



**HARYANA REAL ESTATE REGULATORY AUTHORITY, PANCHKULA.**

Mini Secretariat (2<sup>nd</sup> and 3<sup>rd</sup> Floor), Sector-1, Panchkula.

Telephone No: 0172-2584232, 2585232

E-mail: officer.rera.hry@gmail.com, hrerapl-hry@gov.in

Website: www.haryanarera.gov.in

**Extract of the resolution passed by the Haryana Real Estate Regulatory Authority, Panchkula in its meeting held on 03.04.2024.**

**Item No. 248.11**

**Regarding Audit and objections from general public in the case relating to continuation of registration under Section 7(3) of the RERA Act, 2016.**

**Promoter: Amarnath Aggarwal Investments Pvt. Ltd.**

**Project: "Amravati Enclave" - a residential plotted colony (13 No. of Plots) and 216 Apartments of Group Housing Colony over an area measuring 61.156 Acres in Sector-2, Pinjore Kalka Urban Complex, District, Panchkula.**

**Reg. No.: 56 of 2018 dated 12.08.2018 valid upto 30.12.2021 (First Extension granted upto 31.01.2023).**

**Present: Mr. Jyoti Sidana and Mr. Bal Krishan, Authorized representative**

1. M/s Amarnath Aggarwal Investments Pvt. Ltd. vide letter dated 31.01.2023 had applied for continuation of registration under Section 7(3) of the RERA Act, 2016 of their project cited above. The matter was placed before Hon'ble Authority in its meeting held on 17.04.2023 vide item no. 208.08 wherein Hon'ble Authority decided that audit of the project be got conducted and public notice in newspapers be got published for inviting objections from general public. Promoter was also asked to submit the time period up to which the project will be completed as well as availability of funds for the completion the project.
2. M/s S. Mehtani & Company, vide letter dated 02.06.2023, were appointed as auditor to conduct the audit of the said project. Further public notice in newspapers namely; The Tribune, Chandigarh and Dainik Bhaskar were published on 06.06.2023. A total of 5 objections were received from the public.
3. Thereafter, the Authority in its meeting held on 06.11.2023 vide item no. 232.22 decided that promoter be supplied copies of the objections received from the allottees for



comments on each and every averment in an annotated form. A copy of mail dated 03.11.2023 received from CA be also sent to promoter to explain as to why show cause notice under Section 35 may not be issued to them for not cooperating with CA firms appointed by Authority.

4. Thereafter, the Authority in its meeting held on 24.01.2024 vide item no. 239.26 had decided as under:-

- i. Promoter should submit a copy of orders of Hon'ble Punjab & Haryana High Court.
- ii. Information regarding supply of data to CA be submitted in tabular form (i.e. mentioning the date of e-mail/ letter of CA seeking information, information sought, date of reply and information supplied)
- iii. Copy of deed of declaration be submitted.
- iv. Promoter should submit the reply as per observations of Authority.
- v. Auditor's report was also awaited in this matter.

5. Now, Auditor vide letter dated 01.02.2024 has submitted its report which is reproduced as under:-

*Amar Nath Aggarwal Investments Private Limited, Amravati Enclave, Panchkula is registered with HRERA vide registration no. HRERA-PKL-56-2018 Dated- 12.10.2018 which was valid up to April, 2022 & further force majeure event due to covid-19 valid up to 31.01.2023:*

1. Plot No.854 to 866 (13 plots of 300 sq. mrs.);
2. 72 Apartments in Block B1 (2 No's.) New, Block B2 New, service apartment and 3 Nos, EWS Block situated in their ongoing project on land measuring 16.156 Acres in District Panchkula, Haryana.

