

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

**Complaint no.** : 6002 of 2024  
**First date of hearing:** 28.03.2025  
**Date of decision** : 31.10.2025

Anita Sahay and Ishan Sinha,  
R/o: -F/DG, Aprajita Garden Apartments,  
Ramnagari Road, Sec- 03, Ashiana Nagar,  
Patna, Bihar- 800025

**Complainant**

M/s Ocean Seven Buildtech Private Limited  
**Regd. Office at:** B-4, 505-506, Spaze I Tech Park Sohna  
Road, Sector-49, Gurugram- 122018.

**Respondent**

**CORAM:**

Shri Arun Kumar

**Chairman**

**APPEARANCE:**

Sh. Bhajan Lal Jangra (Advocate)  
Sh. Arun Yadav (Advocate)

Complainant  
Respondent

**ORDER**

1. The present complaint dated 23.12.2024 has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the

Act or the Rules and regulations made there under or to the allottee as per the agreement for sale executed *inter se*.

**A. Unit and project related details**

2. The particulars of unit details, sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S.No	Particulars	Details
1.	Name of the project	Expressway Tower, Sector- 109, Gurugram, Haryana
2.	Project area	7.5 acres
3.	Nature of the project	Affordable group housing colony
4.	DTCP license no. and validity status	<b>06 of 2016 dated 16.06.2016.</b> <b>Valid up to 15.06.2021</b>
5.	RERA Registered/not registered	<b>Registered vide no. 301 of 2017 dated 13.10.2017.</b> <b>Valid up to 12.10.2021</b>
6.	Flat no.	1701, 17 <sup>th</sup> floor, tower 6 [Page 33 of complaint]
7.	Unit admeasuring	644 sq. ft. (carpet area) [Page 33 of the complaint]
8.	Builder buyer agreement	26.11.2019 [Page 31 of complaint]
9.	Possession clause	<b>1(IV) of the Affordable Housing Policy, 2013</b> <i>All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of</i>

		<i>commencement of project" for the purpose of this policy. The licenses shall not be renewed beyond the said 4 years period from the date of commencement of project.</i>
10.	Building plans approved on	26.09.2016
11.	Environmental clearance	30.11.2017
12.	Due date of possession	30.05.2022  <b>Note:</b> The due date is calculated from the date of environment clearance being later + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020
13.	Loan Sanction letter	07.09.2017  [Page 71 of complaint]
14.	Total sale price of the flat	Rs. 26,26,000/-  [As per clause 4.1 of BBA, page 36 of complaint]
15.	Amount paid by the complainant	Rs. 27,44,168/- [As per page 77 of complaint]

### B. Facts of the complaint

3. The complainant has made the following submissions:-
  - I. That the complainant is an Indian resident and well conversant with the facts of the present case hence competent to sign, verify and file the present complainant before this Authority for seeking possession and delayed possession charges.
  - II. That the respondent is a registered company which had undertaken to develop the project namely "Expressway Towers" consisting of residential units/flat under the Affordable Housing Policy, 2013

launched vide DTCP licence No. 06/2016 which has been granted to the respondent.

- III. The complainants had signed and submitted an application dated 19.06.2018 for allotment of residential flat under affordable housing policy 2013 issued by Govt. of Haryana. It is submitted that as per the draw held on 24.09.2018 a unit no. 1701 in tower 06 on 17th floor admeasuring 644 sq. feet and 100 sq. feet balcony area was allotted against total sale consideration of Rs. 26,26,000/- vide agreement to sell dated 26.11.2019.
- IV. Subsequent thereto, an agreement to sell dated 26/11/2019 was entered into between the complainants and respondent.
- V. It is respectfully submitted that the respondent mischievously did not mention specific date of handing over the physical possession of the unit in the agreement to sell but it is mentioned in the clause no. 5.2 of the agreement to sell that the company shall sincerely endeavour to complete the construction and offer the possession of the said unit within five years from date of receiving of licence.
- VI. That the respondent obtained building plan approval on 26.09.2016 and received environmental clearance on 30.11.2017 as mentioned in the order dated 13.12.2022 by this Authority in case titled Rajni Kukreja vs M/s Ocean Seven Buildtech Pvt. Ltd. complaint no. 4086 of 2020 however the respondent delayed the project despite the payment from the complainant and poor allottee who spent hard earned money in purchasing the residential flats.
- VII. That the above mentioned clause shall override the possession time as mentioned by the respondent in agreement to sell since the agreement is not in accordance with the date of completion stipulated in clause 1(iv) of the Affordable Housing Policy, 2013. Hence the due date of possession is to be reckoned from environmental clearance obtained by the respondent on 30.11.2017, thus the possession date is 30.11.2021.
- VIII. That the complainant has availed a home loan of Rs. 10,54,940/- dated 28.01.2020 against mortgage of the said flat from sbi bank. In this regard tripartite agreement executed between respondent,

complainant and sbi bank followed by arrangement letter dated 28.01.2020.

