

# Mumbai - International Finance City?

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Politicians and authorities at Centre and State have been time and again reiterating their intention to make Mumbai into a 'International Financial Hub'. However, every action of the State Government and Municipal Corporation of Greater Mumbai (MCGM) is anti-development, be it development of civic infrastructure, construction of residential or commercial buildings, etc. Real estate developers need NOCs from 55 different persons / departments / organisations before they are able to submit their plans for sanction of competent civic authority. It takes nearly 2 years to obtain these NOCs. To add to their never ending woes, very recently i.e. from August 2012, MCGM has mandated that that Developer / Society which intends to develop or re-develop a property within 100 meters of any Defence

establishment need to take an NOC from Union Ministry of Defence. It appears that, this latest of NOCs has arisen from the Adarsh Society issue. This has virtually ruled out any development / re-development in and around Defence establishment, particularly near Malad (East), Kandivli (East), Marve and other places. Incidentally all these places are already developed and residential buildings are already constructed around these complexes. This is one of the reasons why real estate developers have been demanding a 'single window clearance' system with results within a specified time. It is therefore not surprising that World Bank in its report 'Doing Business 2012' ranked India at number 182 out of 185 countries as regards ease of 'Dealing with Construction Permits'.

## Details of various permissions/NOC required by Developers before Building Plans are sanctioned by MCGM

Sr. No.	Item	Minimum Time required	Remarks
1.	Submission of application after submitting the duly filled form and providing PAN Card copy and Registered Power of Attorney in favour of the applicant.	Day One	Building Plan approved is to be submitted through licensed architect/surveyor registered with Municipal Corporation of Greater Mumbai.
2.	High Rise Committee, if the bldg. height is more than 70 meter i.e. 24 story	6 Months	Committee studies the impact of tower on the surrounding area.
3.	Heritage Committee, if the proposed redevelopment falls within the heritage precincts/structures.	3 Months	Meets twice in a month. Advises M.C.G.M for making necessary changes in the plan/elevation/height.
4.	Environmental clearance, if the development is more than 20000 sq.mtr.	One Year	State level expert appraisal committee prepares the environmental impact assessment report for the approval from the State Environment Impact Assessment Authority.
5.	NOC from MHADA, if the property is cessed.	3 Months	MHADA grants additional incentive FSI for redevelopment of cessed bldg.
6.	NOC from MMRDA/MIDC, if the property falls in MIDC area OR is leased by MMRDA.	2 Months	These properties covered by MMRDA/MIDC as a Special Planning Authority.
7.	NOC from MHADA, if it's a MHADA property in MHADA layout and is being developed under D. C. Rule 33(5)	2 Months	MHADA grants additional incentive FSI for redevelopment of such properties.
8.	NOC from Railways, if the property is situated near the railway track.	Indefinite	For railway safety and security and expansion of railway network in Mumbai Suburban Area.

Sr. No.	Item	Minimum Time required	Remarks
9.	NOC from Civil Aviation Authority, if the property is situated near the airport.	4 Months	Permission is issued from Delhi Airport Authority on recommendation from Bombay Airport Authority for height of the proposed building to ensure that aircraft movement is not hampered.
10.	NOC from Ministry of Defense, if the property is situated near a Defense Establishment.	Indefinite	For Security clearance. This is brought in operation from August 2012.
11.	NOC from Ward Officer Estate, if the property is a leasedhold property under a lease from MCGM.	1 Month	Heavy one time premium is being charged for granting N.O.C. with hefty transfer fee and substantial increase in the lease rent and drastic reduction in lease period to 30 years.
12.	NOC from Highway Authority of India, if the property is abutting a highway.	6 Months	For maintenance and widening of highways.
13.	NOC from the Charity Commissioner, if the property is owned by a registered Charitable Trust.	3 Months	This is a statutory requirement. The Charity Commissioner normally asks the party to invite tender.
14.	U.L.C. & R. permission, if the name of State Government appears on the P. R. Card.	Indefinite	Before repealing the U.L.C. & R. Act., the name of the State Government is recorded on the P. R. Cards for all lands that are assumed to be "excess vacant" land and even their CTS nos are "locked" in the registrar's office.
15.	Remarks of the Tree Authority of India	3 Months	For cutting/retaining/ transplanting trees within plot. The Suptd. Garden of MCGM is the competent authority for the same.
16.	Remarks of Chief Fire Officer in the event of building having height of more than 24 mtr.	1 Month	For safety and security of residents in the event of fire in bldg. by Chief Fire Officer.
17.	Remarks of Exe. Eng. (Storm Water Drain) for the plot/proposed building.	1 Month	For speedy disposal of surface rain water.
18.	Remarks of Exe. Eng. (Traffic & Coordination) for the plot/proposed building.	2 Months	For parking layout of the proposed building.
19.	Remarks of Exe. Eng. (Sewerage Dept.) for the plot/proposed building.	15 days	For sewerage disposal of the plot/proposed building and connecting the same to the main sewer on the road.
20.	Remarks from Development Plan Dept. along with plan.	15 Days	To ensure that property does not have any reservations and falls within development zone. If there are reservations, than special development permission is required to be obtained from the D. P .Dept.
21.	P. R. Card or inwards with City Survey Plan	2 Months	Limited validity.

