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Property Tax and Assessment News from Around the World

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Despite notice, Govt depts fail to pay property taxes

A number of Government departments and authorities in Dehradun have not paid property tax on their office buildings to the Municipal Corporation of Dehradun (MCD). The MCD had issued notices to about 92 such departments and bodies following which some of them have paid the property tax. However, major bodies including the Mussoorie Dehradun Development Authority (MDDA) have not yet paid the property tax to the corporation. According to officials, the delay in the submission of the tax by these institutions is posing hindrance to the MCD in meeting its target of collecting Rs 75 crore in property tax by the end of March.

Recently, the MCD also sent a notice to Dehradun Inter State Bus Terminal (ISBT) and Big Bazaar too regarding the property tax which is pending for more than two years. The total property tax of both properties including the penalty is about Rs 40 lakh and 50 lakh respectively. The Corporation also served a Rs 1.5 crore property tax bill to the Forest Research Institute (FRI) on Tuesday which is due for two years. Reportedly, MCD will also serve a notice to the State Infrastructure and Industrial Development Corporation of Uttarakhand Limited (SIIDCUL) soon.

Non-residential properties generate a lot more revenue than residential properties which contribute considerably to the overall collection of the property tax by the corporation. Property tax amounting to about Rs 8 crore is pending from governmental, semi governmental and aided institutions in the city. The MCD had issued notices to 92 such institutions including the Uttarakhand Forest Development Corporation, Uttarakhand Transport Corporation, State Police Complaints Authority and many more, according to the sources. Property tax is one of the important revenue sources of the corporation and the amount of tax from these departments and authorities will strengthen the chances of the corporation achieving its target of collecting Rs 75 crore in property tax, an amount which is about three times more than the amount of property tax collected last year.

The mayor Sunil Uniyal 'Gama' has extended the period of 20 per cent rebate on property tax four times this year so that residential as well as non-residential taxpayers are inclined to paying their property taxes on time. It appears that only the citizens of Dehradun are taking advantage of the rebate and paying their taxes while the Government departments are still waiting to clear their dues. So far, the MCD has collected more than Rs 40 crore and penalty will be imposed on the taxpayers who submit the tax after March.

Value Capture Financing – Legal Issues And Challenges

India's Smart Cities Mission signals a shift towards strategic planning in urban development. Transit-oriented development (TOD) is promoted under smart cities as an urban growth strategy as mobility is critical in rapidly expanding cities. Mass Rapid Transit Systems (MRTS) are an important factor in the development of urban mobility.

Considering the huge capital expenditure involved in MRTS and TOD projects coupled with limited budgetary support and grants and limited return through user charges, innovative methods of financing such as land value capture financing (VCF) instruments have become increasingly popular.

VCF is founded on the principle that private land and buildings benefit from public investments in infrastructure. Investment in MRTS projects, increase in floor area ratio and provision for mixed use development would, in turn, increase the value of land within the influence zone. Accordingly, VCF instruments such as levy of additional stamp duty on property sales, conversion of land use charges, sale of additional floor area ratio, cess and various other instruments can be implemented to capture a part of the increment in value of land to finance the required upgrading of infrastructure and expansion of the public transport systems.

However, there are various legal challenges regarding implementation of VCF instruments, such as sharing of amounts between various stakeholders, such as the project implementing agency (PIA) and the state or urban local bodies (ULBs), fund flows and final disbursement within specified timelines.

The objective is to ensure that the incremental revenue from implementation of VCF instruments reaches the PIA on a timely basis without any hindrance. In this context, three frameworks are relevant for consideration: i) legislative framework, ii) contractual framework, and iii) institutional framework.

An analysis of the legislative framework may suggest amendments to the state laws and regulations, or issue of administrative orders, new regulations or notifications. Amendments to state laws should be avoided as they are usually a complex and time-consuming processes requiring legislative action. Administrative orders and notifications are preferable due to their ease of implementation. The key is to formulate the road map for levy, collection, allocation and disbursement of the amounts, based on the legislative framework and to communicate it effectively to the stakeholders.

Further, VCF can be achieved through tax revenues or non-tax revenues (such as fees and charges). Tax revenues are deposited in the consolidated funds of the state and are disbursed through budgetary allocation. States should have a contractual obligation to make this allocation to PIAs. For non-tax revenues, the contractual framework assumes greater significance. Charges and fees collected by urban local bodies through VCF instruments and consequent sharing of the incremental revenue with PIAs should be implemented by a well-designed and robust contract, usually a state support agreement, detailing the provisions of timely disbursement to the designated project account. Further, a notification or administrative order of the government on revenue sharing should follow.

