Pre-budget Memorandum 2020 - 2021

A. IMPORTANT ISSUES

1. NHB vide its Policy Circular dated 19th July 2019, has prohibited the Subvention Scheme (where the interest is borne and paid by the developer till the date of possession). We suggest that the said circular be withdrawn since the customer of affordable housing homes cannot afford paying EMI and also the rent till he gets possession. Subvention scheme also addresses the issue of interest loss due to delayed possession.

2. One time roll over /Restructuring – In case of stressed assets, vide circular dated June 2019, RBI has permitted the banks to restructure and/or roll over the loans at their option and in such cases the borrower will retain the asset classification of the restructured standard accounts as standard and the same will not be treated as NPA. However, the benefit of the said Circular has not available to the Real Estate Sector and as a result, the restructuring or roll over of the loans to the real Estate Sector triggers the provisions related to NPA. Due to the downturn in the market and also failures of several big NBFC, the developers are facing acute liquidity shortage. We recommend that the banks and Financial Institutions be given discretion to one time restructuring and/or roll over of their existing loans on the lines of loans to other sectors. For the purpose, RBI shall issue the Circular on the lines of similar circular issued on 8th December 2008.

3. Affordable Housing: Recently, the definition of affordable housing has been amended in GST and Income Tax Laws and as a result the affordable tenement has to meet the dual condition of area and also the price cap of Rs 45 Lacs. As a result almost all the houses in the MMR and most of the houses in NCR and other metros do not qualify as the “affordable housing” resulting in the loss of benefit of reduced GST rate of 1% and also the benefit of tax exemption from such projects. We recommend that the condition related to price cap of Rs 45 lacs be immediately abolished and the benefits be restored to all the houses which has area less than 60/90 Sq meters. We also recommend that this definition of 60/90 Sq mtr without price cap be applicable to RBI also.

4. To address the grievances that the customer may have, he has several remedies to seek legal relief. With the introduction of RERA, the jurisdiction of Civil Courts has been barred in case of disputes between the developer and the customer. However, he still has the option of approaching the RERA authorities or Consumer Forum or the NCLT. As a result in respect of delayed project, the developer has to fight and pursue his case in all the three fora. We suggest that to avoid multiplicity of the litigation, the jurisdiction of Consumer Forum to adjudicate in the real estate matters be barred. The proposed limit of 10% or 100 flat owners (which ever is less) is too less and such small number of flat allottees shall not be permitted to approach NCLT for the grievances. However, in all fairness, if more than 2/3rd of allottees give

their consent then the matter may be referred to NCLT subject to their undertaking not to approach RERA for the defaults.

5. Under GST Act, the leasing of the Commercial properties are subjected to tax at the rate of 18% of the rent amount. Input tax credit in respect of tax on acquisition or construction of said property is not allowed to be set off against the tax payable on output service. As a result the effective cost to customer lessee increases as the acquisition /construction cost goes by 18 to 22 per cent making the properties uneconomical to rent. As substantial portion of commercial properties are leased by the foreign investors and/or foreign offshore units who have benefit of sourcing such services from other countries across the globe such as Malaysia, Indonesia, Philippines, China etc, they opt to base their operations in other places. We recommend that the input tax credit be granted in respect of tax paid on acquisition and construction costs of such leased properties and allowed to be set off against the tax on lease rent.

B. LIQUIDITY ISSUES

1. Loans to Developers:

- The risk weightage attached to loans to Affordable Housing Projects shall be commensurate with the priority sector loans. The risk weightage attached to other real estate sector loans shall not exceed hundred percent.

- The banks shall fund all the components of the real estate projects including land, premiums, approval costs and the construction costs etc.

- FDI shall be permitted in rental housing.

- Term of FDI shall be co-extensive with the project term.

- At present the ECB are allowed with the end use condition that the funds shall not be used for real estate sector. We suggest that this condition be abolished. The term of the ECB shall be co-extensive with the project for which the ECB is raised.