Sr. No.	Item	Minimum Time required	Remarks
22.	Mojani Register (M.R.) of plot to confirm the physical plot boundary with CTS Plan.	1 Month	To ensure that there is no encroachment.
23.	Survey remarks for Road setback from Survey Dept.,	1 Month	To determine the extent of setback.
24.	R.L. Demarcation of Road from Traffic Dept.	1 Month	For exact demarcation of setback road.
25.	Remarks of Exe. Eng. (Storm Water Drain) for setback road.	15 days	For construction of SWD falling under setback road.
26.	Remarks of Exe. Eng. (Sewerage Dept.) for setback road.	15 days	For construction of Sewerage line and chamber falling under setback road.
27.	Remarks from Asst.Eng.(Traffic & Coordination) for street light for setback road.	15 days	For erection of street light poles falling under setback road.
28.	Sub division order from Collector for subdividing the plot for setback area undergoing road.	3 Month	For separating the net plot and that falling under setback road.
29.	Separate P.R.Card for setback area and putting name of MCGM on the same.	3 Months	Since setback is required to be handed over to MCGM.
30.	Remarks from Exe. Eng. Water Work for water main for setback road.	15 days	For provision of water main line falling under setback road.
31.	NOC/Completion Certificate of Exe. Eng. (Road Construction) for setback road.	15 days	To ensure faithful compliance of the remarks.
32.	NOC/Completion Certificate from Exe. Eng. SWD for setback road or payment of prorata charges.	15 days	To ensure faithful compliance of the remarks.
33.	NOC/Completion Certificate from Exe. Eng. Water Work for water main for setback road or payment of prorata charges.	15 days	To ensure faithful compliance of the remarks.
34.	NOC/Completion Certificate from Asst. Eng. (Traffic & Coordination) for street light for setback road or payment of prorata charges.	15 days	To ensure faithful compliance of the remarks.
35.	NOC/Completion Certificate of Exe. Eng. (Sewerage Dept.) for setback road or payment of prorata charges.	15 days	To ensure faithful compliance of the remarks.
36.	Handing over of setback area undergoing road to local ward office/ DP/Traffic.	1 Month	Handing over procedures are different depending upon the status of the road. If, the road is of DP or Traffic than one has to first hand it over to the respective dept. and than with their NOC to the local ward office.
37.	Submission of Soil Investigation Report	15 days	

Sr. No.	Item	Minimum Time required	Remarks
38.	Submission of Rain Water Harvesting System from a Rain Water Harvesting Consultant approved by MCGM for the plot/proposed building.	15 days	To ensure that surface rain water does not drain out but is used to charge the bore well. In fact, this remark is many times contradictory to SWD remarks.
39.	NOC/Completion Certificate from Tree Authority of India for the plot/proposed building.	3 Months	To ensure faithful compliance of the remarks.
40.	NOC/Completion Certificate from Lift Inspector (PWD) for the plot/proposed building.	1 Month	For completion of lift.
41.	NOC/Completion Certificate of Exe. Eng. (Storm Water Drain) for the plot/proposed building.	1 Month	To ensure faithful compliance of the remarks.
42.	NOC/Completion Certificate from CFO for the plot/proposed building.	2 Months	To ensure faithful compliance of the remarks
43.	NOC/Completion Certificate of Exe. Eng. (Sewerage Dept.) for the plot/proposed building.	15 days	To ensure faithful compliance of the remarks.
44.	NOC of Exe. Eng. (Water Works Dept.) for the plot/proposed building.	1 Month	For No Dues Pending Certificate from Water Works Dept.
45.	NOC of Hydraulic Eng. for the plot/proposed building.	1 Month	For adequacy of water supply to the plot/proposed building.
46.	NOC from Assessment Dept. of M.C.G.M. for the plot/proposed building.	1 Week	To ensure that property tax is paid till date.
47.	N. A. Permission from collector. for the plot/proposed building.	3 Months	To ensure that N.A.tax is paid till date and new rate is made applicable in relation to the proposed building.
48.	Remarks/NOC from Reliance Energy/BEST for the plot/proposed building.	1 Month	For adequacy of electric supply to the plot/proposed building.
49.	Remarks/ NOC from M.T.N.L. for the plot/proposed building.	1 Month	For adequacy of telephone cable for the plot/proposed building
50.	NOC for Borewell in the plot.	15 days	To regulate the use and location of borewells.
51.	Appointment of General practioner (Doctor) for treatment of labour with maintaining of their individual health cards.		For labour welfare.
52.	NOC/Completion Certificate for Rain Water Harvesting System from the Rain Water Harvesting Consultant approved by MCGM. for the plot/proposed building	15 days	To ensure faithful compliance of the remarks.
53.	NOC from E.E. (Environment) for the proposed building.	1 Month	For removal of debris from the plot. It has limited validity.
54.	NOC from Solid Waste Management Dept. for the proposed building.	15 days	For disposal of Wet Waste of the proposed building. (Vermiculture Bin)
55.	NOC excavation from the Collector for the proposed building.	15 days	Limited validity.