- IX. It is submitted that the complainant had already paid Rs. 27,44,168/- upto 03/08/2021 which is over and above the agreed price of total sale consideration of the flat but the respondent had neglected to complete the project till date and no construction activity is going for the reason best known to the respondent.
- X. That there is a delay of 33 months in completion of the project as on date from 30.11.2021 to 09.11.2024.
- XI. That the complainant visited several times in the office of the respondent and sent numerous mails calling upon to complete the project and handing over the possession but gave evasive reply and made illegitimate demands of money under the pretext the construction cost has gone above but were refused by the complainant. However the complainant is ready to pay the legitimate balance demand as may be directed by this Authority at the time of possession.
- XII. That to the knowledge of the complainant, the RERA registration no. 301/2017 dated 13.10.2017 of the project has also lapsed and penalty proceeding have been initiated and going on against the respondent for violation of RERA Act.
- XIII. That it is evident from the alleged acts, deed and omission the respondent have neglected to complete the project and have grossly violated affordable housing norms notified by Haryana Govt.
- XIV. That for the reason stated above, the complainant is/are left with no other efficacious remedy available except to file the present complaint before the Authority for seeking possession and delayed interest for wilful breach of agreement to sell and alleged violation of section 11, 14 and 18 of the RERA Act, therefore are liable to be compensated by the respondent under RERA Act.

**C. Relief sought by the complainant:**

- 4. The complainant has sought following relief(s).

- a) Direct the respondent to give delayed possession charges @ MCLR+2% from 30.05.2022 till the date of actual handing over of the possession of the flat at the prescribed rate of interest;
- b) Direct the respondent to complete the project and handover the physical possession.
- c) Direct the respondent to give completion certificate.
- d) The possession clause no. 5.2 mentioned in the buyer's agreement to sell is in violation of the Affordable Housing Policy, 2013, hence the respondent be directed to modify the said clause in terms of Policy, 2013.
- e) Direct the respondent to refund the excess amount of Rs.88,750/- paid by the complainant over and above the total sale consideration.
- f) Direct the respondent to execute the conveyance deed after offering valid offer of possession to the complainant.
- g) Direct the respondent to give input tax credit of GST by allowing refund with interest in terms of order dated 05.11.2019 passed by Hon'ble National Anti-Profiteering Authority.
- h) Direct the respondent to restrain from demanding Labour Cess, VAT, Work Contract Tax and Power Backup Charges.

5. On the date of hearing, the authority explained to the respondent/ promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the Act to plead guilty or not to plead guilty.

**D. Reply by the respondent.**

6. The respondent has contested the complaint vide its reply dated 25.11.2024 on following grounds: -
  - i. That at the outset, it is most respectfully submitted that the complaint filed by the complainant is grossly misconceived, wrong, unjustified and untenable in law besides being clearly extraneous and irrelevant and is liable to be dismissed.

- ii. That the complainant is estopped from filing the present complaint by his own act, conduct, omissions, admissions, acquiescence and laches.
- iii. That the subject matter of the present complaint is pending before the arbitration tribunal and the arbitration clause is accepted, agreed and signed by the complainant in the builder buyer agreement. Hence, the present complaint may kindly be dismissed and the complainant be directed to present before the arbitral tribunal as per section 8 of the arbitration and conciliation act, 1996.
- iv. That the complainant has not come before this honourable court with clean hands and has suppressed true and material facts. He has intentionally not disclose the correct facts before this honorable court.
- v. That the complainant is a willful defaulter and deliberately, intentionally and knowingly have not paid timely installments. The complainant is a defaulter under section 19(6) & 19(7) of the real estate (regulation & development act, 2016. It is humbly submitted that the complainant failed to clear his outstanding dues despite several reminders that were issued by the respondent.
- vi. The complainant has engaged in unlawful conduct, including but not limited to making false and baseless allegations, spreading misinformation, and engaging in defamatory practices. These actions go beyond the realm of contractual disputes and suggest a deliberate attempt to harm the reputation and business interests of the respondent company. This act and unlawful conduct of the complainant at various platforms led to the life threat to the promoters/directors and their respective families.
- vii. The respondent contends that the complainant's motives are marred by malafide intentions. The present complaint, founded on false,

fabricated, and erroneous grounds, is perceived as an attempt to blackmail the respondent. The complainant, in reality, is acting as an extortionist, seeking to extract money from the respondent through an urgent and unjustified complaint. This action is not only illegal and unlawful but also goes against the principles of natural justice.

