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2023-2025**

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CREDAI - MCHI

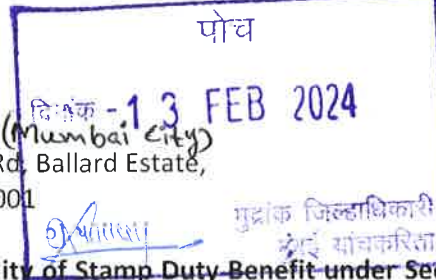
Ref. No. MCHI/PRES/23-25/210

Date: 13.2.2024

To,

Shri Krishna Jadhav

Collector of Stamps (Mumbai City)
Old Custom House Rd, Ballard Estate,
Fort, Mumbai - 400001



Subject: Applicability of Stamp Duty Benefit under Section 4(1) of Maharashtra Stamp Act 1958 for Permanent Alternate Accommodation Agreements ("PAAA") under applicable Regulations of the Development Control and Promotion Regulations for Greater Mumbai, 2034 ("DCPR 2034").

Respected Sir,

We are writing to seek clarification and request for broader application of the stamp duty benefit under Section 4(1) of the Maharashtra Stamp Act, 1958 ("MSA 1958"), to Permanent Alternate Accommodation Agreements ("PAAA") entered prior to redevelopment not only for co-operative housing societies but also for tenements in cessed/deceased/non-cessed properties for their qualified areas as per applicable provisions of the Development Control and Promotion Regulations for Greater Mumbai, 2034 ("DCPR 2034").

Grounds for Broader Applicability:

1. Expanding Scope beyond re-development of Cooperative Housing Societies:

We urge and request your Honourable office to extend the benefit of section 4(1) of the MSA 1958 applicable to PAAA essentially applicable and executed for rehab components not just for co-operative housing society but also for tenement buildings in various ownership conditions including cessed, deceased, and non-cessed properties. Excluding tenements cessed, deceased, and non-cessed properties from the stamp duty benefit (as detailed below) would contradict the regulation's aim of facilitating equitable and inclusive redevelopment across diverse housing structures.

2. Further, Guideline No. 2.2 of the Ready Reckoner and Market Value of Properties in Mumbai – 2023-24:

This guideline explicitly states that subsequent documents related to redevelopment agreements when the Co-operative Housing Society (original owner) and Developer have entered into development agreements, the Co-operative Housing Society (original owner) and developer shall receive all the benefits/premises that accrues due to development agreement such as further documents like PAAAs, are chargeable under Section 4 (1) of the MSA 1958. This section allows for a principal instrument to bear the primary duty, while other related instruments have a reduced duty of INR 100.

3. Full Rehab Entitlement including Common Areas and Fungible Areas :

This above guideline should be interpreted to be extended to encompass the full rehab entitlement to tenements in cessed/non-cessed and deceased properties as defined by applicable DCPR 2034 regulations, including common areas, balconies, and fungible areas allocated to the rebuilt portion. Excluding these areas would create financial burden and incentivize purchase of additional space, contradicting the spirit of affordable redevelopment.

Maharashtra Chamber of Housing Industry

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CREDAI-MCHI CHAPTERS : THANE | KALYAN-DOMBIVLI | MIRA BHAYANDAR | RAIGAD | NAVI MUMBAI |
BHIWANDI | PALGHAR BOISAR | SHAHAPUR-MURBAD | URAN-DRONAGIRI |
VASAI VIRAR | ALIBAG | KARJAT-KHALAPUR-KHOPOLI | YOUTH NMR

4. Further, to support the above, we place reliance on the Circular dated 26/7/2023 (क्र.का.५ / मुद्रांक - २३ / प्र.क्र.१० / ३५४२/२०२३) issued by the Inspector General of Registration and Controller of Stamp, Maharashtra State (IGR) :This circular clarifies that (a) A Development Agreement between a cooperative housing society and a developer for development of the society's property (land, building, apartments, flats, garages, godowns, galas) requires to be stamped.
(b) The Development Agreement need not be signed by individual members of the society. That is optional. Even if individual members do not sign, the DA controls the re-development and the rights of society members.
(c) Once the Development Agreement is stamped, the PAAA cannot be separately assessed to stamp beyond the Rs.100 requirement of Section 4(1) if it relates to and only to rebuilt or reconstructed premises in lieu of the old premises used/occupied by the member, and even if the PAAA includes additional area available free to the member because it is not a purchase or a transfer but is in lieu of the member's old premises. The stamp on the Development Agreement includes the reconstruction of every unit in the society building. Stamp duty cannot be levied twice.
(d) To the extent that the PAAA is limited to the rebuilt premises without the actual purchase for consideration of any additional area, the PAAA is an incidental document within the meaning of Section 4(1) of the Stamp Act.
5. **Supporting Orders:**
Enclosed Exhibit A: Government Order No. STP. 1096/4565/CR-915/M-1 of 19th December 1997 reduces the stamp duty chargeable under Article 5 (g-a), 25 and 36- in Schedule I appended to the MSA 1958, 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 (Maharashtra 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). This demonstrates the government's intent to promote affordable housing and redevelopment projects.

