.	Akola Municipal Corporation area
21.	Jalgaon Municipal Corporation area
22.	Ahmednagar Municipal Corporation area
23.	Khamgaon Municipal Council area
24.	Yavatmal Municipal Council area
25.	Ahmednagar Municipal Council area
26.	Achalpur Municipal Council area
27.	Kamthi Municipal Council area
28.	Gondia Municipal Council area
29.	Chandrapur Municipal Council area
30.	Ballarpur Municipal Council area
31.	Wardha Municipal Council area
32.	Hingnagar Municipal Council area
33.	Bhandara Municipal Council area
34.	Nandurbar Municipal Council area
35.	Bhusawal Municipal Council area
36.	Amalner Municipal Council area
37.	Chalisgaon Municipal Council area
38.	Shrirampur Municipal Council area
39.	Satara Municipal Council area
40.	Karad Municipal Council area

Serial
NumberAreas 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-Baljnath 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. Panvel 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