

Statement of Capability

Real Estate Investments Practice

April 10, 2013

Nishith Desai Associates (NDA) is a research based international law firm with offices in Mumbai – Nariman Point, Bangalore, Silicon Valley, Singapore, New Delhi and Mumbai – Bandra Kurla Complex. We specialize in strategic legal, regulatory and tax advice coupled with industry expertise in an integrated manner. We focus on niche areas in which we provide significant value and are invariably involved in select highly complex, innovative transactions. Our key clients include marquee repeat Fortune 500 clientele.

Core practice areas include Intellectual Property, International Tax, International Tax Litigation, Litigation & Dispute Resolution, Fund Formation, Fund Investments, Capital Markets, Employment and HR, Corporate & Securities Law, Competition Law, Mergers & Acquisitions, JVs & Restructuring, General Commercial Law and Succession and Estate Planning. Our specialized industry niches include financial services, IT and telecom, education, pharma and life sciences, media and entertainment, real estate and infrastructure.

Legal 500 has ranked us in tier 1 for Investment Funds, Tax and TMT practices (2011/2012). For the third consecutive year, International Financial Law Review (a Euromoney publication) has recognized us as the Indian “Firm of the Year” (2012) for our Technology - Media - Telecom (TMT) practice. We have been named an ASIAN-MENA COUNSEL ‘IN-HOUSE COMMUNITY FIRM OF THE YEAR’ in India for Life Sciences practice (2012) and also for International Arbitration (2011). We have received honorable mentions in Asian MENA Counsel Magazine for Alternative Investment Funds, Antitrust/Competition, Corporate and M&A, TMT and being Most Responsive Domestic Firm (2012). We have been ranked as the best performing Indian law firm of the year by the RSG India Consulting in its client satisfaction report (2011). Chambers & Partners has ranked us # 1 for Tax, TMT and Real Estate – FDI (2011). We’ve received honorable mentions in Asian MENA Counsel Magazine for Alternative Investment Funds, International Arbitration, Real Estate and Taxation for the year 2010. We have been adjudged the winner of the Indian Law Firm of the Year 2010 for TMT by IFLR. We have won the prestigious “Asian-Counsel’s Socially Responsible Deals of the Year 2009” by Pacific Business Press, in addition to being Asian-Counsel Firm of the Year 2009 for the practice areas of Private Equity and Taxation in India. Indian Business Law Journal listed our Tax, PE & VC and Technology-Media-Telecom (TMT) practices in the India Law Firm Awards 2009. Legal 500 (Asia-Pacific) has also ranked us #1 in these practices for 2009-2010. We have been ranked the highest for ‘Quality’ in the Financial Times – RSG Consulting ranking of Indian law firms in 2009. The Tax Directors Handbook, 2009 lauded us for our constant and innovative out-of-the-box ideas. Other past recognitions include being named the Indian Law Firm

of the Year 2000 and Asian Law Firm of the Year (Pro Bono) 2001 by the International Financial Law Review, a Euromoney publication. In an Asia survey by International Tax Review (September 2003), we were voted as a top-ranking law firm and recognized for our cross-border structuring work.

Our research oriented approach has also led to the team members being recognized and felicitated for thought leadership. Consecutively for the fifth year in 2010, NDAites have won the global competition for dissertations at the International Bar Association. Nishith Desai, Founder of Nishith Desai Associates, has been voted 'External Counsel of the Year 2009' by Asian Counsel and Pacific Business Press and the 'Most in Demand Practitioners' by Chambers Asia 2009. He has also been ranked No. 28 in a global Top 50 "Gold List" by Tax Business, a UK-based journal for the international tax community. He is listed in the Lex Witness 'Hall of fame: Top 50' individuals who have helped shape the legal landscape of modern India. He is also the recipient of Prof. Yunus 'Social Business Pioneer of India' – 2010 award.

We believe strongly in constant knowledge expansion and have developed dynamic Knowledge Management ('KM') and Continuing Education ('CE') programs, conducted both in-house and for select invitees. KM and CE programs cover key events, global and national trends as they unfold and examine case studies, debate and analyze emerging legal, regulatory and tax issues, serving as an effective forum for cross pollination of ideas.

Our trust-based, non-hierarchical, democratically managed organization that leverages research and knowledge to deliver premium services, high value, and a unique employer proposition has now been developed into a global case study and published by John Wiley & Sons, USA in a feature titled 'Management by Trust in a Democratic Enterprise: A Law Firm Shapes Organizational Behavior to Create Competitive Advantage' in the September 2009 issue of Global Business and Organizational Excellence (GBOE).

