



**HARERA**  
**GURUGRAM**

MA No. 15 of 2024 in  
Complaint No. 7770 of 2022

**BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY,  
GURUGRAM**

**Complaint no.** : 4858 of 2022  
**M.A. No.** : 15 of 2024  
**Date of application** : 09.01.2024  
**Date of decision** : 02.07.2024

**Ajay Kumar Gupta**  
R/o: H.no.8/9, Near Champa Marg, DLF City Phase-1,  
Nathupur, Gurugram, Haryana

**Complainant**

**Advance India Projects Limited**  
Regd. Office: 232B, 4<sup>th</sup> floor Okhla Industrial Estate,  
Phase-III, New delhi-110020

**Respondent**

**CORAM:**

Sh. Arun Kumar  
Sh. Vijay Kumar Goyal  
Sh. Ashok Sangwan

**Chairman**  
**Member**  
**Member**

**APPEARANCE:**

Sh. K.K. Kohli (Advocate)  
Sh. Dhruv Rohtagi and Shubham (Advocates)

**Complainant**  
**Respondent**

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**ORDER**  
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1. An application has been filed by the applicant-respondent on 09.01.2024 for rectification of order dated 31.10.2023 passed by the Authority. Following directions were passed vide order 31.10.2023 of Authority:

*"47. The respondent- promoter is directed to refund the amount of Rs.47,11,756/- after deducting 10% of the basic sale price of the unit being earnest money along with interest at 10.75% p.a. on the refundable amount, from the date of cancellation, i.e. 02.08.2021 till the actual date of refund of the amount."*

2. During proceeding dated 02.07.2024, the counsel for the respondent-applicant stated that the operative part of the order did not specify that they had paid assured returns to the complainant, which should also be deducted. Further the counsel for the complainant states that the application filed by the respondent-promoter pertains to rectification/modification of the order and not for rectification of any clerical error and hence, does not lie before the authority. Therefore, the present rectification application cannot be allowed in terms of the proviso to Section 39 of the Act, 2016.

3. Upon perusal of the document the Authority gives the following finding:

**A. Finding by the Authority**

4. In the present rectification application, the respondent has requested that the respondent be directed to deduct the amount paid by the respondent to the complainant on account of assured return, but in order it was inadvertently not recorded.

5. The relevant portion of section 39 of Act of 2016 is reproduced below:

**Section 39: Rectification of orders**

"The Authority may, at any time within a period of two years from the date of the order made under this Act, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act:  
Provided further that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act.

6. In the present case, the respondent is seeking rectification regarding the amount credited by the respondent. The Authority observes that the respondent has failed to produce any document on record to support the contention that any such assured return was paid. The Statement of Account attached with the reply submitted by the respondent does not reflect any

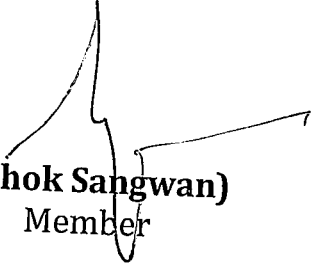



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assured return amount paid to the complainant. In view of the above, the Authority observes that no error of fact has been made in the order and the application is accordingly dismissed.

7. In view of the same, the rectification application stands disposed of.
8. File be consigned to the registry.

  
**(Ashok Sangwan)**  
Member

  
**(Vijay Kumar Goyal)**  
Member

  
**(Arun Kumar)**  
Chairman

Haryana Real Estate Regulatory Authority Gurugram

Dated: 02.07.2024

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