Enclosed Exhibit B: Government Order No. Mudrank. 2002/941/C.R. 217/M-1 of 4th March 2008 further reinforces the reduced duty provision for slum rehabilitation agreements and provides for reduction in stamp duty chargeability under Articles 5(g-a), 25 and 36 in Schedule I appended to the MSA 1958, 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 (Maharashtra XXVII of 1971), in respect of the properties situated in the areas mentioned in column (2) of the Schedule appended thereto, to INR. 100.
6. **Analogy with Applicable Regulations under the DCPR 2034 relating to redevelopment of co-operative housing societies / tenements in cessed / de-cessed/ non cessed properties for their qualified areas:** Redevelopment projects undertaken under Regulation 33(7) share similarities with slum rehabilitation initiatives aimed at improving living conditions for residents of older structures. In both scenarios, a key document is the development agreement between the entity (cooperative society or slum dwellers) and the developer. When full stamp duty is paid on this primary agreement, subsequent instruments - like PAAAs under the applicable provisions under DCPR - can potentially benefit from the reduced rate under Section 4(1) of the Maharashtra Stamp Act, 1958.
7. This benefit, as outlined in the aforementioned Circular and supporting orders, allows for PAAAs related to rebuilt premises (without additional area purchase) to be treated as incidental documents under Section 4(1) of the MSA 1958. Consequently, if the area conditions are met, the stamp duty is reduced to INR. 100, eliminating the possibility of double taxation.

We respectfully request that you consider these points and apply the stamp duty benefit under Section 4(1) of the Maharashtra Stamp Act to PAAAs entered into and developed under Regulation 33 of DCPR 2034 across the Maharashtra Housing and Area Development and Full Rehab Entitlement including Common Areas and Fungible Areas boards for

- i. For tenements in cessed/deceased/non-cessed properties.
- ii. The full rehab entitlement including common areas, balconies, and fungible areas allocated under DCPR 2034 regulations.
- iii. This broader application would:
 - a. Reduce the financial burden on residents and encourage wider participation in redevelopment projects.
 - b. Promote equitable and inclusive redevelopment across diverse housing structures.
 - c. Align with the government's objectives of affordable housing and urban renewal.
 - d. We believe this clarification is crucial for the smooth implementation of redevelopment projects under DCPR 33(7) and would significantly benefit residents across various housing categories. We are confident in the merits of our request and are available to *provide* any further information or clarification you may require.
 - e. We request that the stamp duty in slum projects to be made at par with the government rates.

Sir, we would like to bring to your attention that during our recent meeting with the Vice President and CEO of MHADA, the issue was thoroughly discussed. He expressed positive support on the matter and endorsed the view that the stamp duty for all PAAA rehabilitation should be Rs.100/-, in accordance with MHADA norms and the provided area. We have learned that these suggestions have been forwarded as part of the required changes under Regulation 33(7) of DCPR 2034 to the Hon'able Deputy Chief Minister for his consideration and necessary approvals.

We look forward to your positive response in the form of a circular or clarification and are available to provide any further information or clarification you may require.

Thanking you,

Yours sincerely,
For **CREDAI-MCHI**



Domnic Romell
President



Dhaval Ajmera
Hon. Secretary

Encl.: As above

PS: Contact Person Mr. Sanjay Phope - +91 9619345193

ड) पात्र भाडेकरूच्या ताब्यात असलेले जुन्या इमारतीतील वाणिज्य क्षेत्र लक्षात घेऊन 35% फजीबल एफ.एस.आय.सह जेव्हा कमीत कमी 33.48 चौ.मी. (360 चौ.फूट) कार्पेट क्षेत्र त्याच इमारतीत भाडेकरूंना देण्यात येते, त्यावेळेस नवीन जागेवर मुद्रांक शुल्क आकारताना भाडेकरूंना लागू असलेल्या फक्त भाड्याच्या 112 पट रकमेवर मुद्रांक शुल्क आकारण्यात यावे.