1. About Nishith Desai Associates

- Industry-focused, multi-skilled, research-based firm
- Approach to practice – strategy, law and tax
- Focus on niche areas; provide significant value and invariably involved in select highly complex, innovative transactions
- Strong emphasis on state-of-the-art technology, project management, knowledge management, systems and processes
- Known for innovation; Client delight - “culture fit” vital in client selection process
- Over 70% clients offshore; 80% repeat clientele
- RSG – Financial Times 2011 survey on Indian law firm ranks the firm as #1 based on service value, expertise value, commercial value and leadership value
- NDA is a global case study in law firm management – Wiley Periodicals, Inc.; Business Standard; Harvard Law Review (in progress)

2. Real Estate Investments - Climate

- Limited sources of funding – foreign debt prohibited; banks reluctant; proceeds from pre-sales insufficient; no effective REIT regime
- Opened for foreign equity participation in 2005 subject to stringent regulatory conditions;
- Flavor changed from ‘equity based’ to ‘debt based’ deals; investor expectations around 15-20% IRR post tax Increasing investor interest in ‘income generating projects’ and ‘last mile funding’ as against pure ‘development based projects’; also enhanced interest in redevelopment projects

- Need for innovative structures to achieve investor investment objectives considering the legal, tax and regulatory challenges
- GAAR and other tax provisions in the Finance Bill 2012 – need for detailed analysis of existing / future structures and careful documentation
- Current phase – monetization of early investments; enhanced interest from HNIs and domestic investors
- Buyback as route for cash up-streaming ruled out post Budget 2013
- Increasing interest for Indian real estate assets on SGX and offshore exchanges

3. Real Estate Practice at NDA

- Core practice area and industry focus for the firm
- Rated top tier by Chambers and Partners, Asian – Counsel, Legal 500 and ‘PLC Which Lawyer’
- Advise substantial majority of domestic and offshore real estate funds, and ‘institutional’ developers
- Engineers of early REIT structures and pioneering structured debt instruments; ability to leverage on expertise in fund formation and international tax
- Advising on validity of structures in light of GAAR and evolving tax and regulatory regime
- 24 X 7 availability; quick turn-around and superior quality drafts due to significant experience and in-depth knowledge of the sector
- Close interaction with the regulators – ability to provide solutions not just from legal, tax and regulatory perspective, but also, from commercial, practical and perceptual perspective as well
- Contribute on policy reforms for the sector through various associations (APREA, IVCA, USIBC)

4. Our Role

Structuring

- Indian legal, tax and regulatory
- Offshore legal, tax and regulatory, subject to vetting by local counsel

Due Diligence

- Tax due diligence
- Legal and regulatory due diligence

Documentation

- Drafting, review and negotiations

Legal Opinions

- Closing/enforceability opinions
- Opinions on FDI policy related matters
- Tax opinions

Where we need an external consultant

- Advise on local level real estate issues (viz. title search, title verification); though coordinate with local counsels and remain single point contact
- Accounting issues

5. Key deals in 2012 - 13

- Setting up of the INR 7,700 million (approx. USD 140 million) residential development platform with equity commitments comprising from Dutch Pension Fund, APG (one of the largest pension

fund managers and real estate investors in the world) and Danish Fund of Funds, Sparinvest Property Fund II K/S. We advised the investors on the structuring of the offshore platform and Godrej on the documentation

- Represented IndiaREIT and Paranjape Developers in the sale of their SEZ in Pune to IDFC Limited for approx INR 4,000 million
- Represented Ahuja Constructions in receiving private equity investment of INR 1500 million from ICICI Ventures and a facility of INR 750 million from ICICI Bank, and to give a partial exit to Apollo Real Estate Fund
- Representing Trinity Capital in their exits from a portfolio of investments
- Represented Kotak Alternate Opportunities (India) Fund in its investment of INR 1,000 million in a Mumbai based developer for development of slum rehabilitation project.
- Represented Kotak Bank and a leading NBFC (Kotak Mahindra Prime Limited) in its investment of INR 2,560 million in NCDs of Marathon Realty Private Limited, and also supervised on the issuance and listing of such NCDs on the wholesale debt market exchange of BSE
- Represented Kotak Bank and a leading NBFC (Kotak Mahindra Prime Limited) in its investment of INR 1,000 million in NCDs of Neelkanth Urban Developer Private Limited, and also supervised on the issuance and listing of such NCDs on the wholesale debt market exchange of BSE
- Represented Kotak Bank and a leading private equity real estate fund in its investment of INR 500 million in NCDs of Rajesh Estates and Nirman Private Limited, and also supervised on the issuance and listing of such NCDs on the wholesale debt market exchange of BSE
- Represented Tata Housing in hiving off its real estate asset into a new SPV and receiving private equity investment of INR 617.5 million from Portman Holdings