viii. There is every apprehension that the complainant in collusion with any staff member of the respondent company including ex-employee or those who held positions during that time may put forth the altered and fabricated document which is contradictory to the affordable housing policy should not be considered binding on the company in any manner whatsoever.

ix. That in case cancellation notice by the respondent has been issued to the complainant and given time has been expired and thereafter the complainant by manipulation and in collusion with the bank or any staff of respondent company and got the funds transferred in the respondent company account and got the receipt from the company, it does not mean that cancellation has been revived in any manner whatsoever.

7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submissions made by the parties.

**E. Jurisdiction of the authority**

8. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E.I Territorial jurisdiction**

9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

#### **E.II     Subject-matter jurisdiction**

10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

##### ***Section 11.....***

***(4) The promoter shall-***

***(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;***

##### ***Section 34-Functions of the Authority:***

***34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.***

11. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

#### **F. Findings on the relief sought by the complainant.**

**F.I** **Direct the respondent to give delayed possession charges at the prescribed rate i.e., MCLR+2% from 30.11.2021 till the date of actual handing over of possession of the flat.**

**F.II** Direct the respondent to execute the conveyance deed after offering valid offer of possession to the complainant.

**F.III** The possession clause 5.2 mentioned in agreement to sell is in violation of Affordable Housing Policy, 2013 and the respondent be directed to modify the said clause in terms of Policy, 2013.

12. On the above-mentioned reliefs sought by the complainant are being taken together as the findings in one relief will definitely affect the result of the other reliefs.

13. The complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under.

***"Section 18: - Return of amount and compensation***

*18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, — .....*

*Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."*

14. As per clause 5.2 of the buyer's agreement dated 31.05.2018, talks about the possession of the unit to the complainant, the relevant portion is reproduced as under: -

***"5.2 Possession Time***

*The Company shall sincerely endeavor to complete the construction and offer the possession of the said unit within five years from the date of the receiving of license ("Commitment Period"), but subject to force majeure clause of this Agreement and timely payment of installments by the Allottee(s). However, in case the Company completes the construction prior to the period of 5 years the Allottee shall not raise any objection in taking the possession after payment of remaining sale price and other charges stipulated in the Agreement to Sell. The Company on obtaining certificate for occupation and use by the Competent Authorities shall hand over the said unit to the Allottee for his/her/their occupation and use, subject to the Allottee having complied with all the terms and conditions of the said Policy and Agreement to sell and payments made as per Payment Plan."*

15. At the outset, it is relevant to comment on the preset possession clause of the agreement wherein the possession has been subjected to all kinds of terms and conditions of this agreement and application, and the

complainant not being in default under any provisions of these agreements and compliance with all provisions, formalities and documentation as prescribed by the promoter. The drafting of this clause and incorporation of such conditions are not only vague and uncertain but so heavily loaded in favour of the promoter and against the allottees that even a single default by the allottees in fulfilling formalities and documentations etc. as prescribed by the promoter may make the possession clause irrelevant for the purpose of allottees and the commitment date for handing over possession loses its meaning. The incorporation of such clause in the buyer's agreement by the promoter is not only in grave violation of clause 1(iv) of the Affordable Housing Policy, 2013, but also deprive the allottees of their right accruing after delay in possession.

16. Clause 1(iv) of the Affordable Housing Policy, 2013 provides for completion of all such projects licenced under it and the same is reproduced as under for ready reference:

*1 (iv) "All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy."*

17. Due date of handing over of possession: As per clause 1(iv) of the Affordable Housing Policy, 2013 it is prescribed that "All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The respondent has obtained environment clearance and building plan approval in respect of the said project on 30.11.2017 and 26.09.2016 respectively. Therefore, the due date of possession is being calculated

from the date of environmental clearance, being later. Further, an extension of 6 months is granted to the respondent in view of notification no.9/3-2020 dated 26.05.2020, on account of outbreak of Covid-19 pandemic. Therefore, the due date of possession comes out to be 30.05.2022.