- The restructuring and reorganization of the SPVs of a group shall be encouraged to merge in to one corporate entity. For the purpose, the stamp duty shall be reduced (similar to provisions related to amalgamation of Companies) and the capital gain shall be waived subject to conditions (similar to Section 47(xiii) of Income tax Act, 1961).

2. Liquidity – Home Loans & Stamp Duty

<u>Home Loans to consumers:</u>

- Interest rates on Home Loans shall be reduced to 7% p.a.

- To push the sales in the immediate future, the interest subsidy shall be granted to the Customer in respect of interest in excess of 6% p.a. for the units purchased till 31st March 2022.

- In case of home loans LTV shall be increased to 90%. For the purpose, all the relevant costs (CTC including Stamp Duty and Taxes) shall be included. In case of self employed, also the LTV shall be 90%.

- Loans upto 90% of the project cost shall be granted to Corporates at the rate applicable to home buyers in respect of the staff housing & rental housing.

Stamp Duty:

- Rates of the Stamp Duty should be reduced by 50% for all the Real Estate transactions entered and agreements registered on or before 31st March 2022.

C. GST ISSUES

1. **Land transactions:**

   TDR, FSI, Lease hold rights, Development rights etc. are nothing but benefits arising out of land. Schedule 3 to GST Act exempts land from the purview of GST Act. At present, these are taxed on RCM basis on the value of unsold inventory at the time of completion of project. In case of such rights acquired for the Commercial project the GST is levied at the rate of 18% of the value of such rights at the beginning only. Transfer of development right (TDR), Deed of assignment, Joint Development Agreements, Allotment of land on long term lease against one time premium should be treated as land transaction and outside GST net.

2. **Redevelopment & SRA:**

   Valuation of construction service provided free of cost to Tenants & slum dwellers and Society Members shall be declared tax exempt and in case of flats allotted to landowners at the direct cost of construction plus 10 percent as per rule 30.

   GST on premiums paid to Corporation or to Govt or semi-Govt corporations such as Housing Boards, Industrial Development corporations, regulators etc. be declared outside the purview of GST.

3. **Works Contract:**

   GST on Real Estate related works contract be reduced to 5% in case of affordable housing projects and 12% in all other cases.

   GST on maintenance charges shall be abolished.

4. **GST: Cancellation of Bookings / Resale of Under construction Properties**

At present, the reversals, rejections etc. is permitted only if the same is within 6 months of the end of the FY of the original transaction. This time limit is not practical for a real estate project, which has a long gestation period ranging from 3 years to 6 years and flats are sold over this period.

RERA permits the flat holder to cancel the booking for many reasons and in such cases the cancellation will result in substantial loss to the public at large as the GST will not be refunded. Applying GST to resale of the same underlying property where GST has already been paid leads to double taxation. In case of resale of under construction properties GST is being applied again.

Suggestion:

In all the cases where booking is cancelled before completion of project, the GST claim for rejection/cancellation be allowed till project completion period. The resale of under construction properties should be exempt from GST.

5. **Removal of Circular No.123/42/2019-GST dated 11.11.2019 - ITC eligibility with respect to Rule 36(4) and Rule 39 of CGST Rules**

Due to the restriction in availment of input tax credit in respect of Invoices not uploaded by supplier up to 20% of eligible credit in terms of rule 36(4) CGST Rules, 2017 and due to the defaults by vendors or genuine time lag for input tax credit to appear in 2A, the companies are facing blockage of working capital.

Suggestion:

It is recommended that the Government revisits the amendments made in Rule 36 and removes the circular issued in this connection to avoid hardship caused to genuine businessmen.

D. ISSUES RELATED TO INCOME TAX

1. **Amendment to Section 23(5) - Notional Income from House Property held as stock in Trade**

Section 23 (5) provides that in respect of unsold property, held as stock-in-trade and not let out, the annual value of the property for the period up to two years (increased to two years in February 2019) from the end of the financial year in which completion certificate is received from competent authority, will be taken as Nil. Thereafter, it will be assessable as income from house

property on the basis of its notional rent. This is an extremely "subjective" criteria, which will obviously be open for misuse.