*In regard to project mentioned at S. No. 2 above, the auditor stated that on the basis of writ petition no. CWP No. 22170 of 2018 titled S RANGI AND OTHERS V/S STATE OF HARYANA AND OTHERS filed by some residents, the Hon'ble Punjab & Haryana High Court has stayed the construction of Apartments as under;*

*"In this proceeding, an application in CM No.10766-CWP of 2020 is filed wherein an allegation is made against respondents No. 3 to 5 for having taken up construction on the property which is subject matter of dispute in spite of environmental clearance not being available for such further development.*

*Learned counsel for 3<sup>rd</sup> respondent would submit that the environmental certificate was already taken and however, the same is expired.*





Therefore, in the circumstance, we direct respondent No. 3 to 5 and their agents not to take up further construction until the environmental clearance is renewed and necessary permissions are on hand for taking up of the construction.

With such orders, the application in CM No. 10766 of 2020 is disposed of."

It has been informed that stay has yet not been vacated by Hon'ble Punjab & Haryana High Court. Since on account of stay on construction no progress in the project has been made, the audit of the said project was not undertaken by them.

Thus, all our observations enumerated in the following paragraphs relates to Project no. 1 only.

#### RESIDENTIAL PLOTTED COLONY (13 NO. OF PLOTS)

As regards project registered for construction of Residential Plotted Colony (13 no. of plots), the said project was commenced for the construction of flats in the month of April, 2019. The promoter was required to undertake construction of flats on these plots. It was noticed that construction of flats on 6 plots have already been completed and construction of flats on remaining 7 plots were under progress.

#### 1.0 DETAIL OF SEPARATE RERA BANK ACCOUNT OF THE PROJECT IN WHICH SEVENTY PERCENT OF THE AMOUNT REALIZED FROM THE ALLOTTEES ARE BEING DEPOSITED.

It was noticed that a separate bank account number 06001100069719 (herein after referred as separate bank account) was opened by the auditee with Punjab and Sind Bank, Sector-17B, Chandigarh. On examination of the bank statement of the said bank account vis.-à-vis. statement of sums received from the allottees, it was noticed that during the financial year 2019-20 and financial year 2022-23, a sum of Rs.25,060,000.00 and Rs.115,189,900.00 were received by the promoter from the allottees. Against these, sums of Rs.17,542,000.00 and Rs.80,632,930.00 (being 70% of the sums received from allottees) were required to be deposited by the auditee in separate bank account. It was noticed that only sums of Rs.15,150,000.00 and Rs.77,500,000.00 were deposited. Thus, shortfall of Rs.23,92,000.00 and Rs.31,32,930.00 in regard to deposit of amount realised from the allottees for the financial year 2019-20 and financial year 2022-23 was observed. Although shortfall in the deposit was observed for the financial year 2019-20 and financial year 2022-23, however in totality for the period under consideration no shortfall was observed i.e against a sum of Rs. 22,66,99,900.00 received by the auditee from the allottees during the period from 13.04.2019 to 31.03.2023, a sum of Rs.181,157,277.00 was deposited in the separate bank account. Thus, it was observed that more than seventy per cent of the amount received from the allottees (i.e 79.91%) were deposited in the separate bank account.



2.0 AMOUNT RECEIVED FROM THE ALLOTTEES SHALL BE VERIFIED I.E. RECEIPTS ISSUED SHALL. BE VERIFIED WITH THE AMOUNT RECEIVED IN THE BANK.

The sums received from the allottees have been deposited in the various bank accounts. This has been checked from the receipt books, list of allottees and bank statements produced before them. A test check applied on these documents reveals that a sum of Rs.22,66,99,900 received from the allottees during the period from 13.04.2021 to 31.03.2023 was deposited in various bank accounts maintained by the Auditee.

3.0 THE AUDITOR SHALL CERTIFY THAT PROVISIONS OF SECTION-4D) OF THE REAL ESTATE (REGULATION & DEVELOPMENT) ACT, 2016 ARE BEING FOLLOWED AND WITHDRAWALS ARE IN PROPORTION OF THE DEVELOPMENT WORKS CARRIED UNDERTAKEN AT SITE. IF NOT THEN UTILIZATION AND DIVERSION DETAILS OF THE FUNDS SHOULD ALSO BE MENTIONED.

