

CLARIFICATIONS ON CA CERTIFICATION

Through **MahaRERA Circular No.7/2017, dated 4th July 2017, w.e.f. 1st May 2017** the Maharashtra Real Estate Regulatory Authority has clarified on issues with respect to **CA Certificate**.

Following are the synopsis of the said Circular:

1. Incurred

- a. The expression "incurred" would mean amount of product or service received, creating a debt in favour of seller or supplier and shall also include the amount of product or service received against the payment.
- b. Therefore, amount to be paid for inputs, material, labour, etc, taken on credit shall also mean to be incurred for the purpose of CA Certification under MahaRERA.

2. Cost of Acquisition of Land/Development Rights/Lease Rights (LAND):

a. Land Acquired before 1st April 2001:

- i. Base Cost = ASR Value of such LAND as on 1st April 2001
- ii. Indexation Benefit = Till the year in which such LAND in the real estate project is registered or the year in which the first commencement certificate is issued; whichever is earlier.

b. Land Acquired on or after 1st April 2001:

- i. Base Cost = Actual Value of Such LAND as on the date of acquisition
- ii. Indexation Benefit = Till the year in which such LAND in the real estate project is registered or the year in which the first commencement certificate is issued; whichever is earlier.

- c. **Interest:** The acquisition cost shall also include the amount of interest incurred on the borrowing done specifically for purchase of LAND.

3. Cost under Rehabilitation Scheme:

- a. The Cost shall include, the cost incurred for construction of area, which is to be handed over to:
 - i. Slum Dwellers under Slum Rehab. Scheme

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- ii. Tenants under redevelopment of tenanted properties
 - iii. Apartment owners of the building which is under redevelopment and who are to be provided with the alternative accommodation
 - iv. Government or concessionaire in Public Private Partnership Projects
 - v. Appropriate Authority under various schemes under Development Regulations
- b. All amounts payable to slum dwellers, tenants, apartment owners or appropriate authority or govt. or concessionaire which are non-refundable and are incurred as cost or expense of Rehab Scheme shall be allowed as Land Cost (Clause 1(i)(f)(iii) or Clause 1(i)(f)(iv) of Form 3)
- c. Amount of Interest incurred on the borrowing done specifically for the construction of Rehab Scheme shall be included in Land Cost (Clause 1(i)(a) of Form 3)

4. On-Site Expenditure [Clause 1(ii)(a)(iii)]

- a. The increase in Construction Cost due to execution of extra/additional items as certified by Engineer in Form 2 Annexure A shall be allowed to be included in On-Site Expenditure.

5. Principal Sum [Clause 1(ii)(c)]

- a. Even though, while uploading details of Project Cost on the website, 'Principal Cost' is not to be entered, for the purpose of Form 3, 'Principal Cost' is to be reflected in Brackets near Clause 1(ii)(c) of Form 3.

6. Amount Withdrawn till the Date of Certificate [Clause 7]

a. New-Project:

- i. Means amount withdrawn from Separate Bank Account as per Books of Accounts and Bank Statement of that Separate Bank Account.

b. On-going Project:

Such amount shall be lower of the following:

- i. 100% of the amount received towards consideration of the sale of apartment of the Real Estate Project till date of Registration or
- ii. Amount of Project Cost as reflected in Clause 3 of Form 3 at the time of Registration.

7. Designated Separate Bank Account (SBA)

a. Indirect Taxes:

- i. Indirect Taxes such as VAT, Service Tax, GST, etc collected by the Promoter should not be deposited in the SBA.

b. Pass Through Charges

- i. Any amount collected for or on behalf of Legal Entity or Apex Body or any Statutory Authority or Local body being in the nature of Pass Through Charges should not be deposited in the SBA.

c. Fixed Deposit

- i. SBA shall be a no lien account and withdrawal from the same shall always be in accordance with the provisions of RERA, Rules, Regulations, Circulars issued by MahaRERA from time to time.
- ii. The excess monies lying in the SBA can be put in Fixed Deposits with the Bank Operating the SBA, provided there is no lien on such FD, no loan can be obtained against or on such FD, and no charge can be created on such FD.

d. Fund Utilization

- i. MahaRERA Authority has recommended utilization of amount withdrawn from SBA for the purpose of completion of project, however there is no end use restriction on the amount which is withdrawn from the SBA

8. Income Tax:

- a. Income Tax paid by the promoter of a Real Estate Project shall not be allowed to be claimed as cost of the Real Estate Project.

9. Booking Cancellation Amount:

- a. Cancellation amount(s), if any, to be paid by the promoter to the allottees on cancellation of booking/ allotment of the Apartment, will be treated as cost incurred for the project to the extent of 70% of the amounts to be paid to such allottees on cancellation of booking/allotment.
- b. Further, compensation/interest paid by the promoter to the Allottees should be treated as cost incurred for the project and

hence entire amount of such compensation/interest paid will be allowed for withdrawal from SBA.

10. Percentage of Completion as per Form 1 [Clause 4]

- a. Such field is to be filled only in the Final Certificate when 100% of the construction work has been completed.
- b. In all prior certificates, this field is not mandatory to be filled and certified by a CA.

11. On-Going Project

- a. Estimated LAND Cost/ Cost of Construction shall be considered since its inception and not limited to the balance Estimated LAND Cost/ Cost of Construction.

12. Responsibilities of a CA

a. FD

- i. In case FD being made of the monies lying in SBA, a CA shall verify that there is no lien or charge on such FD.
- ii. Further, the CA shall obtain the no lien/charge certificate in respect to such FD from the bank once every 3 months.

b. Deposits in SBA

- i. CA shall verify and certify that 70% or 100% as the case may be, of the amounts collected from allottees (other than pass through charges or indirect taxes) are deposited in the SBA

c. Form 5

- i. The Statutory Auditor shall certify that the Promoter has utilized the 70% or 100% amount collected from the allottees, as the case maybe, towards the project only.
- ii. Further, the auditor shall certify that the withdrawal from SBA has been in accordance with the proportion of the percentage of completion of the project.

13. Co-Promoter

- a. The agreement between the promoter and each of the co-promoters shall clearly lay down the entity which is principally or primarily responsible for completion of the Real Estate Project
- b. In case of shared responsibility, the agreement shall clearly lay down responsibility assumed by promoter and each of the co-promoter(s)

- c. Copy of such agreement to be uploaded during registration.

14. Saving Clause

- a. Projects already registered or applied for registration with MahaRERA before issuance of this circular, need not rework their estimated costs or get their certificates reissued.
- b. However, in subsequent certificates or while reporting in quarterly updates, considerations as per latest Circular/Order from MahaRERA to be taken into account.

SPCM's Comments

1. This circular put to rest the ambiguity regarding major concerns like:
 - a. Cost of Acquisition of Land
 - b. FD of SBA
 - c. Cancellation of Booking Charges
 - d. Form 3 Presentation
 - e. Various other concerns in general
2. However, we hope concerns like interest earned on FD, whether freely usable by the promoter or subject to SBA will also be clarified in coming days.
3. Nonetheless, we expect the Authority to clarify regarding Joint Development Agreement soon.

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