18. Admissibility of delay possession charges at prescribed rate of interest: Proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

***Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]***

***(1)For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.:***

***Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.***

19. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

20. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 31.10.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.

21. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the

promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default

22. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same as is being granted to the complainant in case of delayed possession charges.

23. On consideration of the documents available on record and submissions made by both the parties, the Authority is satisfied that the respondent is in contravention of the Section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 1(iv) of the Affordable Housing Policy, 2013, the respondent/promoter shall be necessarily required to complete the construction of the project within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. Therefore, in view of the findings given above, the due date of handing over of possession was 30.05.2022. However, the respondent has failed to handover possession of the subject apartment to the complainant till the date of this order. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. The respondent in its reply has contended that the complainant has not paid the outstanding instalments with interest. For that reason, the respondent has cancelled his unit and allotted to some other buyer. However, as per record, the complainant is not at default and has paid a considerable amount of money towards the sale consideration of the unit. Further, there is no document available on record to substantiate the claim of the respondent. Accordingly, the claim of the respondent is

rejected being devoid of merits. Moreover, the Authority observes that there is no document on record from which it can be ascertained as to whether the respondent has applied for occupation certificate or what is the status of construction of the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the builder as well as allottees.

24. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such, the allottee shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 30.05.2022 till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
25. Further, as per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainant. Whereas as per section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question. However, there is nothing on the record to show that the respondent has applied for occupation certificate or what is the status of the development of the above-mentioned project. In view of the above, the respondent is directed to handover possession of the flat/unit and execute conveyance deed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.

**F.IV Direct the respondent to complete the project and handover the physical possession.**

**F.V Direct the respondent to give completion certificate.**

26. The respondent is legally bound to meet the pre-requisites for obtaining occupation certificate from the competent authority. It is unsatiated that even after the lapse of more than 2 years from the due date of possession, the respondent has failed to complete the construction and apply for occupation certificate to the competent authority. The promoter is duty bound to obtain occupation certificate and hand over possession only after obtaining occupation certificate.

**F.VI Direct the respondent to refund the excess amount of Rs.1,18,168/- paid by the complainant over and above the total sale consideration.**

27. As per clause 4.1 of the buyer's agreement the sale consideration/sale price of Rs.26,26,000/- shall be payable as per the payment plan annexed as annexure-B, GST, service Tax, VAT, and other levies, duty if applicable shall be payable by the allottee over and above the sale consideration. Further, it was also agreed the service tax/VAT and other applicable taxes and charges of any nature whatsoever, which may be levied by the Government Authorities with prospective and retrospective effect shall be payable by the allottee over and above sale consideration mentioned herein above. The relevant clause 4.1 of the BBA is reproduce herein below: -

**ARTICLE 4**  
**SALE CONSIDERATION**

**4.1 Sale Price**

*That the allottee agrees to pay the company for the purchase of the said flat/ unit a sum of Rs.26,26,000/- admeasuring 645 sq. ft. (calculated @ Rs.4,000/- per sq. ft. of carpet area of the said unit, admeasuring 100 sq. ft. and balcony area calculated @ Rs.500/- per sq. ft. attached with the flat admeasuring ..... sq. ft.), (hereinafter referred to as "Sale Price/Sale consideration") shall be payable as per the payment plan annexed as 'Annexure 'B' (hereinafter referred as "payment plan"), G.S.T, Service tax, VAT any other levies duty if applicable shall be payable by the allottee over and above the sale consideration. EDC shall be payable as per the said*

*policy. The two-wheeler parking shall be identified and allocated by the company at the time of handing over of possession of the unit to the Allottee. The Service tax/VAT and all other applicable taxes and charges of any nature whatsoever, which may be levied by the Govt. Authority with prospective and retrospective effect shall be payable by the allottee over and above sale consideration mentioned herein above.*

28. In view of the above clause, the Authority observes that the sale consideration is exclusive of GST, Service Tax, VAT, and other levies, duty if applicable and the respondent is well within right to claim such amount as agreed between the parties and the same shall be payable by the allottee over and above the sale consideration. However, the respondent is directed to furnish the details of payment of such taxes paid to the concerned Authority. If the respondent/promoter failed to provide the details of taxes as well as applicable charges as per the law of land then the respondent shall refund the excess amount.