6. Key deals in 2011 - 12

- Investment by Indiareit Fund into Omkar Realtors and Developers Private Limited (SRA Project) (USD 45 million)
- Investment by Kotak Realty Fund in subsidiaries of Sunteck Realty Limited (USD 40 million),
- A joint venture between INDIAREIT Fund and Ambience Group (USD 60 million)
- Investment by HDFC Asset Management Company Limited in capacity as Portfolio Manager on behalf of its clients in Marvel Group (USD 30 million)
- Aggregate debt investments of USD 130 million arranged by Kotak Bank / Kotak Prime in (i) Lodha Pranik Landmark Developers Private Limited, (ii) Lodha Dwellers Private Limited, (iii) Puravankara Projects Limited, (iv) Rohan Builders & Developers Private Limited; (v) Rajesh Estate and Builders Private Limited, by HNIs, Kotak Bank, Kotak Prime
- Investment by PHL Limited and PHL Finance Private Limited of USD 24 million in Rustomjee Constructions Private Limited and Keystone Realtors Private Limited

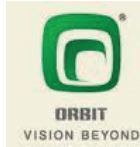
7. Few past engagements

- Kotak Alternate Opportunities (India) Fund in their investment in (i) Starlight Systems Private Limited, (ii) Ultra Space Developers Private Limited (Dheeraj Developers), a company owned by Wadhawan Group
- RedFort Capital in their joint venture with Prestige Constructions Group
- IL&FS in acquisition of Saffron AMC managing Saffron Real Estate Funds
- Indiareit Fund, in their real estate joint venture with (i) Paranjape Developers, (ii) Skyline Constructions, (iii) Amsri Developers, and (iv) Neptune Developers
- Indiareit Fund in their investment in (i) Samira Realty Projects Private Limited, and (ii) Samira

Getaways Private Limited

- Deal counsel for investment by Milestone Capital into Neptune Developers Limited
- Deutsche Bank (RREEF) on structuring of their real estate investment deals in India
- Farallon, on the India Bulls-Jupiter Mills deal
- Lokhandwala Builders, in the investment made by Trinity Capital into Lokhandwala
- Forum Projects, in their real estate joint venture with Yatra Capital, a EuroNext stock exchange listed real estate fund
- Milestone in their investment in Neptune Developers and Ultra Space Developers Private Limited (Dheeraj Developers), a company owned by Wadhawan Group
- Orbit Corporation Limited in investment by IL&FS Trust Company Limited, IIRF India Realty X Limited and Moltana Holdings Limited, in Orbit Highcity Private Limited, a wholly owned subsidiary of Orbit Corporation Limited

8. Clientele



9. Research @ NDA

Driving an initiative to allay exit challenges for offshore real estate funds with Asia Pacific Real Estate Association in partnership with leading offshore funds

Driving an initiative to introduce the REIT regime in India as a part of the Asia Pacific Real Estate Association

Research Paper on Private Equity in Real Estate, 2013

Hotline on 'Budget 2012 - Top Considerations for Offshore and Domestic Real Estate Funds', April 2012

IBA Scholarship Paper on 'Structuring Real Estate Transactions: What to do and what not to do', April 2012

- This paper deals with top 10 considerations for foreign investment in real estate

Realty Check on 'Debt Funding Real Estate in India', January 2012

- This paper focusses on different routes for infusion of foreign debt into the sector and discusses the challenges of each route namely - debentures compulsorily convertible into equity, listed non-convertible debentures and lending through captive non-banking financial companies

Realty Check on 'FDI in Real Estate: Exit Challenges', April 2011

This paper deals with the exit challenges faced by a foreign investor, such as the extent of the 3 year lock-in condition on secondary investments, exit prior to completion of 50% of the project, enforceability of call / put options

Chapter on 'Real Estate in India - A Practical Insight', published in The International Comparative Legal Guide to Real Estate 2011 (A practical cross-border insight into real estate law), March, 2011

IBA Scholarship Paper on 'Ways of Funding Real Estate Projects, including but not limited to Listed

Securities', April 2010

Whitepaper on addressing FDI in real estate in collaboration with US India Business Council Real Estate Executive Committee, presented to Commerce Minister Anand Sharma, March 2010

Hotlines / Articles on

- REITs / REMFs,
- Model Real Estate Development Bill,
- Land Titling Bill etc.

Research paper on Real Estate Investments in India

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