

M/s Athena Infrastructure Ltd. Vs. Anil Goswami  
Appeal No. 445 of 2019

Present: None.

Vide our order dated 07.10.2019, the application moved by the appellant/promoter for waiver of the condition of pre-deposit was dismissed and the appellant/promoter was directed to deposit whole of the amount payable to the respondent/allottee, as imposed by the learned Authority vide impugned order, on or before 29.10.2019 with this Tribunal. As per the report of the office, no amount has been deposited by the appellant/promoter.

It is settled principle of law that the provisions of proviso to section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act'), are mandatory. It is a condition precedent for entertainment of the appeal filed by the promoter to deposit the requisite amount. In the instant case, the appellant/promoter has not complied with the mandatory provisions of proviso to section 43(5) of the Act inspite of sufficient opportunity. Consequently, the present appeal cannot be entertained and the same is hereby dismissed.

File be consigned to records.

Justice Darshan Singh (Retd.)  
Chairman,  
Haryana Real Estate Appellate Tribunal,  
Chandigarh  
30.10.2019

Inderjeet Mehta  
Member (Judicial)  
30.10.2019

Anil Kumar Gupta  
Member (Technical)  
30.10.2019