Prime Minister Narendra Modi's objective of Housing for all envisages a role for Rental Housing stock to be created. This provision works contrary to the objective of creating surpluses in housing.

This provision is very harsh and is creating genuine hardship to real estate developers, who are already under pressure in the ongoing sluggish market. Real estate industry is already struggling with large unsold inventories. Taxing notional rent, after one year from the end of the financial year in which completion certificate is received from competent authority, will lead to severe financial implications for the developer/industry.

It may also lead to no new projects being launched, if sales remain low, which in turn will defeat the mission of the Government to provide "Housing for All" by 2022.

The industry is clearly nervous. This is more so, because the sector is not going through the best of times. Buyer interest has been erratic at best. Sales have plummeted to historic lows. Without any fresh stimulus, the housing sector has had to deal with a series of disruptions.

Entities engaged in real estate business should be exempted from the burden of tax on notional rental income as we need to incentivise Rental Housing in India.

Suggestion:

Section 23(5) shall be deleted.

2. **Amendment to Section 24(b): Increasing limit of interest deduction, paid on home loan, from 2 lakh to 5 lakh.**

Under Sec. 24(b), deduction on account of interest payment on housing loans is permissible to owners of rented dwelling units to the fullest extent. However, in case of self occupied properties, the limit is set at Rs. 2 lakh. Also, the deduction is available after acquisition or construction is completed within five years from the end of the financial year in which capital was borrowed. This means that during the construction period, the customer has to pay rent for the house he is living in, EMI for the loan taken to acquire the house and also not get the deduction in respect of such expenses.

Suggestion:

It is suggested that the deduction on account of interest payment available under section 24 should be made applicable from the year in which capital was borrowed and should be allowed to the extent of full interest amount, at least in respect of one house. Alternately, the limit of Rs. 2 lakh prescribed under second Proviso to the said Section 24(b)

should be raised to Rs. 5 lakh. Also, five years period for acquisition / completion prescribed in the said proviso from the year of borrowing should be dispensed with. This will provide much needed impetus to housing sector which is reeling under huge downturn and relief to consumers, in view of delayed projects due to cash flow.

Section 24(b) which allows pre-construction interest as deduction in equal instalments for the previous year and for each of the four immediately succeeding previous years shall be amended to provide that where the property has been acquired or constructed with borrowed capital, the interest, payable on capital borrowed for the period prior to the year in which the property constructed, shall be allowed for deduction in three equal instalments for the previous year and for each of the two immediately succeeding two previous years.

3. **Amendment to Section 28(via) - Conversion of Inventory into Capital Assets**

The Finance Act, 2018, introduced clause (via) to section 28 to tax the fair market value of the stock in trade as on the date of conversion of such stock in trade into capital asset or its treatment as capital asset as business income.

A developer who has given any immovable property on rent for an interim period until he gets a buyer of such property, an issue arises whether it gets covered under the phrase – "treatment as capital asset" as stated in clause (via) of section 28. Accounting Standards have prescribed criteria for treatment of an asset as a stock-in-trade or a capital asset. In the case of conversion of stock in trade into capital asset, the taxability under section 28 a payment of tax triggers upfront upon conversion without there being a commercial transaction.

Suggestion:

The taxability on conversion of stock in trade into capital asset should be deferred to the year of actual sale of capital asset i.e. symmetrical treatment and benefit should be provided even to the case of conversion of stock in trade to capital asset. This move will reduce the genuine hardship faced by the developers who change their business plans to develop assets under "build to lease" model (capital asset) from "build to sale" model (stock in trade). Also such amendment will ensure better cash flows availability for payment of taxes to the ailing industry.