3.1 Deposit of seventy percent of the amounts realised for the real estate project in separate bank account.

kindly refer to observations mentioned at point no.1.0 above.

3.2 Withdrawals from separate account for the purpose of construction of the project

It is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project.,

#### OBSERVATIONS

1. Certificates from Chartered Engineer, Architect and Chartered Accountant have been obtained after making the withdrawals from bank account and that too on quarterly/half yearly/periodical basis-non-compliance with the first proviso to sub-clause(D) of clause(1) of sub-section(2) of Section 4 of The Real Estate Regulation And Development) Act, 2016. While examining the withdrawals made from the separate bank account vis.-à-vis. certificates issued by Chartered Engineer Er. Sunil Puri, Architect Pankaj Malik and Mr. Suresh Kumar Goyal, Partner M/s Suresh Goyal & Associates, Chartered Accountants(herein after referred as Chartered Accountant), it was noticed that the withdrawals from the separate bank account were not supported by these certificates as withdrawals were made on regular basis whereas certificates from the said Chartered Engineer, Architect and Chartered Accountant were obtained on quarterly/half yearly basis/periodical basis and that too after making withdrawal and not before making withdrawal as laid down under First Proviso to sub-clause(D) of clause(1) of sub-section (2) of section 4 of The Real Estate (Regulation and Development) Act,2016. Examination of the statement reveals that amounts were





withdrawn on regular basis whereas certificates from Chartered Accountant were obtained on quarterly/half yearly basis/periodical basis and that too after making withdrawal from the separate bank account. Thus, First Proviso to sub-clause(D) of clause(1) of sub-section(2) of section 4 of The Real Estate (Regulation and Development) Act, 2016 as per which the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project has not been complied by the Auditee.

2. **Variation in amounts Withdrawn as per Bank Statement Vis-À-Vis Certificates issued by Chartered Accountant.** On examination of amounts withdrawn from separate bank account as per bank statement vis.-à-vis. certificates issued by Chartered Accountant, excess withdrawal of Rs. 54,64,360.06 was noticed.
3. **Withdrawals from bank account were made not in proportion to the percentage of completion of the project as certified by engineer.** The amounts withdrawn from separate bank account were examined with the percentage of completion of the project certified by the Chartered Engineer. Further, the withdrawals from bank account were made not in proportion to the percentage of completion of the project. Though the withdrawals from separate bank account were not in proportion to percentage of completion of the project as certified by the Chartered Engineer, however no case of excess withdrawal as per bank statement vis.-à-vis. certificate of Chartered Engineer was noticed. A statement showing comparison of amount withdrawn for cost of construction as per bank statement of separate bank account vis-à-vis certificate issued by Chartered Engineer has been drawn, which is enclosed as Annexure -5.
4. **Non-compliance with the third proviso to sub-clause (d) of clause (1) of subsection (2) of section 4 of Real Estate (Regulation and Development) Act, 2016.** It was noticed that auditee had not complied with the said regulation as the auditee did not get its accounts audited from its Statutory Auditors, M/s Shiv Jindal & Co., Chartered Accountants, Bathinda, within six months as per third proviso to sub-clause(1) of sub-section (2) of Section 4 of Real Estate (Regulation and Development) Act, 2016. Thus **third proviso to sub-clause(1) of sub-section (2) of Section 4 of Real Estate (Regulation and Development) Act, 2016 has not been complied by the auditee.** Details depicting the date on which these accounts were got audited as per said provisions is tabulated hereunder

Period	Date of issue of reports
FY 2018-19	06.01.2024
FY 2019-20	06.01.2024
FY 2020-21	06.01.2024
FY 2021-22	06.01.2024



