

**MANAGING COMMITTEE
2011 - 2012**

PRESIDENT
Paras Gundecha

IMMEDIATE PAST PRESIDENT
Sunil Mantri

PRESIDENT-ELECT
Vimal Shah

VICE PRESIDENTS
Dharmesh Jain
Mayur Shah
Nayan Shah
Deepak Goradia

HON. SECRETARY
Boman Irani - President
(MCHI Mira Virar City Unit)

HON. JOINT SECRETARIES
Rasesh Kanakia
Harish Patel
Nainesh Shah - President
(MCHI Thane Unit)

TREASURER
Ashok Mohanani

JT. TREASURERS
Mukesh Patel, L. P. Bhagtani

CO-ORDINATORS
Sukhraj Nahar, Pujit Aggarwal
Sandeep Runwal

COMMITTEE MEMBERS
Sandeep Raheja
Bandish Ajmera - President
(MCHI Kalyan-Dombivli Unit)
Sujal Shroff, Parag Munot
Rajan Bandelkar, Vikas Walawalkar
Jayesh Shah, Nayan Bheda
Sanjay Chabria
Rajendra Chaturvedi

INVITEE MEMBERS
Mukesh Mehta, Rakesh Sanghvi
Jagdish Ahuja
Ajay Ashar - Secretary
(MCHI Thane Unit)
Shrikant Shitole - Secretary
(MCHI Kalyan-Dombivli Unit)
Shailesh Sanghvi - Secretary
(MCHI Mira Virar City Unit)
Rajesh Prajapati - President
(MCHI Raigad Unit)
Suresh Haware - President
(MCHI Navi Mumbai Unit)

PAST PRESIDENTS
Pravin Doshi, Mohan Deshmukh
Mofatraj Munot
Niranjan Hiranandani
Rajni S. Ajmera, G. L. Raheja
(Late) Lalit Gandhi
(Late) Babubhai Majethia



Ref. No. MCHI/GEN/12-13/007

May 15, 2012

To,
All Members of MCHI-CREDAI

**Sub: Judgment dated 10th April 2012 in the
Writ Petition No.2022 of 2007,
Maharashtra Chamber of Housing Industry & Ors.
V/s.
State of Maharashtra & Ors.**

Dear Sir,

Various Writ Petitions were clubbed together relating to issues of levy of VAT by State Government. Shri Milind Sathe, Sr. Counsel, appeared on behalf of MCHI & Shri Darius Khambatta, Advocate General, appeared on behalf of State Government.

The Writ Petitions were filed on the ground that the amended Value Added Tax Act transgresses the limitation contained in article 366 (29A) (b) of the constitution. It is contended on behalf of the Petitioner that by amending the provisions of sec. 2 (24) of Maharashtra Value Added Tax. The state legislature has brought within the ambit and perview of the expression "Sale" and agreement for the building and construction of immoveable property is not a work's contract. It was further contended that A contract which is governed by the Maharashtra Ownership Flats (Regulations of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (MOFA) Cannot be regarded as a works contract. Such a contract is an agreement for the purchase of immoveable property in its complete sense. An agreement which is governed by the MOFA is an agreement simplicitor for transfer of immoveable property.

The essence of a works contract is the transfer of property by accretion. Consequently, where a contract involves sale of immoveable property, it can never be regarded as involving a works contract.

The Hon'ble Court, after considering the arguments and submissions of all the counsels has come to the conclusion that the amendment made by the State legislature does not transgress the limitations which has been imposed by article 366 (29A) (b) of the constitution. The law is valid because it does not breach the boundaries as provided in article 366 (29A). It is also hold that the constitutional validity of the

Maharashtra Chamber of Housing Industry (ISO 9001:2008)

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provisions of the MVAT Act, 2002, as amended, is not contingent upon any other statutory regulation of apartments under cognate legislation in the State of Maharashtra.

The division bench has dismissed the Petition. A copy of order is attached herewith for perusal and record.

MCHI-CREDAI is taking steps to file SLP in Supreme Court challenging the order passed by the Division bench on 10th April, 2012.

Thanking you,

Yours truly,
For MCHI-CREDAI



C. P. Goyal
Chief Manager, Finance

Encl : Judgment dt. 10th April 2012