4. **Amendment to Section 54 (1) (Capital Gain from sale of house property)**

At present, capital gain arising from transfer of any capital asset, being buildings or lands appurtenant thereto, and being a residential house, is exempt from tax in cases where the sale proceeds are invested in acquiring/constructing of two residential house anywhere in India. Such a restriction is deterrent to the objective of boosting the housing stock, and hence needs to be repealed.

People sell flats to provide for their children and old people want to give one house on rent to earn income. To overcome the huge housing shortage in the country, the restriction imposed on investment of sale proceed on acquiring two residential houses should be removed and scope broadened to exempt capital gain tax if the sale proceeds are invested in creating one or more housing stock.

Suggestion:

Section 54 be amended to provide that the Long Term capital gain arising from the transfer of land and buildings shall be fully exempt in cases where the amount of such gain is invested in the acquisition or construction of one or more residential houses.

5. **Amendment to Section 45(5A) - Capital Gain taxation under Joint Development Agreement ('JDA')**

Union Budget 2017 has introduced sub-section 5A to Section 45 of the Act. According to the new provisions, capital gains arising to an assessee being Individual or HUF, shall be chargeable to tax in the year in which certificate of completion for the whole or part of the project is issued by the competent authority. There exists uncertainty with respect to point of accrual of capital gains in hands of the land owner executing a JDA. The Tribunal / Courts have taken contrary view that capital gains could accrue at the time of entering into JDA, issuing the General Power of Attorney and giving the effective possession to the developer, etc. Further, in area sharing or revenue sharing arrangement, the land owner has to pay taxes immediately upon entering into JDA whereas actual consideration flows to it at future date.

JDA has evolved as an efficient and effective model for the sector. It will contribute in achieving the Government's vision of "Housing for All by 2022". Upfront payment of tax at the time of execution JDA whereas the actual consideration would flow to the land owner at the future date, this acts as a disincentive towards housing and real estate development

Suggestion:

Capital Gain taxation under Joint Development Agreement ('JDA') requires clarification on point of accrual of capital gains in hands of owner and provisions of 45(5A) should be made applicable to all the assesses owning land and should not be restricted to only individuals and HUFs.

6. **Deemed Tax on difference in transaction and ASR value u/s 43CA/50C and Section 56 of IT Act, 1961.**

Section 43CA, inserted by Finance Act 2013, provides for considering valuation assessed or assessable by any authority of State Govt. for the

purpose of payment of Stamp Duty, as the value of consideration received or accruing as a result of transfer of an asset being land or building or both.

Stamp duty is generally calculated on valuation of asset based on circle rate fixed by State Govts, which are in many cases higher than the market value or the value negotiated between seller and buyer. This makes seller and buyer both liable to pay tax on notional gain / profit under the provisions of sections 43CA, 50C and 56(2)(vii)(b), making the case of double taxation.

Finance Act 2018 has proposed some relief through an amendment stating " Provided that where the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed one hundred and five percent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purpose of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration."

In all fairness the actual sale value should only be the basis for computing tax on profit and gain from land and building assets and not the notional income. In real terms, the provision u/s 43CA will create lot of harassment to the real estate developers and may become big deterrent.

Suggestion:

Section 43CA be dropped all together. Alternately, the sale of houses by the Promoters in any project which is registered under RERA should at least be kept out of its purview. Even if that is not possible, the difference between ASR value and the actual consideration should be increased to 20% to trigger the provisions. Further, consideration shall mean and include all levies such as GST and other Charges paid by the Promoters whether to the Promoter or the Government.

7. **Amendment to Section 80 IBA (Deductions in respect of profits and gains from housing projects) :**

Section 80IBA mandates that the deduction is available only if

- the carpet area of the residential unit comprised in the housing project does not exceed—

  (i) sixty square metres, where such project is located within the metropolitan cities of Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurugram, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan Region); or
  (ii) ninety square metres, where such project is located in any other place
- the stamp duty value of a residential unit in the housing project does not exceed forty-five lakh rupees;

- the deduction is available provided the project shall be the only project being developed on the said land parcel irrespective of the size of the land.
- Asseessee shall pay tax under MAT.