**F.VII** Direct the respondent to give anti-profiteering credit/input tax credit to the complainants.

**F.VIII** To restrain the respondent from demanding Labour Cess, VAT, Work Contract Tax and Power Backup charges.

29. The complainant has sought the relief with regard to direct the respondent to give anti-profiteering credit/input tax credit to the complainants and charge the GST as per rules and regulations. However, no specifications have been provided. The respondent/promoter is under obligation to adhere the provisions of HGST/CGST Act, 2017 and to pass on benefit, as applicable. In the event, the respondent/promoter has not passed the benefit of ITC to the buyers of the unit in contravention to the provisions of section 171(1) of the HGST Act, 2017. The complainant-allottee is at liberty to approach the competent authority for seeking relief in terms of applicable Act & Rules.

30. Further, the complainant has sought the relief to restrain the respondent from demanding Labour Cess, VAT, WCT and power backup charges. Although, as per record, no demand under the above said heads have been made by the respondent till date, however in clause 4.9 (iii) and (iv) of the buyer's agreement, it has been mentioned that the allottee is liable to pay separately the above-said charges as per the demands raised by the respondent. Therefore, in the interest of justice and to avoid further litigation, the Authority is deliberating its findings on the above said charges.

- **Labour Cess: -**

31. The Labour cess is levied @ 1% on the cost of construction incurred by an employer as per the provisions of sections 3(1) and 3(3) of the Building and Other Construction Workers' Welfare Cess Act, 1996 read with Notification No. S.O 2899 dated 26.9.1996. It is levied and collected on the cost of construction incurred by employers including contractors under specific conditions. Moreover, this issue has already been dealt with by the authority in complaint bearing no. 962 of 2019 titled Mr. Sumit Kumar Gupta and Anr. Vs Sepset Properties Private Limited wherein it was held that since labour cess is to be paid by the respondent, as such no labour cess should be separately charged by the respondent. The authority is of the view that the allottee is neither an employer nor a contractor and labour cess is not a tax but a fee. Thus, the allottee cannot be made liable to pay any labour cess to the respondent and it is the respondent builder who is solely responsible for the disbursement of said amount.

- **VAT (value added tax): -**

32. The promoter is entitled to charge VAT from the allottees where the same was leviable, at the applicable rate, if they have not opted for composition scheme. However, if composition scheme has been availed, no VAT is leviable. Further, the promoter shall charge actual VAT from the allottees/prospective buyers paid by the promoter to the concerned department/authority on pro-rata basis. However, the complainant would also be entitled to proof of such payments to the concerned department along with a computation proportionate to the allotted unit, before making payment under the aforesaid heads.

- **WCT (work contract tax): -**

33. The Authority is of the view that, as per the definition of term 'work contract' under Section 2(119) of the CGST Act, 2017, the allottee is neither an employer nor a contractor and the same is not applicable in the present case. Thus, the allottee cannot be made liable to pay the same to the respondent.

- **Power Backup Charges: -**

34. The issue of power back-up charges has already been clarified by the office of DTCP, Haryana vide office order dated 31.01.2024 wherein it has categorically clarified the mandatory services to be provided by the colonizer/developer in affordable group housing colonies and services for which maintenance charges can be charged from the allottees as per consumption. Accordingly, the promoter can only charge maintenance/use/utility charges from the complainant-allottees as per consumption as prescribed in category-II of the office order dated 31.01.2024

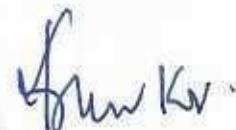
**G. Directions of the authority**

35. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoter as per the functions entrusted to the authority under section 34(f) of the Act:

- i. The respondent/promoter is directed to pay interest to the complainant(s) against the paid-up amount at the prescribed rate of 10.85% p.a. for every month of delay from the due date of possession i.e., 30.05.2022 till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
- ii. The arrears of such interest accrued from 30.05.2022 till the date of order by the authority shall be paid by the promoter to the allottee(s) within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee(s) before 10<sup>th</sup> of the subsequent month as per rule 16(2) of the rules.
- iii. The respondent/promoter shall handover possession of the flat/unit and execute conveyance deed in favour of the complainant(s) in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.
- iv. The complainant(s) are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- v. The respondent/promoter shall not charge anything from the complainant(s) which is not the part of the Affordable Housing Policy, 2013 as well as buyer's agreement.

- vi. The rate of interest chargeable from the allottee(s) by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee(s), in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
- 1. Complaint as well as applications, if any, stand disposed off accordingly.
- 2. Files be consigned to registry.

Dated: 31.10.2025



**Arun Kumar**

**Chairman**

Haryana Real Estate Regulatory  
Authority, Gurugram