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ALL YOU NEED TO KNOW ABOUT AVAILING PROPERTY TAX AMNESTY IN DELHI

Under a new scheme launched by the L-G, people will get a chance to settle principal tax amount of the current and last five years.

In a major relief to both residential and non-residential property owners, Lieutenant Governor (L-G) Vinai Kumar Saxena recently launched a one-time scheme – called ‘Strengthening and Augmentation of Municipal Revenue for Infrastructure Development in Delhi’ (SAMRIDDI). This will serve as a one-time property tax amnesty scheme for residents of authorised and regularised colonies in Delhi.

Details of the scheme, and how to avail of it, are below:

- The scheme started from October 26, 2022 and will end on March 31, 2023.
- Under this scheme, people will get a chance to settle the principal tax amount of the current and last five years. By doing so, people will get relaxation on all penalties and previous outstanding dues.
- Under the scheme, for residential properties, taxpayers are required to pay the principal amount of property tax for the current year and previous five years (i.e. FY 2022-23 + FYs 2017-18 to 2021-22), whereupon 100% interest and penalty on the outstanding tax amount shall be exempted and all the previous dues prior to 2017-18 will be waived off.

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- For non-residential/commercial properties, taxpayers have to pay principal amount of property tax for the current year and previous six years (i.e FY 2022-23 + FYs 2016-17 to 2021-22). In doing so, 100% interest and penalty on the outstanding tax amount exempted and all the previous dues prior to 2016-17 will be completely waived off.
- According to this scheme, if any taxpayer has already paid tax dues of any of the years from 2017-18 or 2016-17 onwards and the same was not captured in MCD tax data, proof of payment such as receipt can be re-submitted so that the tax database can be updated. Cases where the principal, interest and penalty has already been paid before the launch of the scheme shall not be reassessed and reopened.
- The benefits of the scheme will be available to only those taxpayers who settle their tax dues as per the scheme. In case a taxpayer fails to settle his tax dues by March 31, 2023, he shall be liable to pay all tax dues along with interest and penalty since 2004 or since whichever year it has been pending, and shall not be entitled to any waiver as per the scheme.
- The coercive measures to collect the tax dues will be launched against such defaulters from April 1, 2023.
- The scheme will also cover cases of the dishonored cheque(s), including cases where bank account and property has been attached, as well as those pending under litigation in any court(s) of law, subject to respective terms and conditions.
- The scrutiny of the tax payment under the scheme will be done strictly within one year from the date of tax payment. During the scrutiny, if it is found that a taxpayer has not deposited the right amount of tax by willful suppression of fact or misrepresentation of fact, the benefits extended shall be withdrawn. However, any discrepancy in this regard may be raised only within a period of one year from the receipt of the application and, thereafter no claim in this regard shall be made by the department and the case will be deemed as closed.
- To avail the scheme, a taxpayer will have to visit the MCD's official website, <https://mcdonline.nic.in>, and click at a blue button labelled samriddhi 2022-23. One there, they have to select zone, ward and colony, before proceeding to pay property tax.
- While an interactive session was organised at the Civic Centre Auditorium to clear people's doubts recently, more camps are expected to be organised in the coming days to handhold taxpayers through the process.

SUPREME COURT UPHOLDS BOMBAY HC ORDER ON PROPERTY TAX, REAL ESTATE ASSOCIATIONS WELCOME DECISION

A Supreme Court bench said that only “the existing physical qualities and state of the land and building” can be considered to determine ‘capital value’, not “the prospects of the land”.

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The Supreme Court decision on Monday to uphold an April 2019 Bombay High Court order invalidating three standards to determine the ‘capital value’ of land where construction is yet to begin under a new property tax regime has come as a great relief for developers in Mumbai.

A Supreme Court bench led by then Chief Justice U U Lalit and Justice Bela Trivedi said that only “the existing physical qualities and state of the land and building” can be considered to determine ‘capital value’ and not “the prospects of the land”.

The Supreme Court decision is a setback for the Brihanmumbai Municipal Corporation (BMC) but it has provided great relief to real-estate developers in Mumbai, where construction cost is substantially high as compared to other cities.

Hitesh Thakkar, vice president of National Real Estate Development Council (West), said that the Supreme Court decision will help reduce the construction costs of projects. “Under the previous law, tax calculation on an under-construction property was unjustified. Suppose a project was getting delayed for say five years, the developer had to pay tax that was almost equivalent to the cost of compensation paid while acquiring the land. The cost was huge. Now, this is a major relief,” Thakkar said.

In 2009, the BMC had modified its existing property tax system and switched the calculation method from ‘rateable value’ to ‘capital value’ of the land, a complicated formula involving pre-1940 level low standard rent. In 2019, the Bombay High Court held that the amendment was valid but quashed three of its rules (20-22) as invalid. Rule 20 said that ‘capital value’ would rely on the buildable potential of the land.

Dharmesh Chheda, president of the Central Mumbai Developers Welfare Association (CMDWA), which fought a lengthy legal battle over the issue, said the BMC had appealed the Bombay High Court’s decision, arguing that because the rules provided for a cap on property taxes, it would not lead to a rise in prices as the builders had anticipated. But the Supreme Court on November 7 dismissed the appeal, putting an end to the case.