Suggestion:

- **The eligible project be defined as "project registered under RERA" fulfilling the following criteria:**
  - the carpet area of the residential unit comprised in the Housing project does not exceed
  (i) sixty square metres, where such project is located within the metropolitan cities of Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurugram, Faridabad), Hyderabad, Kolkata, Pune, Ahmedabad and Mumbai (whole of Mumbai Metropolitan Region); or
  (ii) Ninety square metres, where such project is located in any other place.
  (to be in sync with the definition of "affordable housing" across all laws)
- **Affordable housing projects should be exempted from MAT. For the purpose, Section 115JB and Section 115JC be amended accordingly.**

8. Treatment of Units of Business Trust (REIT) equivalent to Listed entities for direct tax

A. **Section 2 (22) (E)** - Business trust invests in several holding companies/ SPVs and to optimize the investment, the surplus funds from one holding company/SPV can be productively lent to the other SPV. This may attract the provision of Section 2 (22) (E).

Suggestion:

Since Section 2 (22) (E) do not apply to listed companies, REITs (together with its holding companies/ SPVs) being listed should be similarly exempted from provisions of Section 2 (22) (E).

B. Section 79 – SEBI regulations require REITs to hold not less than 50% in SPV. This would trigger provision of section 79 resulting in lapse of carry forward loss in hands of SPVs.

Suggestion:

Section 79 is not applicable to listed companies and to its subsidiaries. Hence, similarly this exemption should be granted to transfer of share holding in SPV in favour of Business Trust (REITs).

C. **Section 2 (42A) -** This section prescribes the period for which the asset shall be held to qualify as a long term capital asset. At present, the period prescribed in respect of listed shares is 12 months, unlisted shares and

immovable residential properties is 24 months and in respect of other assets is 36 months, which would include the units of the business trust.

Suggestion:

As the units of business trusts are otherwise treated at par with listed securities and are being listed should be treated at par with listed shares and accordingly the period of holding for the purposes of computation of long term gain should be reduced to 12 months.

D. REITS Capital Gains Treatment

The benefit of grand fathering i.e. Fair Market Value on 31st January, 2018 is not made available to REIT units under the definition of 'Fair Market Value'. For any new REIT proposal, there is no unit of a business trust on 31st January, 2018 to which the Net Asset Value (Section 55(2)(ac)) can be applied. Further, under Section 49(2AC), the cost of acquisition of a share of a SPV against which units have been allotted in a business trust is the deemed cost of acquisition. There is no quoted value of shares of SPVs available on 31st January 2018. While Indexation benefit has been extended to unquoted shares of companies, this does not bring the cost of acquisition of such unquoted shares at par with the Fair Market Value of similar quoted shares as at 31st January 2018. This leads to unequal treatment of REITs compared to listed peers and imposes huge tax burden on shareholders of such companies.

Suggestion:

Bring treatment of REITs and unlisted companies at par with listed companies by allowing benefit of grand fathering i.e. Fair Market Value on 31st January, 2018 under the definition of 'Fair Market Value'.

9. Clarification regarding amount subject to TDS on Immovable Property under Section 194 IA

Presently, 1% TDS is deducted by the buyer at the time of purchase of Immovable Property from a resident seller, on the consideration of Rs. 50 lakhs or more. From 01.09.2019 it has been specified that consideration shall include other charges in the nature of club membership fee, car parking fee, electricity and water facility fee, maintenance fee, advance fee or any other charges of similar nature which are incidental to the purchase of immovable property.

Suggestion:

It is suggested that clarification be provided that consideration should include only other charges in form of income and should not include GST, deposits and other capital payments.

10. SEZ :

A. Income Tax SEZ - DDT exemption under Section 115O of the Income Tax Act, 1961

To encourage setting up of SEZs DDT exemption under Section 115O were extended to SEZ Developers.