इ) जुन्या इमारतीतील भाडेकरूंच्या ताब्यात असलेले वाणिज्य क्षेत्र लक्षात घेऊन जेव्हा 33.48 चौ.मी. (360.00 चौ.फूट) कार्पेट क्षेत्रापेक्षा जास्त परंतु ताब्यात होते तितकेच क्षेत्र कार्पेट क्षेत्राच्या मर्यादेत जेव्हा त्याच भूखंडावर नवीन इमारतीत भाडेकरूस देण्यात येते, त्यावेळी 2 (ड) प्रमाणे 33.48 चौ.मी. (360.00 चौ.फूट) कार्पेट क्षेत्र वगळता उर्वरित क्षेत्राचे वर्गीकरणानुसार नवीन बांधकामाचा दर (construction rate) विचारांत घेऊन येणारे मूल्यांकन वरील क्र. 2 (ड) नुसार भाड्याच्या 112 पट रकमेत समाविष्ट करून मूल्यांकन करावे.

ई) मूळ जमीन धारकाचे भोगवटादार म्हणून स्वतःचे ताब्यात असलेल्या क्षेत्राबाबत देखील उपरोक्त नमूदनुसार मूल्यांकन निश्चित करता येईल.

फ) जर भाडेकरू त्यास मिळणाऱ्या क्षेत्राव्यतिरिक्त जास्तीचे क्षेत्र खरेदी करू इच्छित असेल अथवा त्यास दिले जात असेल तर, भाडेकरूला द्यावयाच्या अनुज्ञेय क्षेत्रांचे मूल्यांकन वरील नियम क्र.2 (ड) प्रमाणे करून त्यामध्ये जास्तीच्या क्षेत्राचे वार्षिक मूल्य दर तक्त्यातील सदनिका / दुकाने / कार्यालये / औद्योगिक दराने मूल्य काढून ते त्यात समाविष्ट करून मूल्य परिगणित करावे.

ग) पात्र भाडेकरू व्याप्त मिळकत भाडेकरूच अथवा भाडेकरूची गृहनिर्माण संस्था खरेदी करीत असल्यास अशा प्रकरणी मार्गदर्शक सूचना अनुक्रम नं.1 मधील (अ) व (ब) पैकी लागू होणाऱ्या तरतूदीप्रमाणे येणाऱ्या बाजारमूल्याचे 40% मूल्य विचारात घ्यावे. भाडेकरू व्याप्त क्षेत्राव्यतिरिक्त जमीन मालकाची अतिरिक्त जागा खरेदी करीत असल्यास सदर क्षेत्राचे अनुज्ञेय चटई क्षेत्र निर्देशांकानुसार मूल्य विचारात घेऊन त्या रकमेवर मुद्रांक शुल्क आकारणी करावी.

2.2) सहकारी गृहनिर्माण संस्थेच्या जुन्या इमारतीच्या पुनर्विकास प्रकल्पामध्ये नवीन इमारतीत सभासदांना जागा देताना करावयाचे मूल्यांकन-

सहकारी गृहनिर्माण संस्थेच्या पुनर्विकास प्रकल्पात, गृहनिर्माण संस्था (मूळ मालक) व विकासक यांच्यात विकसन करारनामा झाला असल्यास सदर करारनाम्याच्या पूर्ततेच्या अनुषंगाने गृहनिर्माण संस्थेच्या लाभात करण्यात येणाऱ्या अनुषंगिक दस्तऐवजावर महाराष्ट्र मुद्रांक अधिनियमाच्या कलम 4 नुसार मुद्रांक शुल्क आकारणी करावी.

मात्र केवळ गृहनिर्माण संस्था व विकासक यांच्यात विकसन करारनामा झाला असल्यास, गृहनिर्माण संस्थेच्या मूळ सभासदांचे वैयक्तिक लाभात सदनिका / गाळा हस्तांतरण करण्याचा दस्तऐवज हा मूळ विकसन करारनाम्याच्या पूर्ततेच्या अनुषंगिक दस्तऐवज म्हणून समजता येणारा नसून तो स्वतंत्र दस्तऐवज आहे. त्यामुळे अशा दस्तऐवजान्वये हस्तांतरीत होणाऱ्या सदनिका / गाळ्यांसाठी गृहनिर्माण संस्थेने मान्यता दिलेल्या क्षेत्रासाठी बांधकाम खर्चावर (construction cost) मुद्रांक शुल्क आकारणी करण्यात यावी. त्यापेक्षा वाढीव क्षेत्र वैयक्तिकरित्या घेत असल्यास त्यास वार्षिक मूल्य दर तक्त्यातील दराने (सदनिका / दुकानगाळा / कार्यालय / औद्योगिक) मुद्रांक शुल्क आकारणी करण्यात यावी. (सदर सूचनेची

Aug

अंमलबजावणी मा.उच्च न्यायालय, मुंबई येथे दाखल रिट याचिका क्र. 2310/2016 व इतर मधील निर्णयाच्या अधिन राहून करणेत यावी.)

