



## From the President

Namaskar,

*Wish all our members and readers a very Happy Christmas. Christmas is a festival of great joy and sharing for people all over the world. Have fun, and spread love and joy on this great occasion.*

Hon Justice Shri Dalveer Bhandari former Judge of Supreme Court and Chief Justice of Bombay High Court has been re-elected to the International Court of Justice at Hague. It is a proud moment for the legal fraternity.

The Constitutional validity of Real Estate (Regulation and Development) Act, 2016 was upheld by a Bench of Hon'ble Justice Shri Naresh Patil and Hon'ble Justice Shri Rajesh Ketkar of the Bombay High Court. The Act seeks to protect the home buyers by providing them the right to claim compensation from the builders for the delay in possession of flats. The Act also provides for a system of mandatory registration of the promoters and builders under the state level regulatory authority.

Several builders filed petitions before various High Courts of Bombay, Nagpur, Aurangabad, Bengaluru, and Jabalpur challenging the validity of the provisions of the RERA Act. The Government of India also filed a transfer petition in the Supreme Court, asking for clubbing of all such petitions filed in various High Courts to be heard by the Supreme Court. However, the Apex Court directed the matter to be heard only by the Bombay High Court and ordered for a stay of proceedings in other High Courts.

The Constitutional validity of proviso to sections 3(1), 3(2)(a), Explanation to section 3, sections 4(2)(I)(c), 4(2)(I)(d), 5(3), first proviso to section 6 and sections 7,8,18,22,38,40,59,60,61,63,64 of the Real Estate (Regulation and Development) Act, 2016 was upheld by the High Court.

The court also provided a sense of relief to the builders by granting them an additional extension period above the stipulated period of one year to complete the projects undertaken by them, however the extension shall be only in exceptional circumstances where the delay was for a reason beyond the control and such extension has to be granted on a 'case to case' basis.

The Bench also struck down section 46(1)(b) of the Act that laid down the conditions for the constitution of the Real Estate Appellant Tribunal.

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The Court clarified that the Appellant Tribunal must have its members as judicial officers.

The High Court, while passing the order also stressed on the implementation of the Act and held that the main object of the Act is not just to regulate the acts of builders and promoters but also to develop the real estate sector by the completion of thousands of pending projects. This Act also aims to provide a relief to the plight of home buyers who have invested in these incomplete projects.

I believe RERA will be a game changer for Real estate industry in coming times to come.

A Bill was introduced in the Lok Sabha on Aug. 10, 2017 called The Financial Resolution and Depositor Insurance Bill , and is presently being considered by the 30-member Joint Committee of the Parliament. It is stated by the Ministry that The Financial Resolution and Depositor Insurance Bill is more “depositor friendly” as it provides additional protection in a more transparent manner compared to existing provisions. The Bill also seeks to deal with the insolvency of financial service providers. The larger question is required to be answered as to whether; the government can use taxpayers’ money to bail out banks or whether such institutions should be merged with other banks.

At Chamber 3 Committees (Allied Laws, Direct Taxes and Accounting & Auditing) jointly had organized a unique programme on Real Estate laws for 3 days which was inaugurated by Hon’ble Justice Shri K. R. Shriram of Bombay High Court. The course covered almost all the laws related to real estate. It had 13 speakers and there was a panel discussion in the last session by 3 experts in respective fields.

The Accounts and Auditing Committee has organised 4 days workshop on Ind AS. A very well structured design covering all facets of Accounting Standards relating to financial services. We have received a good response from participants.

The International Taxation Committee has announced its FEMA Conference and it has a overwhelming response. The 12th International Residential Conference on International taxation, 2018 is announced in month of June from 21st to 24th June 2018 at The Grand Bhagwati, Indore.

The Special story for the month is on “Input Tax Credit under GST – Flawless Credit or Mechanism of Flaw”. I thank all the authors for sparing valuable time and for their contribution to the Chamber’s Journal for this month.

Jai Hind !

**AJAY R. SINGH**  
*President*