However, DDT Exemption has been withdrawn / sun-set clause introduced through subsequent amendments of the Income Tax Act, 1961. Removal of these benefits will make SEZ unattractive.

Suggestion:

DDT Exemption under Section 115O which has been withdrawn through subsequent amendments of the Income Tax Act, 1961, be continued.

B. Tax Holiday Benefits to Developers of SEZ's:

Tax Holiday Benefits provided to undertakings for developing SEZ's under section 80-IAB has expired on 31st March, 2017

It may be mentioned that though exports are picking up but with low margins. Also, currently export sector is currently undergoing a crisis because of the worldwide economic slowdown.

Suggestion:

It is suggested that tax holiday benefit to developers of SEZ should be reintroduced with full vigour. Further, such profits shall also not be subjected to MAT/AMT.

11. Tax holidays u/s 80 ID for construction of Mall

Considering the large and growing consumer market in India, it is pertinent that the development of malls and shopping centres contribute to structured infrastructure development as well as generates employment.

Suggestion:

Such undertakings which are engaged in the business of building, owning and operating a shopping mall, must be allowed deduction of profits and gains from business of malls for minimum of 5 years. Section - 80-ID of Income-tax Act would require amendment to allow deduction in respect of profits and gains from business of malls constructed in specified area.

12. Incentive for Rental Housing to meet Housing for All commitment by 2022.

The real estate sector is one of the most dynamic and globally recognized sectors today, owing to a number of factors like population spurt and increased purchasing power of consumers. India is one of the biggest real estate market. The real estate industry is a source of substantial tax at the central and local government levels.

In view of the housing shortage in the country and the objective 'Housing for All by 2022' as also in view of the fact that all cannot afford ownership housing, Government needs to give a big boost to 'Rental Housing'.

The housing sector has been in recession and saleability is poor. Even after offering discounts and other freebies, builders and promoters are facing a pile-up of inventory. Further after ILFS and DHFL crisis there are severe liquidity issues and people are not able to borrow funds and buy apartments. More and more people are choosing to rent an apartment rather than buying one. For low-income households that often work in the informal sector, rental housing better suits their income volatility and risk profile.

Suggestions:

To promote the rental housing and revive demand for houses, the following incentives are suggested (for companies / partnership / HUF / Individuals):-

a) a 10-year tax holiday be given to real estate developers on profits earned from rental housing or Income from renting of housing properties be taxed at a flat rate of 10%.

b) Remove cap on adjustment of interest deduction on computation of house property loss to promote new housing stock. The loss under the head "Income from House property" may be allowed to be set off without any cap against income under any other head and also be allowed to be carried forward to subsequent years.

c) High cost of houses and high property taxes lead to a low rate of return (ROR) from rental housing making renting out an un-remunerative proposition. To improve the effective ROR from renting, it is suggested that the deduction from rental income under Section 24(a) be increased from 30% to 50%. This will promote rental housing. For Handicapped, Women and Senior Citizen, the deduction could be 100%, keeping social requirements and empowerment of women in view.

d) TDS on Rent under Section 194I should be reduced from 10% to 5%.

e) Expenses incurred on account of the Brokerage/ Commission should be allowed as deduction.

f) Depreciation should be allowed on Rental Apartment and on Furniture & Fixtures and other amenities provided in leased Premises as customers prefer fully furnished, ready to move in units (residential/offices).

E. OTHER ISSUES RELATED TO SEZ

1. **Permission for SEZ units to perform Rupee Denominated business in DTA**

All services rendered by SEZ Units in the DTA would have to be billed in foreign currency which results in a peculiar situation wherein an SEZ unit is required to charge the domestic units availing their services in foreign currency. Presently, SEZ units are allowed to transact business with DTA units in respect of 'goods' in rupee payments. This benefit has not been extended to services in SEZ Act 2005.

Suggestion:

Government's endeavor has been to bring treatment of goods and services at par, which is also reflected in the GST framework. Similar parity should be provided to services under the SEZ Act also, thereby permitting rupee denominated business. It is therefore requested that revision be affected by removal of Clause 2 z(iii) of SEZ Act 2005.

