

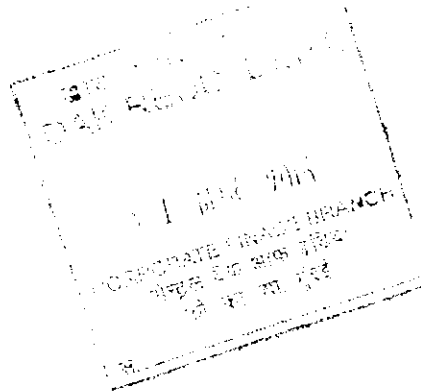
# MUKESH JAIN & ASSOCIATES

advocates

Mukesh Jain  
Jaswant Khatodiya  
Divya Kundnani  
Hitesh Jain

406 & 407, A-Wing, Pinnacle Corporate Park,  
Opp. BKC Telephone Exchange,  
Bandra Kurla Complex, Mumbai - 400 051.  
Tel. : 022- 6725 8778 / 6725 8877  
Email : advmukeshjain@gmail.com

*Mr. Parker*



24<sup>th</sup> March, 2015

**The Chief Manager**  
**Central Bank of India**  
Corporate Finance Branch  
3<sup>rd</sup> Floor, Ewart House,  
Opp. Bombay House Building,  
Fort, Mumbai 400 001.

Dear Sir,

Sub : M/s. Go Airlines (India) Ltd – Request for Legal Opinion with regard  
to status of land under mortgage to the Bank.

Ref : Our Opinion dated 18<sup>th</sup> February, 2015.

Further to our opinion dated 18<sup>th</sup> February, 2015 (copy enclosed), we have obtained  
updated search reports. Forwarding the same for your records alongwith the original search  
fee receipt.

Please find in order.

Yours faithfully,

**Mukesh Jain**  
Advocate

Encl: as above.

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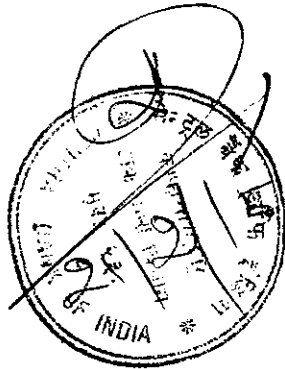
O/C

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Mr. P. K. Jagan - DGM.

18<sup>th</sup> February, 2015

**The Chief Manager**  
**Central Bank of India**  
Corporate Finance Branch  
3<sup>rd</sup> Floor, Ewart House,  
Opp. Bombay House Building,  
Fort, Mumbai 400 001.

Dear Sir,

Sub : M/s. Go Airlines (India) Ltd – Request for Legal Opinion with regard to status of land under mortgage to the Bank.

Ref : Your letter dated 14<sup>th</sup> November 2014.

Further to our letter dated 23<sup>rd</sup> December, 2014, we have compiled further information in respect of the property in question mortgaged in favour of the Bank. We are therefore pleased to submit a consolidated reply to your queries further to and where necessary in supersession of our earlier letter dated 23<sup>rd</sup> December, 2014, as under:

1. The status of the land as on today is agricultural land. Therefore, technically the provisions of Securitization Act, 2002 cannot be used for enforcement of security of agricultural land by virtue of express exclusion thereof from the operation of the said Act by section 31 (i).
2. However, the provisions of newly added section 42A in Maharashtra Land Revenue Code, have made the said conversion very simple and the same shall go a long-way to cut down administrative delays. An extract of the said section 42A is as follows:



"42A. (1) Notwithstanding anything contained in section 42 –

- a) No prior permission of the Collector shall be necessary for conversion of use of any land held as an Occupants-Class I for any purpose as defined in the sanctioned Development Plan or draft Development plan prepared and published as per the provisions of the Maharashtra Regional and Town Planning Act, 1966; however, the Planning Authority shall ascertain from the concerned revenue authority the Class of land; its occupancy and encumbrances, if any; thereupon and after ascertaining the same, it shall grant the development permission as per the provisions of the Maharashtra Regional and Town Planning Act, 1966;
- b) For conversion of use of any land held as an Occupants-Class II or land leased by the Government, for any purpose as defined in the sanctioned Development plan or draft Development plan prepared and published as per the provisions of the Maharashtra Regional and Town Planning Act, 1966, the occupant shall apply to the Planning Authority for permission to change the use of land, and the Planning Authority shall direct the said occupant to obtain no objection certificate of the Collector for such change; the Collector shall examine the documents by which the land is granted and the relevant laws by which the concerned land is governed and, if permissible to grant no object certificate, require the applicant to pay the Nazarana and the Government dues for that purpose; and on payment of the same, the Collector shall issue no objection certificate for change of use of such land; on receipt of such certificate, the concerned Planning Authority shall issue development permission as per the provisions of the Maharashtra Regional and Town Planning Act, 1966;
- 2) The person to whom permission is granted under clauses (b) of sub-section (1) or the person who converts the use of land in view of clause (a) of sub-section (1) shall inform in writing to the village officer and the Tahsildar within thirty days from the date on which the change of use of land commenced.
- 3) If the person fails to inform the village officer and the Tahsildar within the period specified in sub-section (2), he shall be liable to pay in addition to the