FY 2022-23

06.01.2024

Further, the key comments noticed in the Annual Report on Statement of Accounts issued by the Statutory Auditors under for the financial year 2018-19 to 2022-23 are highlighted by the auditor, the details of FY 2022-23 are reproduced below:-

- a. No Specific Master A/c has been maintained. Sale proceeds are collected in various accounts from which the amount is transferred to RERA compliant A/c.
  - b. Promoter is undertaking multiple businesses in a single company and enjoying credit facility from bank however no such specific loan has been borrowed for this project.
  - c. Annexure A has not been submitted to RERA, as stated to us has been waiver off.
5. **Site visit and site details. Assessment of work done duly supported by the photographs.** During the course of visit to the site No.1 of Plot No.854 to 866 (13 plots of 300sq. mtrs.), it was noticed that out of 13 plots, construction of flats on 6 plots have been completed and construction of flats on remaining 7 plots were under progress. Photographs enclosed.
6. **Verification of surrendered/ resumed/ cancelled/ restored plots.** As regards verification of surrendered/ resumed/ cancelled/ restored plots, it is noticed from the information and explanations provided to them that there was only one case of surrender of flat by the allottee (flat no. 856-D). No case of resumed/cancelled and resumed plot was noticed during the course of audit. A sum of Rs.20,70,0000 received as booking amount against the said flat was refunded to allottee at the time of surrender of plot.
7. **Other observations**
- A. **Variations In The Amounts Withdrawn From Separate Bank As Per Bank Statements Vis-A-Vis Payments Made As Per Receipt And Payment Account Of The Said Project:-**It was observed that sum of Rs.77,802,938.26 withdrawn from separate bank account during the financial year 2022-23 was not fully utilised for construction of flat i.e. shortfall in utilisation of a sum of Rs. 2,284,688.47 was observed.
  - B. **Variations in the amounts required to be deposited in the separate bank account as per bank statement vis.-a-vis. Amount deposited as per receipt and payment account of the said project:-**It was noticed that sums received from allottees in the financial years 2019-20 and 2022-23 were not fully deposited i.e. shortfall in deposit of sum of Rs 23,92,000.00 and Rs. 31,32,930.00 was observed.
  - C. **Variations in the amount withdrawn as per yearly certificates vis.-a.- vis. Quarterly/half yearly/periodical certificates issued by chartered accountant.**
  - D. **Variations in the amounts deposited in the separate bank account as per yearly certificates vis.-a.-vis. Quarterly/half yearly certificates issued by chartered accountant.**





- E. Variations in the projected cost of construction of project as per certificates issued by certified engineer vis.-a-vis. issued by chartered accountant:-As per certificate of Chartered Engineer, the total cost of construction was Rs. 30.33 crores, where as per the Certificate of Chartered Accountant the total cost of construction was Rs. 108.30 crores. No suitable explanation for such huge variation was provided.
- F. Variations in the amounts deposited as per separate bank account vis.-a -vis. Certificates issued by chartered accountant.

6. Further, the promoter vide reply dated 01.03.2024 has submitted as under:-

1. The Promoter was also asked to submit their timeline to complete the Project as well as availability the funds for completion the Project.
2. That the Public Notice was published on dated 06.06.2023 and 5 nos. of objections were received by the Hon'ble RERA Authority.
3. The Chartered Accountant Firm have asked to furnish various information in compliance of the documents related to the Project which were compiled at our end, time to time for the purpose of Audit of the Project and Audit has conducted in all respect vide dated 27.01.2024.