2. **Relaxation of Usage Norms for the Non-Processing Area (NPA)**

Commerce Ministry issued a notification on January 2, 2015 requiring NPA to be divided into residential, commercial, institutional and open spaces; and irrespective of the size of the SEZ the percentages specified for each usage have to be adhered to. Social /commercial infrastructure need of every SEZ would be different based on its location, existing infrastructure around the SEZ, etc. Hence, usage norms for the NPA cannot be uniform across SEZs.

The exporting units of SEZ may need suppliers & vendors of the input material for their final product to be sent abroad. This backward integration / logistics chain necessitates the DTA units to be located in the vicinity of the SEZ. However, the non-processing area of the SEZ is not available for the purpose.

Suggestion:

Prescribing thresholds for usage of Non-Processing Areas would limit the cohesive growth of SEZs and should be done away with. Vacant portions of SEZs can be converted into non-processing area and thereby ensure the utilization of land lying idle. SEZ land (non-processing area) would be used for industrial purposes and also ensure the creation of job opportunities.

3. **Usage of Denotified Land**

Clause 5(2) of Circular No. D.12/45/2009-SEZ dated 13th September 2013 requires usage of denotified land for the same purpose as the SEZ.

Suggestion:

This stipulation may continue for land acquired by the state government for the purpose of setting up SEZ or it is allotted by state government for SEZ usage. However, the same should not be made applicable to land acquired by private entities through assignment of lease etc. Once denotified these restrictions should not be mandated.

4. **Faster tracking of approvals / denotification to meet the various time lines set**

All SEZ projects require approvals from various authorities including MOEF, Special Planning Authority, etc. Obtaining approvals from these authorities involves long duration. On one hand there are various timelines to be complied with by the SEZs, like sunset dates for direct tax benefits, etc., while on the other hand obtaining approval from the various governing authorities is a lengthy and cumbersome process, which impairs the ability of the SEZ to meet these timelines.

Suggestion:

It is therefore requested that approvals for SEZs be accorded priority and put on a fast track, so that the SEZs can meet the various timelines set for the SEZs.

5. **Allow service facilities in the SEZ to be accessed by other than SEZ occupiers**

Service facilities like food courts, creches, gymnasiums, etc. are an integral part of the processing area of SEZs. These cannot be used by anyone else other than SEZ occupiers making them economically unviable to operate.

Suggestion:

These facilities do not avail tax benefits which are otherwise available to the SEZ occupiers and hence can be allowed to take on non SEZ clientele to make them sustainable.

6. **Operational efficiency of SEZs**

Improve the ease of operations in SEZ including digitization, faster and standardised permission for movement of material, etc.

Suggestion:

- **Permit events, programs, promotional activities like exhibitions, etc. on a tax paid basis within the SEZ**

- **To enable access to transport facilities, public transportation like cabs, etc. should be permitted within the SEZ. This is important in case of emergency situations, for employees with disabilities, etc.**
- **Consider digitalization of SEZ card for ease of on-line approval, access control & monitoring process and faster permissions for movement of scrap, petty materials, etc. from SEZs through uniform tariff and simplified process throughout the country.**

F. ISSUES RELATED TO REITS

1. **Issues in appointment of Valuers under Company Law**

   The eligibility conditions required to be met by an entity to act as a registered valuer are restricting the ability of the internationally acclaimed property consultants to act as a registered valuer in the Indian market. This ultimately acts as a limitation for Indian entities to pitch for its products in the international market. The easing of existing valuation rules to enable international consultants to act as a 'registered valuer' in India will have a significant positive impact on the fund raising (particularly offshore fund raising) exercise of Indian entities.

   Suggestion:

   The Companies (Registered Valuer and valuation) Rules, 2017 ("Valuation Rules") needs to be amended to allow even subsidiaries / JV/ associate of another company or body corporate to act as registered valuer.