*non-agricultural assessment, a fine of Rs. 25,000/- or 40 times of the non-agricultural assessment, whichever is higher.*

*4) (a) On receipt of the information in writing from the person, who obtained the development permission, and on payment of conversion tax at the rate mentioned in section 47A and the non-agricultural assessment therefore, it shall be incumbent upon the concerned revenue authority to grant him sanad in the form prescribed under the rules within a period of 30 days from payment thereof. In case of delay in issuing such sanad, the concerned authority shall record his reasons for the same.*

*Where there is any clerical or arithmetical error in the sanad arising from any accidental slip or omission, it shall be lawful for the concerned authority, either of his own motion or on the application of a person affected by the error, to direct at any time the correction of any such error.*

*(b) While granting no objection certificate for the use of land under clause (b) of sub-section (1) or permission under the Code, the Collector shall grant the no objection certificate or permission relying upon the Data Bank prepared and certified by the concerned authorities at the District level.*

*(c) It shall be the responsibility of the District Head of the concerned Department to update the Data Bank, from time to time".*

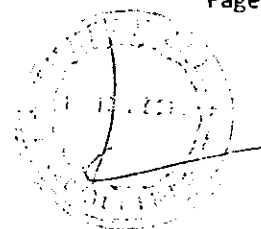
3. The conditions precedent for conversion of land into non agricultural land by taking advantage of the said newly added section 42A are as follows:

- a) The occupancy rights of the holder should be by way of Class I occupancy. This condition is duly complied with as the borrower hold un-alienated land rights in perpetuity without any restriction on right to transfer (freehold ownership). Therefore, the land in question is eligible to take advantage of the newly added section 42A referred to above.
- b) Approval of building plans/development permission is another condition precedent before an intimation can be given to the village officer about change of user. Thereupon, on payment of conversion tax @ mentioned in section 47A of the code an non agricultural assessment, Sanad will be



granted completing the process of conversion of land into non agricultural land.

- c) For grant of development permission, it is necessary to submit to the municipal corporation survey plan of the property undertaken by TILR. We have been informed that the said survey is underway and is expected to be soon completed. Thereafter, the Borrower shall be eligible for submitting building plans to the Thane Municipal Corporation, thus triggering off the process of conversion of the land in question into non agricultural land.
4. As a matter of fact, upon submission of plans for approval or at the most upon approval thereof and submission of an application to the village officer as mentioned above, the substantive part of conversion into NA land is completed. The remaining process is ministerial in nature and having complied with the substantive provisions of law, the Doctrine Of Legitimate Expectation shall entitle the Borrower to start utilizing the property as non agricultural land. Its our view that in that case, the land shall be classified as non agricultural land even for Securitization Act, 2002.
5. A perusal of 7/12 extracts shows that out of total land adm. 38.319H, only 0.558H remains to be mutated in the name of the Borrower whereas the remaining 37.761H have been mutated in the name of the Borrower. It is trite law that mutation in records of rights is the evidence of title and does not by itself create title. Therefore, while it is desirable to complete the remaining mutation, the title of the Borrower in respect of the land in question is not contingent upon the said mutation and the said land can be mortgaged even pending mutation. A chart showing the position of mutation in 7/12 extract as above is enclosed and marked Annexure I.
6. Based on the information, provided by the Borrower, save and except 6 old revenue matters pending before Tehesildar Thane, for many years, where no adverse orders have been passed, there is no pending litigation.



7. We have also caused to be taken search of the records of rights of various survey numbers of the property in question. The original notes of search alongwith a copy of the 7/12 extract are enclosed herewith and collectively marked Annexure II.
8. Summarised submissions:
  - a) Save and except the mortgage in favour of your bank, the land in question doesnot appear to have any other third party right or claim.
  - b) Save and except some revenue disputes pending before the Tehesildar, in respect of which no adverse order has been passed as informed by the Borrower, no litigation is observed.
  - c) After<sup>st</sup> completion of survey of TILR, the Borrower shall be in a position to submit building plans to Thane Municipal Corporation. After obtaining approvals of the plans, the Borrower shall be entitled to apply to the village officer for grant of Sanad for conversion of the land in question in to non agricultural land. A suitable undertaking may be obtained from the Borrower setting out therein the tentative time lines for completing the following steps:
    - i. Completion of the TILR survey;
    - ii. Submission of building plans to the Thane municipal corporation;
    - iii. Obtaining the approval of building plans; and
    - iv. Application to village officer for grant of Sanad.
  - d) Pending completion of the above process, a valid mortgage can be created even on agricultural land as per the law applicable to the state of Maharashtra. Permission for creation of mortgage from the collector is not required for mortgage without possession. However, provisions of Securitization Act, 2002 cannot be applied to agricultural land. In the present case, the Borrower is in the process of using the land for non agricultural purposes. In our view, exclusion of agricultural land from the ambit of Securitization Act, 2002 is by way of protection to agriculturalist from the rigours of the said Act. Therefore, once the Borrower manifests his intention for non agricultural user of the land inter alia by approval of building plans