In compliance of the orders issued by the Hon'ble Authority, the below is submitted:

Sr. No.	Complainant	Reply on complaint
1.	1. Complaint of Sh. Lt Col N R Sharma (Retd.) 2. Ram Kumar Shokeen & Others. 3. Col. BS Rangji (Retd.), President DWAAR. 4. Smt. Sudesh Kumar & Others. 5. Arun Sharma & Others.	<p>In reply to the Complaints received by the Hon'ble RERA Authority, it is to submit that the Completion Certificate of Plotted Colony of an area measuring 104.4 Acres stands issued.</p> <p>That before getting into the merits of the objections submitted by the Complainants it is pertinent to mention that the said objections does not belongs to the part of the Project Registered with Hon'ble RERA authority.</p> <p>The Project Registered with Hon'ble RERA Authority for 13 Nos. of Plots and 216 Units of proposed Group Housing Colony, only.</p> <p>The Complainants/objectors probably belong to earlier allotted/completed project and are in no way related to the present project/registration/extension in question and these allottees/ex-allottees/occupants have filed the objections only to mislead the Court into considering such frivolous representations.</p>



		<p>The complainers have submitted objections which are baseless, frivolous, and not in relation to the present project in question in any manner.</p> <p>The Complainants/objectors are the persons who have been given possession in respect of their allotment prior to the RERA Act applicability in the State.</p> <p>Furthermore, the copy of High Court Orders in CM-10766-CWP-2020 IN CWP No. 22170-2018 directing us to not to take up further construction until the Environmental Clearance is renewed and necessary permissions are on hand for taking up of the Construction. (Copy enclosed).</p> <p>The minutes of the meeting dated 05.01.2024 of State Expert Appraisal Committee, Haryana for EC for expansion Environmental Clearances is enclosed.</p>
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7. They further submitted that entire residential plotted colony of total area measuring 118.3 Acres wherein the completion certificates for an area measuring 104.646 Acres have been granted vide dated 20.12.2001 (93.08 Acres) and 02.09.2015 (11.566 Acres). The said License No. 186 of 2008 dated 29.10.2008 is renewed upto 28.10.2025.
8. That the Group Housing colony was approved for area measuring 13.59 acres in which Occupation Certificates have been issued for all towers except the Tower B1 (New), B2 (New), EWS Block & Service Apartment (which includes 216 number of main Dwelling Units and over an area measuring 4.59 Acres) which has been registered in the Hon'ble RERA Authority. (Copies of Occupation Certificates have been enclosed). A Site Plan highlighting the Towers which have been registered under RERA Authority is also enclosed. They submitted that they have not launched the said Towers and no third party rights have been created on the said Towers.
9. Further, 13 nos. of Plots (Plot No. 854 to 866 of 300 Sqm each) have also been registered under RERA Authority on which Floors are to be constructed at site, which have been earmarked on the Layout Plan enclosed herewith for reference. The Occupation Certificate of Plot No. 854, 855, 856, 857, 862, 863, 864, 865 (8 Plots) have been issued by the concerned DTP, Panchkula. Only Five Plots on which floors to be constructed are due for grant of Occupation Certificate.





10. Promoter's Submission & Request:

They have requested the Authority to exclude the un-constructed towers (Tower B1 (New), B2 (new) and Service Apartment (216 Units) of total area in which no third-party rights have been created by them and no construction work has been started on that towers. Further, the Plots on which Occupation Certificate stands issued and the possession stands offered to the respective allottees may also be excluded from the application.

11. In view of the aforementioned submissions, promoter prayed that the objections filed by the public pursuant against the public notice are not related to the area for which RERA Registration was issued, hence may be decided accordingly.

12. Today, Authorized representative stated that due to grant of stay by Hon'ble Punjab & Haryana High Court, construction work has not been started on three towers. They have applied for environment clearance to the competent Authority which is awaited.

13. Authorized representative further stated that objections received by Authority do not pertain to the area registered with Authority.

Promoter has applied for third year extension also. Hence, Authority decided that extension of second year and third year be clubbed together. Audit report be examined by Project Section and report be submitted in next meeting.

14. Adjourned to 15.05.2024.



*[Handwritten signature]*  
22/4/24

True copy

*[Handwritten signature]*

Executive Director,  
HRERA, Panchkula

A copy of the above is forwarded to CTP, HRERA Panchkula, for information and taking further action in the matter.

CA (Shubham)