2. **Section 123- Computation of distributable profit-**

   Section 123 of Companies Act, 2013 requires provisioning of depreciation to arrive at distributable profit for declaration of divided. However SEBI regulation mandates REITs to distribute to its investors 90% of the distribuatable cash flow, which would not be in consonnance to each other. Thereby reducing distributable surplus inspite of sufficient cash flow being available for payment of higher dividends.

   Suggestion: Distributable profits for the purpose of computation for declaration of dividends to Business Trust, provision of depreciation shall not be required. This may necessitate the amendment to the Companies Act, 2013.

3. **Bank Financing for REITs**

Banks, at present, are not considering REIT eligible to raise any credit facility. Since the constitution of REIT is like a corporate body which is regulated by SEBI, its units are rated by rating agencies and listed at exchanges, the risks associated in lending to REITs are far lesser as compared to lending to an unlisted company. Besides, the bank finance at REIT level is replaced by project level loans, the asset-to-loan ratio does not get impacted even after lending to REIT.

Suggestion:

Banks should be directed to consider REITs at par with any other corporate borrower eligible for bank credit. This has already been permitted for InvITs by RBI recently by Circular dated 14.10.2019.

Additionally, while Finance Minister has announced allowing FPIs investing in REITs/ InvITs debt, the same needs to be operationalized by RBI.

G. ISSUES RELATED TO EASE OF DOING BUSINESS

1. **Civil Aviation Approvals**

In some locations like Bengaluru, Aviation approvals have to be taken from multiple authorities. While the issue of Granting of Building Heights Clearance has been agreed upon, but awaiting issuance of GR to be notified.

Suggestion:

All Aviation approvals to be centralised with a single agency namely AAI with no need for dual approvals taken from other agencies for example from HAL in the city of Bengaluru, Navy in Mumbai and Air Force in Pune.

2. **Digitisation of Land Records**

In various part of India there is a lack of verifiable land records. This leads to additional risk factors for transactions and investments in real estate.

Suggestion:

Increased digitisation of land records to ensure proper record keeping, which is verifiable by all parties in a transaction, will improve investor confidence in real estate sector and increase transparency on title of land parcels, benefiting all stakeholders in the ecosystem

3. Defence Land Related Approvals

Approvals from defence authorities on development projects are delayed leading to project delays impacting developer and customers in such projects.

Suggestion:

- **Approvals from defence authorities with respect to height or distance be granted in a streamlined manner with clear and consistent broad based defined criteria within a timeline of 2 months.**

- **Restriction of 500M distance from defence areas in urban locations be limited only to sensitive locations.**

- **Process of transfer of lease of defence lands to be streamlined.**

4. MOEF Approvals

The whole process of MOEF Approval takes almost 9 – 12 months. Even small changes to plans require revised approvals, where the process has to be repeated. Changes in building footprint and its configuration are part and parcel of normal life cycle of any large building construction project which are influenced by changing market conditions.

Suggestion:

- **MOEF approval be allowed on conceptual building plans otherwise it has to wait for plan sanction before final approval.**

- **Changes of plans within specified limits of the sanctioned built-up area say 10% without impacting environment criteria's such as water consumption, sewerage generation etc. should be permitted, without going through the whole process.**

- **Such mid execution changes also require compliance report from Regional offices which adds to time line, which is either way a duplication as the same is checked by the Corporation / Local governing Body before Occupation certificate.**

- **MOEF requires the project proponents to spend towards CER an amount ranging from 1 to 2% of project cost. This is in addition to the CSR amount the corporates contribute. We suggest that this levy be abolished as 1 / 2% of project cost is substantial part of the profits of the project and will result in cost inflation and fall in demand.**

- **The issue of increasing threshold for MOEF Approval from > 20,000 SQM to over 150,000 SQM and also of merging the Pollution Control Board's approval of Consent to Establish, have been challenged in the Delhi HC and stayed. These cases need to be expedited.**