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SUB:-Regularisation of unauthorised  
non-agricultural use/change in non-  
agricultural use --

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Term of assessment fixed under  
section 110 and 114 of the  
Maharashtra Land Revenue Code, 1966.

GOVERNMENT OF MAHARASHTRA  
Revenue and Forests Department  
Circular No. NAA-1078-209881-I.S.III  
Mantralaya, Bombay 400 032.

Dated: 19th December, 1978.

C I R C U L A R

While regularising the detected cases of unauthorised non-agricultural use/change in non-agricultural use under section 47(b) of the Maharashtra Land Revenue Code, 1966 the following issues were raised by some of the Additional Tahsildars (N.A.):

(1) Whether the holder of the land who made unauthorised non-agricultural use, is entitled to the guarantee period, provided in the relevant Land Revenue Laws, before the coming into force the Maharashtra Land Revenue Code, 1966, from the date of commencement of unauthorised non-agricultural use, if his case is regularised under the Maharashtra Land Revenue Code, 1966;

(2) Whether in such cases, the guarantee period is to be counted from the date of recent revision of non-agricultural assessment, or from the date of issue of the order under section 47(b) read with section 45 of the Maharashtra Land Revenue Code, 1966;

(3) Whether the amount of fine under section 45 of the Maharashtra Land Revenue Code, 1966 is to be levied with reference to the non-agricultural assessment prevailing at the time of commencement of non-agricultural use or that prevailing on the date of recent revision of non-agricultural assessment or non-agricultural assessment at the time of date of order under section 47(b) read with section 45 of the Maharashtra Land Revenue Code, 1966.

2. The following clarification is therefore, issued for the guidance of the revenue Officers.

(a) As regards issue No.(1) above, the regularisation of unauthorised non-agricultural use is governed by the provisions of section 45, 47, 67 and 115 of the Maharashtra Land Revenue Code, 1966 so far as they are applicable, read with Rules 9 and 11 of the Maharashtra Land Revenue (Conversion of use) of Land and N.A. Assessment) Rules, 1969. Since the regularisation is being done under Maharashtra Land Revenue Code, 1966, the question of providing guarantee period under the repealed Land Revenue Laws does not arise. Under Section 116, the non-agricultural assessment fixed according to the provisions of Sections 110 and 114 shall remain in force for a period of 15 years from the date on which the land is actually used for the non-agricultural purpose, or as the case may be, from the date of change of the user of the land and on the expiry of such period it is liable to revision but till assessment is revised, the assessment fixed already will continued to be in force. Under Rule 9 read with rule 4 of the afore-mentioned rules, the land holder is liable to pay such altered assessment as may be determined with respect to the alterned use under section 110 or as the case may be under section 114. Rule 11 says that if any non-agricultural use is permitted to be continued under rule 9 and 10, a sanad, in

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form prescribed in Schedule VI provides, so far as the assessment is concerned, that the applicant in lieu of the assessment heretofore leviable in respect of the said plot, shall pay to Government on the -----day of-----in each year an annual assessment of Rs.-----during the 15 years commencing on the-----day of-----19-----, and on the expiry of the said period of 15 years such revenue assessment as may, from time to time be fixed by the Collector under the said Code. Therefore, reading all these provisions together, it will be seen that the land holder whose unauthorised non-agricultural use of land is being regularised, will be entitled to a guarantee period of 15 years under the Maharashtra Land Revenue Code, 1966.

(b) As regards point No.(2), it will be seen from the aforesaid provisions and in particular rules 9 and 11 read with the form in Schedule VI of the Schedule referred to above that the land holder will be required to pay non-agricultural assessment of the land with reference to the altered use from the commencement of that use as well as fine to be determined by the Collector and continue to pay the altered assessment for a period of 15 years from the date of the order of regularisation. Therefore, the guarantee period in such cases will have to be counted from the date of issue of order under section 47(b) read with section 45 and rules 9 and 11.

(c) As regards point No.(3), under rule 9(ii) of the aforementioned rules, the holder will be required to pay such fine not exceeding 40 times the non-agricultural assessment on the land with reference to the altered use as the Collector may fix if it is not already paid under rule 8. As neither rule 8 nor rule 9(ii) gives an indication as to the point of time at which the non-agricultural assessment is to be taken into consideration for the purpose of imposing fine, but having regard to the provisions of section 45 and 47(b) read with rule 9, the amount of fine is to be determined by the Collector with reference to the non-agricultural assessment prevailing on the date of the passing of the order under section 47(b) read with section 45 of the Maharashtra Land Revenue Code, 1966.

By order and in the name of the Governor of Maharashtra,

*S.H. Dhadway*

( S.H. DHADWAY )

Under Secretary to Government,  
Revenue and Forests Department.