and submission of application to the village officer for grant of Sanad, there shall no reason or justification for excluding the land from the ambit of Securitization Act, 2002.

Please find in order.

Yours faithfully,



Encl: Annexures as above.



# ANNEXURE I

OLD SURVEY NO.	NEW SURVEY NO.	AREA (H-R-P)	OWNER AS PER 7/12
212/1	8/1	1-5-0	GO AIRLINES (INDIA) LIMITED.
212/7	8/7	0-23-0	GO AIRLINES(INDIA) LIMITED.
212/8	8/8	0-20-0	GO AIRLINES(INDIA) LIMITED.
212/19	8/19	0-36-5	GO AIRLINES(INDIA) LIMITED.
212/21	8/21	0-59-0	GO AIRLINES(INDIA) LIMITED.
212/24	8/24	0-33-0	GO AIRLINES(INDIA) LIMITED.
212/26	8/26	0-8-0	1. KHATUNBI KAMRUDDIN 2. MOHD MUSUP 3. ABDUL JABBAR 4. SATAR KAMRUDDIN 5. HAMIDA SAADIK VAREKAR 6. NAEM SAADIK VAREKAR 7. MASHUDA SHARIF ZAARI 8. SHAHIDA ASRAF GORE 9. KHALIDA SAADIK VAREKAR 10. VAHIDA JAMIL DESHMUKH
213/2	41/2	0-13-9	GO AIRLINES(INDIA) LIMITED.
213/4	41/4	0-30-6	GO AIRLINES(INDIA) LIMITED.
214	40	2-91-4	GO AIRLINES(INDIA) LIMITED.
215	43	0-74-4	GO AIRLINES(INDIA) LIMITED.
216/1	42/1	0-12-6	GO AIRLINES(INDIA) LIMITED.
216/3A	42/3A	0-22-3	GO AIRLINES(INDIA) LIMITED.
222/3	47/3	0-7-6	GO AIRLINES(INDIA) LIMITED.
222/2A	42/2A	0-19-1	GO AIRLINES(INDIA) LIMITED.
224	44	2-26-4	GO AIRLINES(INDIA) LIMITED.
225	46	2-65-3	GO AIRLINES(INDIA) LIMITED.
226	48	1-57-3	GO AIRLINES(INDIA) LIMITED.
228/1A	51/1A	0-10-4	GO AIRLINES(INDIA) LIMITED.
228/1B	51/1B	0-25-0	GO AIRLINES(INDIA) LIMITED.
228/2	51/2	0-16-4	GO AIRLINES(INDIA) LIMITED.
257/4/1	36/4/1	0-12-5	1. PANDURANG SAKHARAM 2. ANANTA SAKHARAM 3. NAMDEV SAKHARAM 4. JANARDAN SAKHARAM
257/4/2	36/4/2	0-22-2	IN ROAD
257/4/3	36/4/3	0-1-6	IN ROAD
257/4/4	36/4/4	0-3-4	IN ROAD
257/4/5	36/4/5	0-2-5	IN ROAD
257/4/6	36/4/6	0-3-1	IN ROAD
257/4/7	36/4/7	0-0-2	1. PANDURANG SAKHARAM 2. ANANTA SAKHARAM 3. NAMDEV SAKHARAM 4. JANARDAN SAKHARAM

257/4/8	36/4/8	0-2-3	1. PANDURANG SAKHARAM 2. ANANTA SAKHARAM 3. NAMDEV SAKHARAM 4. JANARDAN SAKHARAM
258/3	37/3	0-30-6	GO AIRLINES(INDIA) LIMITED.
259	38	1-73-0	GO AIRLINES(INDIA) LIMITED.
260	39	0-86-0	GO AIRLINES(INDIA) LIMITED.
261	31	1-97-8	GO AIRLINES(INDIA) LIMITED.
262	32	1-94-5	GO AIRLINES(INDIA) LIMITED.
263	35	1-64-1	GO AIRLINES(INDIA) LIMITED.
264/1	34/1	0-52-9	GO AIRLINES(INDIA) LIMITED.
265	33	0-76-1	GO AIRLINES(INDIA) LIMITED.
266	28	1-81-6	GO AIRLINES(INDIA) LIMITED.
277/2	57/2	0-18-7	GO AIRLINES(INDIA) LIMITED.
278/1	27/1	0-46-5	GO AIRLINES(INDIA) LIMITED.
279	29	1-66-4	GO AIRLINES(INDIA) LIMITED.
280	30	1-88-7	GO AIRLINES(INDIA) LIMITED.
281	9	3-53-1	GO AIRLINES(INDIA) LIMITED.
282	10	3-15-9	GO AIRLINES(INDIA) LIMITED.
292	11	0-81-0	GO AIRLINES(INDIA) LIMITED.
TOTAL AREA		38-31-9	
LESS – area in the name of third party		0-55-8	
AREA IN THE NAME OF GO AIRLINES(INDIA) LIMITED.		37-76-1	