मार्गदर्शक सुचना क्र.1 व 2 साठी टिपा :-

अ) निरसित मुंबई भाडे नियंत्रण अधिनियम 1947 मधील तरतुदीच्या आधारे तसेच महाराष्ट्र भाडे नियंत्रण अधिनियम 1999 चे कलम 7(15) (क) अन्वये जो भाडेकरू असल्याचे मानण्यात येईल केवळ अशा भाडेकरू व त्याच्या ताब्यातील क्षेत्रासाठीच उपरोक्त सूचना क्र.1 व 2 लागू आहेत. भाडेकरू असलेल्या मिळकतीमध्ये वरीलप्रमाणे सवलत देताना संबंधितांनी त्या इमारतीत भाडेकरू दि.30 मार्च 2000 रोजी पासून वास्तव्य करीत असलेबाबत अथवा तदनंतर रितसर नोंदणीकृत व्यवहाराद्वारे भाडेकरूच्यावतीने दस्ताव्याद्वारे हक्क प्राप्त केला असलेली व्यक्ती भाडेकरू म्हणून वास्तव्य करीत असल्याबाबतचा पुरावा देणे आवश्यक आहे. उदा. महानगरपालिकेकडील भाडेकरूची नोंद असलेला मिळकत कर दाखला, भाडेकरूच्या नावे असलेले वीजदेयक, दूरध्वनी देयक, भाडेपावत्या, महानगरपालिकेचा व्यापारी परवाना, 1995 च्या मतदार यादीतील नोंद यापैकी किमान दोन पुरावे अथवा शासनाच्या गृहनिर्माण विभागाचा निर्णय क्र.लोकआ-2007/प्र.क्र.120(अ)/दुवपु-1, दि.16/8/2010 मध्ये नमूद पुराव्यापैकी कोणतेही दोन पुरावे दिल्यानंतरच सवलत देता येईल. दस्त नोंदणीसाठी सादर करताना भाडेकरूच्या ताब्यात असलेल्या क्षेत्राचा सविस्तर तपशील व घेण्यात येणारे भाडे दस्तामध्ये नमूद करून त्याच्या पुराव्यासह किमान आठ दिवस अगोदर दुय्यम निबंधक कार्यालयास सादर करावे. उपरोक्त सर्व पुरावा कागदपत्रांच्या सत्यप्रती दस्ताचा एक भाग म्हणून राहतील. दुय्यम निबंधकांनी पुराव्यासाठी दिलेल्या कागदपत्रांची पडताळणी करून भाडेकरू असल्याची त्यांची खात्री पटल्यास अशा दस्ताची नोंदणी करावी.

दि. 13/6/1996 नंतर निर्माण झालेले नवीन भाडे हक्क (Tenancy) विचारात घेता येणार नाही. नविन भाडे हक्कासाठी केलेले अनधिकृत बांधकाम, विद्यमान चटई क्षेत्र निर्देशांक (Existing F.S.I.) परिगणित करणेसाठी विचारात घेता येणार नाही. लिव्ह अॅन्ड लायसन्सचे दस्तऐवजान्वये मिळणारे हक्क या सवलतीसाठी पात्र असणार नाहीत.

तथापि, मुंबई शहर / उपनगरातील भाडेकरूव्याप्त इमारतीसाठी, दि. 13/6/1996 पूर्वीची भाडेकरूंची यादी व त्यांनी व्याप्त केलेले क्षेत्राबाबत भाडेकरू पुरावा म्हणून बृहन्मुंबई महानगरपालिकेचे/ मुंबई इमारत पुनर्रचना व दुरुस्ती मंडळाचे मूळ प्रमाणपत्र अथवा दि. 13/06/1996 पूर्वी भाडेकरू म्हणून वास्तव्य असलेचे सिध्द केलेबाबत न्यायालयीन आदेशाची प्रत पुरावा म्हणून दस्तासोबत जोडल्यास, दि. 13/06/1996 पूर्वीच्या वास्तव्याबाबत, उपरोक्त नमूद पुरावे सादर करण्याची आवश्यकता नाही. मात्र अशा प्रकरणी विद्यमान वास्तव्य सिध्द करणारे उपरोक्त नमूद पैकी 2 पुरावे जोडणे आवश्यक आहे.

3. टी.डी.आर व अतिरिक्त चटईक्षेत्र निर्देशांक वापरणेची क्षमता असलेल्या भूखंडाचे मूल्यांकन :-

अ) मुंबई शहर व उपनगरातील खुल्या जमिनीचे दर हे 1.00 चटई क्षेत्र निर्देशांकासाठीचे आहेत. केवळ मूळ अनुज्ञेय चटईक्षेत्रासाठी (Basic FSI) त्या प्रमाणात वाढ करावी

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