

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Date of Decision: August 28,2025

**CM No. 1076 of 2025
In Appeal No. 204 OF 2025**

Advance India Projects Limited, AIPL Business Club, 5th Floor,
Gold Course Extension Road, Sector 62, Gurugram – 122 001.

...Appellant

Versus

Mrs. Sumedha Bhardwaj, House No. 800, Sector 9, Gurugram,
Haryana – 122 001.

...Respondent

CORAM:

**Justice Rajan Gupta
Shri Rakesh Manocha**

**Chairman
Member (Technical)**

Present: Ms. Svetlana, Advocate for the Appellant.

O R D E R:

RAJAN GUPTA, CHAIRMAN

The present appeal has been preferred by the appellant-promoter against order dated 22.10.2024 passed by the Authority¹ at Gurugram. By the said order, the Authority directed the appellant to refund an amount of Rs.16,52,844/- to the respondent-allottee along with interest @ 11.10% per annum from the date of each payment till the actual date of refund. Operative part thereof reads as under:

*“ 26. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(F):
a. The respondent is directed to refund the paid-up amount of Rs.16,52,844/- along with interest at the prescribed rate i.e. 11.10% from the date of each payment till the actual date of refund of the amount within the timelines provided in rule 16 of the rules, 2017.*

¹ Haryana Real Estate Regulatory Authority, Gurugram

b. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.

27. Complaint stands disposed of.

28. File be consigned to registry.”

2. In compliance with the provisions of Section 43(5) of the Act, the Registry assessed the requisite pre-deposit amount payable by the appellant at Rs. 29,37,669/-. However, the appellant deposited only Rs. 18,03,284/- vide Demand Draft No. 000022 dated 27.05.2025, thereby resulting in a deficit of Rs.11,34,385/- in the pre-deposit.

3. The appellant has filed CM No. 1076 of 2025, raising objections to the Registry's calculation and contended that certain amounts paid to the complainant-allottee are liable to be deducted from the total refundable amount, which would proportionately reduce the required pre-deposit. As per him, following deductions should be allowed:

- i. Rs. 4,34,781/- paid as "assured return" to the respondent;
- ii. Rs. 1,90,252/- paid towards GST;
- iii. 10% of the consideration amount as forfeiture of earnest money (amounting to Rs. 5,32,259/- approximately);

Therefore, the appellant submits that the total deductible amount is Rs. 11,57,292/- and the amount to be paid to the allottee towards assured returns be re-calculated accordingly, justifying pre-deposit already made by it.

4. It is pertinent to note that the appellant had earlier filed an application for rectification of the refund order on the same grounds, which was dismissed by the Authority on 11.02.2020 (Annexure A-9) as not maintainable. Furthermore, the Authority had not granted any relief or direction permitting such deductions either on account of GST or forfeiture of earnest money.

5. In view of the above, the calculation of pre-deposit made by the Registry on the basis of impugned order and as per statutory provisions,

is in accordance with law. No deduction or adjustment as claimed by the appellant can be entertained or taken into account in computing the pre-deposit.

6. As per Section 43(5) of the RERA Act, the mandatory condition precedent for entertaining an appeal filed by a promoter is the deposit of the total amount directed to be refunded by the Authority along with interest as imposed. The failure of the appellant to deposit the full pre-deposit amount renders the present appeal non-maintainable.

7. In view of the foregoing discussion, CM No. 1076 of 2025 and the accompanying contentions raised by the appellant regarding deductions from the pre-deposit are hereby dismissed.

8. Since the appellant has failed to comply with the mandatory requirement under Section 43(5) of the RERA Act, the Appeal No. 204 of 2025 stands dismissed as non-maintainable.

9. No order as to costs.

10. The part pre-deposit made by the appellant/promoter i.e. Rs.18,03,284/- with this Tribunal cannot be retained. Same along with interest, if any, accrued thereon be remitted to the Authority at Gurugram for disbursement to the appellant-promoter, subject to tax liability, if any.

11. The copy of this order be sent to parties/their Ld. counsel and the Ld. Authority for compliance.

12. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(joined through VC)

August 28,2025
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