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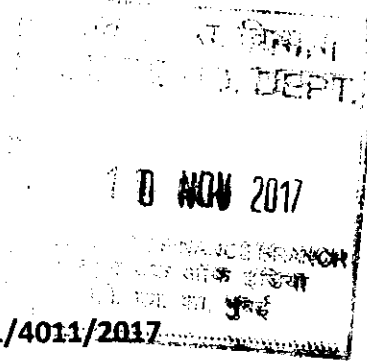
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**MDP & PARTNERS**

ADVOCATES &amp; SOLICITORS

NISHIT DHRUVA  
PRAKASH SHINDE

ASHOK PARANJPE



Ref: MDP/ND/AM/SK/CB/KC/2441/4011/2017

9<sup>th</sup> November, 2017

To,

**Central Bank of India**  
**Corporate Finance Branch,**  
Central Bank of India Building,  
1<sup>st</sup> Floor, 3 MG Road,  
Fort, Mumbai – 400001

Kind Attn: Mr. K. Janakiraman, Chief Manager

Dear Sir,

**Sub:** Opinion in respect of collateral Security offered by M/s. Go Airlines (India) Limited ('Company') to Central Bank of India consortium comprising of Bank of Baroda, Dena Bank and BNP Paribas for which individual mortgage is executed in favour of each lender of Central Bank of India consortium.


1. This is in reference to your email dated 3<sup>rd</sup> November, 2017 thereby requesting for our opinion on the Collateral Security offered by M/s. Go Airlines (India) Limited ('Company' / 'Borrower') by way of Individual Mortgage in favour of Consortium of Lenders comprising of Central Bank of India ('CBI'), Bank of Baroda ('BOB'), Dena Bank ('DB') and BNP Paribas ('BNP') (hereinafter referred to as the 'Lenders').
2. The Borrower has been availing various facilities from time to time from Central Bank of India and in order to secure the said facilities, has created securities over its assets including mortgage of the land admeasuring 94.71 acres bearing Survey No. 8/1, 8/7 etc., of Village Ovale, Bhayander Pada, District Thane (hereinafter referred to as 'the said Land'). Last such mortgage was created on 9<sup>th</sup> October, 2013 by an Indenture of Mortgage executed by and between the Company and the Bank for securing total sum of Rs.1,322 Crores. The Company has also availed various facilities from Bank of Baroda to the extent of Rs. 500 Crores, Dena Bank to the extent of Rs. 200 Crores and BNP Paribas to the extent of Rs. 50 Crores. The Company in order to

secure the said facilities, has also created mortgage over the said Land by following respective Individual documents:

- a. Indenture of Mortgage dated 13<sup>th</sup> April, 2017 executed by and between the Borrower and BNP Paribas;
  - b. Indenture of Mortgage dated 6<sup>th</sup> July, 2017 executed by and between the Borrower and Bank of Baroda;
  - c. Indenture of Mortgage dated 29<sup>th</sup> June, 2017 executed by and between the Borrower and Dena Bank;
3. Subsequently, the Lenders agreed to form a consortium and appointed Central Bank of India as their Lead Bank. In order to have pari passu charge over the said securities, necessary Consortium Agreement, Common Facility Agreement, Inter Creditor Agreement and the Lenders Agent Agreement were executed on 13<sup>th</sup> September 2017. The purpose of the Inter Creditor Agreement is to recognize the Lenders as pari passu charge holder over all the assets of the Company which were given as security for securing the loan of the respective banks.
4. By virtue of the earlier mortgage, the security documents referred at paragraph 2 hereinabove, were created for their respective financial assistance. Whereas by virtue of the aforesaid Consortium Agreement and Inter Creditor Agreement, the Lenders have pari passu charge over the said Land. On execution of the Inter Creditor Agreement each Lenders have recognized that they have pari passu charge over the said Land. In the above circumstances, in our opinion no fresh mortgage is required. We trust this clarifies the query raised under your email referred above.

For MDP & Partners,

Partner

  
9/11/17