## Whether the applicant is eligible for the composition scheme of 5% notified u/s. 42(3) of the MVAT Act, 2002?

The applicant is engaged in the execution of works contract of installation of air conditioning systems in building, etc. A composition scheme of 5% is provided for certain contracts notified u/s. 42(3) of MVAT Act, 2002. The contracts for the purpose of section 42(3) are notified through notification No. VAT.1506/CR-134/Taxation-1 dt. 30-11-2006. The notification covers both Part A – main contracts of construction and Part B – incidental contracts. The applicant has undertaken the following contracts:

- A) MEP Contract from Neptune Group : The applicant entered in a contract with M/s. Neptune Group for design, supply, installation and commissioning of HVAC, etc. at Neptune Magnet Mall.
- B) HVAC contract from Tata Consultancy Services Ltd. (TCSL): The applicant is given the contract for 'Designing' supplying, commissioning of HVAC.
- C) HVAC contract from Tata Construction Ltd. (SCTCL): The applicant has been awarded a sub contract for HVAC. It is stated by the applicant that the relationship between SC Thakur (main contractor) and himself is that of a principal and agent.

In relation to the nature of contracts, the applicant contended that the contracts are covered as incidental contracts mentioned in the para B of the notification and hence eligible for composition rate of 5%.

### Views of the Department

The Commissioner has gone through all the facts of the case. The main contention of the applicant is with regard to coverage under the notification issued u/s. 42(3) of the MVAT Act. The section provides for composition of payment of tax on works contract at 5% of total contract value in the total contract value of the works contract in other contracts.

The applicant has posed the question for determination of rate of tax on the viz. three contracts MEP contract from Neptune Group, HVAC contract from Tata Consultancy and HVAC contract from SC Thakur Construction Ltd. The applicant explained in his application that he is engaged in the execution of work contract of installation of Air Conditioning Systems.

The Commissioner felt that to examine whether the activity of the applicant is covered under para B of the notification, one must have a clear idea as to

whether it is a works contract as covered under the definition clause for 'works contract'. To determine the same, the applicant was asked to furnish a copy of the construction contracts. However, the applicant failed to produce the information called for. So, it will be appropriate to discuss the material and facts which are on record and examine whether any decision can be arrived at.

1. MEP Contract from Neptune Group – The applicant has mentioned that M/s. Neptune Group himself is constructing the building. Thus, it is clear that there is no contract for construction of building. As such the activity of constructing building by the owner himself does not fall under para A of the notification, thus there will be no question of the incidental contract to be covered under para B of the notification. Hence the contention of applicant is not correct and the contract awarded to the applicant will not be fit to be covered under the notification.
2. HVAC contract from TCSL and from SCTCL – The applicant has contended that the M/s. TCS has given construction contract to some other contractor and the contract for designing, supplying, commissioning of HVAC is awarded to the applicant. To ascertain whether the subsequent contract is an incidental one, the essential documents for verification of fact is the contract for construction of the building. It will not be feasible to ascertain whether the contract in the hands of the applicant is incidental or ancillary contract of work or not.

Similarly in the case of the contract given by the SCTCL, the applicant, on repeated demand had not furnished the required evidence. In the absence of which the applicant's contention deserves rejection.

### Held

The Commissioner held that

- As for the contract with M/s. Neptune Group, the applicant is not entitled to enjoy the scheme of composition u/s 42(3) of MVAT Act, 2002 read with notification.
- Regarding the other two contracts, applicant has failed to reply to the query made and therefore, the application is rejected as per the provisions of section 64(b) sub-rule (3) of the MVAT Rules, 2005.

[M/s. Voltas Ltd. DDQ No. 11-2008/Adm-3/4/B-2 dt. 4-11-2010]