“We are happy that the Supreme Court upheld the decision of the Bombay High Court to strike down the rule that taxed a structure that has not been constructed yet,” NAREDCO Maharashtra president Sandeep Runwal said.

Boman Irani, president of CREDAI-MCHI, an apex body of members from the real estate industry from the Mumbai Metropolitan Region (MMR), also said that it would help rationalise the MMR property market price.

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While Attorney General K K Venugopal and V Sreedharan appeared as senior counsel for the BMC, Shekhar Naphade, Milind Sathe, Darius Khambata, Chirag M Shroff and H Devarajan appeared on behalf of the respondents.

DESPERATELY SEEKING ARISTIDES

- Urban local bodies need to boost property tax collections, and for that, they need efficient updating of property data. Only then can they have fair and just taxation, which had been championed in ancient Athens by Aristides.
- Nevertheless, the property tax collections are much higher (3% of the GDP) for countries like the US, Canada and the UK.

The Athenian general Aristides (530 BC–468 BC) was given the honorific title of ‘Aristides the Just’. Herodotus described him as “the best and most just man among the Athenians”. His prominence became so great that it overshadowed all others on the political scene. Unfortunately, since this threatened the so-called “egalitarian principles of Athenian democracy”, he was ostracised. One of the primary reasons for his prominence was the reforms he brought to the property tax system in Athens. These reforms were hailed as fair and efficient.

Like Athens, Indian urban local bodies (ULBs) are waiting for their Aristideses to bring in the next generation of property tax reforms. Tax revenue mobilisation by the ULBs is necessary to provide fiscal room to drive municipal infrastructure development. A buoyant source of revenue, property tax is a potent instrument to create a regular stream of revenue for ULBs. Adam Smith saw ground-rents and ordinary rent as species of rent that the owner “enjoys without any care or attention of his own”. He was in favour of imposing the tax on this revenue “in order to defray the expenses of the state”.

Municipal finances across the country are in stress. The predominant share of the revenue for the ULBs, i.e., around 40%, comes from transfers by the state government and union finance commission. Transfers come with high budgetary constraints. True decentralisation is incomplete without fiscal decentralisation. An empowered municipal administration should have higher own tax and non-tax revenues, and is equipped legislatively to tweak the tax, user charges and fines.

The own tax revenue of municipal corporations is merely 30% of overall revenue. Of this, property tax accounts for around 50%, according to the recently-released ‘Report on Municipal Finances’ by RBI (bit.ly/3E2GsE7). Despite being one of the leading revenue sources, property tax receipts were budgeted to be 0.11% of the GDP in FY20 for 201 municipal corporations across the country. Awasthi et al, in their study ‘Property taxation in India’, for the XVth Finance Commission, suggest that property taxes contribute merely 0.2% to the GDP. Stated simply, 3,700 ULBs in the country collect merely 0.2% of GDP as property

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tax. King John of England would have laughed at such collection rates. While excesses of King John through extortionary tax policies led to the signing of the Magna Carta in 1215, he is also acknowledged for a transition from deep-rooted feudal systems to a national taxation system.

Nevertheless, the property tax collections are much higher (3% of the GDP) for countries like the US, Canada and the UK. Thus, there is an avenue for making property tax systems of ULBs more efficient so that they become more independent and empowered. But, why is the property tax system in India marred with low revenue productivity and inefficiencies? Primarily, there are three reasons. (1) As things stand today, it is difficult for most ULBs to determine the value of the immovable property. Owing to the high property valuation costs, ULBs simply let go of higher property tax revenues. (2) The tax base is not revised regularly. (3) One of the major reasons cited against higher property taxes in areas with higher circle rates is the inability of senior citizens to bear the burden. But this does not entail a blanket exemption to the entire population. There can always be differential tax rates for different sets.

While these are daunting challenges for creating an efficient property tax system, they are not intractable. The tax base will have to be appropriately gauged. Awasthi et al suggest that satellite-based data be used to create digital property maps. This has to be followed with the herculean task of updating cadastral maps through door-to-door surveys by the ULBs. There were media report Municipal Corporation of Delhi will use drones to verify property details in self-assessment forms. Alternatively, the government can also think about an urban variant of SWAMITVA for select ULBs to establish clear ownership of properties through extensive drone surveys.

Since the 49th entry on the state list of the Seventh Schedule is taxes on lands and buildings, states can have different formulas for calculating property tax. However, a property tax formula which uses the market value of the property is always better. For it to be efficient, the ULBs should have a mechanism in place to regularly update the market value of properties. There is no dearth of examples across the world where artificial neural networks and geographic information systems have been used for property valuations. Shouldn't such systems be used by some of our ULBs, at least by the ones that have resources?

The XVth FC recommended tying grants to ULBs to the “notification of minimum floor rates of property taxes by the relevant State followed by consistent improvement in the collection of property taxes in tandem with the growth rate of State’s own gross state domestic product”. It is a welcome step. This won't be enough until ULBs in India take the initiative to find new ways to increase property tax mobilisation. ULBs, too need Aristideses. Surely, these Aristideses will not be ostracised.

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