Article

Impact on Affordable Housing after getting Infrastructure status

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Introduction

The Union Budget 2017 has opened new avenues for the Affordable Housing sector by providing it the status of an Infrastructure Company. This proposal been made with the aim to boost up the investment in the said sector and provide housing to all by 2022. This article summarizes the various benefits available to Affordable Housing sector both pre and post Budget 2017.

Taxation benefits

Though Affordable Housing has been granted a new status, the same does not change the benefits already available to it under the Income Tax Act, 1961 (the "IT Act, 1961"). An assessee engaged in the business of affordable housing avails two kinds of deduction:

i. Income based deduction under section 80 - IBA, which provides for for 100% deduction on the profits earned by assesse engaged in the business of developing and building housing projects, provided the project is completed in 5 years from the date of commencement.

ii. Investment based deduction under section 35 – AD, which provides for 100% deduction to the assessee carrying on the business in the nature of developing and building affordable housing project, on the expenditure of capital nature incurred, wholly and exclusively incurred for the said specified business. It is pertinent to note that, the same section provides deduction to Infrastructure Company, and hence the change in status will not be of much merit.

Funding benefits

Infrastructure sector in India enjoys an expanded horizon when it comes to funding requirements. Now, the same will be available to the Affordable Housing Companies as well, providing them with new avenues to expand their funding portfolio. The same has been discussed below:

i. External Commercial Borrowings – Though ECB is available for low cost affordable housing projects, but the same is subject to stringent condition as laid down in the ECB Guidelines issued by the Reserve Bank of India[1] (as amended from time to time). Once the Affordable Housing gets the status of Infrastructure Company, it gets covered under the definition eligible borrower as provided in Track I of the said Guidelines.

   ECB Guidelines provide for raising of commercial loans by eligible borrows from recognised non-resident entities, wherein the eligible borrowers covered under Track I are subject to the following:

[1] https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10204#C47

- Medium term foreign currency denominated ECB with minimum average maturity of 3/5 years
- Total ECB for Track I entities under Automatic Route is up-to USD 750 million or equivalent, and for funding beyond the said limit Approval Route will have to be adhered to.
- Raising of the said funding either in freely convertible foreign currency or Indian rupees.
- Raising of funding in the form of –

a. Loans including bank loans;
b. Securitized instruments (e.g. floating rate notes and fixed rate bonds, non-convertible, optionally convertible or partially convertible preference shares / debentures);
c. Buyers' credit;
d. Suppliers' credit;
e. Foreign Currency Convertible Bonds (FCCBs);
f. Financial Lease; and
g. Foreign Currency Exchangeable Bonds (FCEBs)

ii. Investment by Foreign Portfolio Investors (FPIs) – The Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000[2] (as amended from time to time) provides for investment by FPIs in unlisted debt securities issued by companies engaged in infrastructure sector.

iii. Investment by Foreign Venture Capital Investors (FVCIs) – As per the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000[3] FVCIs can invest in Equity or equity linked instrument or debt instrument issued by an Indian company engaged in infrastructure sector under automatic route.

It is worthwhile to note that though stringent provisions existed for raising funding through ECBs for affordable housing sector, FPIs and FVCIs were never available. Now that Affordable Housing has got the status of Infrastructure Companies, it can expand its funding horizon.

iv. Infrastructure Finance Loans – The Government of India notifies infrastructure sectors eligible for credit facility extended by banks and select All India Term-Lending and Refinancing Institutions i.e., NABARD, NHB and SIDBI[4]. With the Affordable housing sector getting the status of Infrastructure companies, it can be assumed with reasonable certainty that the Government will soon notify it as an eligible borrower, allowing local funding to flow to the Affordable housing sector as well.

[2] https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10718&Mode

[3] https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10649&Mode=0

[4] http://www.egazette.nic.in/WriteReadData/2016/171233.pdf

v. Priority Sector Lending – Scheduled Commercial Banks in India under the extant RBI Guidelines[5] provide priority sector lending to specified sectors, including Housing among others. The maximum limit of priority sector lending to Housing Finance Companies is restricted to 5% of the total priority sector lending on an on-going basis. After the new status, such limit is expected to be subject to revision.

vi. Relaxed exposure norms – The RBI provides for exposure norms on credit extended by banks to NBFCs. Under the said norms the exposure should not exceed 10% of the banks capital fund in case of a single NBFC and 15% in case of NBFC-AFC. However with regard to exposure of banks to Infrastructure Finance Companies (IFCs), the said limit can be increased to 20%, if the same is on account of funds on –lent by the IFCs to Infrastructure sector. This relaxation will now be extended to Affordable Housing sector as well.

Loan to builders

The funding in the housing sector was limited to either directly to the individuals or indirectly to housing finance companies which in turn financed the individual houses. With regards to funding to the private builders engaged in acquisition of land and construction in housing field, the RBI Guidelines[6] provided for restricted funding as given below:

- Restriction on fund or non-fund based funding for acquisition of land
- Credit facility extended based on the nature of each project
- Credit extended to select builders after close monitoring

The said facility to private builders which earlier got covered under the "Housing Finance" category of the RBI will now be covered under the "Infrastructure Finance" category and enjoy the benefits available to the Infrastructure sector.

Conclusion

The Central Government is on the path to provide housing to all and with this goal in mind it has moved forward with in the Union Budget 2017. The amendment brought in by the Union Budget 2017 with regards to Affordable Housing Sector is a major boost giving new avenues for raising funds for the said sector, and in turn reducing the cost of funding, for the buyers of houses, builders, and housing finance companies. This is a positive move with multi-folded benefits which will increase the much required financing in the housing sector, and thus should be looked upon by the participants of the sector.

- To read our articles on Housing Finance click here
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[5] https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10497

[6] https://rbi.org.in/SCRIPTS/BS_ViewMasCirculardetails.aspx?id=9851