Lastly, the usual institutional framework of urban areas in states provides for various development activities undertaken by multiple agencies. For effective implementation, it is important to have a single nodal agency to coordinate with various line departments for a particular project. PIA should have the nodal agency as a shareholder. Another essential element is ensuring a mechanism for direct fund flow to the project account through the institutional structure. The regulations provide for creation of infrastructure development funds, TOD funds and urban transport funds. However, there have been challenges to disbursements from such accounts as they cater to several projects in the area leading to commingling of funds.

The recommended approach is to ensure that the funds for a project are solely utilized for a specific project. The fund flow mechanism has to ensure that the incremental amounts collected from VCF instruments are disbursed to the dedicated project account (effected through appropriate contracts) in a timely manner.

With appropriate legal, contractual and institutional frameworks, the successful implementation of VCF instruments can be achieved. This will go a long way in creation of the MRTS and TOD projects in smart cities with lesser dependence on grants and state finances. HSA Advocates has been advising on Smart City projects including the legal, contractual and institutional frameworks to implement VCF instruments in various states.

Increase property tax to boost revenue, say experts

To resuscitate the sagging economy of the state, top economists and policy makers have recommended that the government should increase property tax to generate more revenue for urban development, besides reorienting its agriculture strategy from monoculture to high value crops and building economic strategy in the service sector.

The economists, policy makers and top management gurus, who are on board the Punjab State Advisory Council, have said that the state should increase the property tax collection. Presently, the property tax collection is low and is based on fixed charges. Even the tax collected by the local bodies is just about 50 per cent of the targets set for them.

The issue was discussed in the first meeting of the council held last year and is expected to come up again during the second meeting, scheduled for February 20. The members of PSAC had suggested that the government must bring in a model of property tax to net resources for financing urban development. They have recommended that smaller dwelling units of low income families be exempted, but technology should be employed to ensure high recovery and check evasion.

Officials in the Local Government Department told The Tribune that discussions were on to increase the tax collection by bringing in a better model of recovery, mainly by asking all local bodies to make optimum assessment of tax in the next financial year and work towards achieving the projected target. The department has also launched several initiatives, including giving rebates, to increase the property tax base.

“A proposal to increase this tax, by going in for calculating the tax on volumetric basis rather than fixed basis, is also being considered,” a senior official said.

It is based on the recommendations of the PSAC that the state government has entered into collaborative partnership with World Bank, IDFC Institute, Chandler Institute of Governance and UNICEF among others. In the upcoming meeting, the focus will be on resuscitating the state’s economic future. “Prof Devesh Kapur, an eminent political scientist, will be making a presentation on how Punjab can move forward,” Additional Chief Secretary, Governance Reforms, Vini Mahajan, said.

Present formula

- The tax is calculated by adding collector rate of property and construction cost (@Rs500 per sq ft) less 10 per cent depreciation on construction cost. Five per cent of this cost is taken as annual cost and 0.5 per cent tax is charged on it
- Property tax is imposed on four categories i.e. land, improvements made in land, personal property and intangible property
- Over the years, the state government has reduced the rates of property tax, and included self-assessment rather than government assessment

Circle rate alone can’t determine value of property

The Delhi High Court said circle rate cannot be the sole basis to determine the value of a property. It said that “at best it can be one of the factors” and “nothing beyond”.

“Circle rate is nothing but a guidance given by the higher ranking administrative officer to the subordinate officer whenever any instrument comes up for registration under the Act. On the basis of this circle rate, the registering authority can, at best, mechanically determine the valuation of the instrument, but whenever a dispute arises, the exact market valuation, ought to be arrived at, by the Collector…..,” a bench of Chief Justice D N Patel and Justice C Hari Shankar said.

The court’s judgment came on an appeal by a private company that had challenged an order of a single judge who had set aside an order passed by the Collector of Stamps, Delhi government, fixing the market value on the basis of the circle rate. The single judge had also sent back the matter to the collector of stamps.

This order was challenged by the Collector of Stamps and on November 15, 2019, the bench held circle rates cannot be the only governing factor.

“….suffice it to say that the circle rates are not the only factors to be kept in mind by the Collector. The circle rate can be one of the factors to be kept in mind by the Collector for determination of the value under section 47A of the Indian Stamp Act, 1899, especially, when the person who has approached for registration of the sale deed is disputing the valuation pointed out by the registering authority.

The court also “deprecated” the mechanical approach of the Collector only to follow the circle rates.

According to the plea, the company had struck a deal for a purchase of a property worth Rs 36,00,00,000 and paid stamp duty of Rs 2,16,00,000. However, the registering authority objected that there was an under valuation in the transaction because the circle rates are higher.

The matter was referred to the Collector for fixing market value under the Indian Stamp Act, 1899. On July 22, 2017, the collector passed an order on the basis of the circle rate against which an appeal was preferred. However, it was dismissed and hence the petitioners moved the Delhi High Court.