

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

CM No. 1706 of 2025 in/and

Appeal No. 220 of 2025

Date of Decision: January 19,2026

Wonder City Buildcon Pvt. Ltd., Godrej One, 5th Floor,
Pirojshanagar, Eastern Express Highwaay, Vikhroli (East),
Mumbai-400079

Appellant.

Versus

1. Mr. Sangram Keshari Sarangi
2. Mrs. Rashmibala Sarangi
3. Ms. Alaysha Sarangi (minor through her father D/o Mr.
Sangram Keshari Sarangi
All R/o Near Bhagyashree Hotel, Behind Suzlon One Earth, Flat
No. A-401, 4th Floor, Tube Nagar, Madhav Bagh, Hadapsar, Pune
City, Maharashtra-411028

Respondents

Present: Mr. Shiwas Bajaj, Advocate for
Mr. Rohan Malik, Advocate for the appellant.

CORAM:

**Justice Rajan Gupta
Dr. Virender Parshad
Dinesh Singh Chauhan**

**Chairman
Member (Judicial)
Member (Technical)**

ORDER:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated
08.08.2024, passed by the Authority¹. Operative part thereof
reads as under:

“H. Directions of the authority

*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):*

¹ Haryana Real Estate Regulatory Authority, Gurugram

i. The respondent is directed to refund the paid-up amount to the complainants i.e. Rs.32,95,417/- after deducting 10% of the sale consideration being earnest money along with interest at the rate of 11% on such balance amount from the date cancellation letter dated 29.06.2018 till its realization.

ii. 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 the registry.”

2. Admittedly, the appeal was not accompanied with pre-deposit required to be made along with appeal in view of proviso to Section 43(5) of the Act². The appellant moved an application (CM No. 1706 of 2025) alleging that the total amount deposited has been computed after deduction of TDS.

3. Vide order dated 05.01.2026, a report was sought from the Registry on the issue of pre-deposit.

4. As per report from OSD(J), appellant-promoter is required to deposit Rs.29,22,809/-.

5. We have heard learned counsel for the appellant and perused the record.

6. The promoter is posing a challenge to the order, whereby various directions have been issued to the promoter. Pre-deposit has been calculated by the Registry accordingly. It needs to be kept in mind that the party who is aggrieved by the order has to make the pre-deposit. In the instant case, only the

² The Real Estate (Regulation and Development) Act, 2016

promoter has preferred the appeal. Thus, the mandatory provision of pre-deposit has to be complied with.

7. For the purpose of computing pre-deposit, the liability fixed by the Authority in operative part of its order is to be taken into consideration. Registry has calculated the amount accordingly.

8. We find no error in the report dated 13.01.2026 submitted by OSD(J). operative part whereof is reproduced hereunder:

“Learned counsel for the appellant has filed an application contending that the total amount deposited has been computed after deduction of applicable TDS and the appellant has deducted TDS of Rs.1,27,132/-. It appears that the appellant promoter has made this calculation of interest after deducting 10% of the sale consideration.

In this regard, it is submitted that the appellant has preferred this appeal challenging the order of authority, which is subject matter of the adjudication in present appeal. In my view the Registry cannot pre-adjudicate the issue and calculate the interest after deducting 10% amount from the refundable amount.

Therefore, in my view, the amount calculated by the Registry as pre-deposit is correct and there is deficit of Rs.29,22,809/- towards pre-deposit.”

9. An appeal, which is not accompanied with pre-deposit deserves outright dismissal. Challenge on the ground that the order is unsustainable can only be considered if the appeal is found to be maintainable.

10. In view of law laid down in **M/s Newtech Promoters and Developers Pvt. Ltd. v. State of UP, 2022(1) RCR (Civil)**

367, it is not possible to entertain an appeal which is not accompanied by requisite pre-deposit. There is no provision for waiver or exemption thereof. Relevant paragraphs of the judgment are reproduced hereunder for ready reference:

“122. It may straightaway be noticed that Section 43(5) of the Act envisages the filing of an appeal before the appellate tribunal against the order of an authority or the adjudicating officer by any person aggrieved and where the promoter intends to appeal against an order of authority or adjudicating officer against imposition of penalty, the promoter has to deposit at least 30 per cent of the penalty amount or such higher amount as may be directed by the appellate tribunal. Where the appeal is against any other order which involves the return of the amount to the allottee, the promoter is under obligation to deposit with the appellate tribunal the total amount to be paid to the allottee, which includes interest and compensation imposed on him, or with both, as the case may be, before the appeal is to be instituted.”

123. The plea advanced by the learned counsel for the appellants is that substantive right of appeal against an order of authority/adjudicating officer cannot remain dependent on fulfilment of pre-deposit which is otherwise onerous on the builders alone and only the builders/promoters who are in appeal are required to make the pre-deposit to get the appeal entertained by the Appellate Tribunal is discriminatory amongst the stakeholders as defined under the provisions of the Act.

xxxx xxxx

125. The submission in the first blush appears to be attractive but is not sustainable in law for the reason that a perusal of scheme of the Act makes it clear that the limited rights and duties are provided on the shoulders of the allottees under Section 19 of the Act

at a given time, several onerous duties and obligations have been imposed on the promoters i.e. registration, duties of promoters, obligations of promoters, adherence to sanctioned plans, insurance of real estate, payment of penalty, interest and compensation, etc. under Chapters III and VIII of the Act 2016. This classification between consumers and promoters is based upon the intelligible differentia between the rights, duties and obligations cast upon the allottees/home buyers and the promoters and is in furtherance of the object and purpose of the Act to protect the interest of the consumers vis-a-viz., the promoters in the real estate sector. The promoters and allottees are distinctly identifiable, separate class of persons having been differently and separately dealt with under the various provisions of the Act.”

11. In view of the above, it is evident that there is no scope for hearing the appeal on merits, as the same is not maintainable due to lack of pre-deposit. The same is hereby dismissed with no order as to costs.

12. It is not clear why the appellant deposited an amount of Rs.28,53,470/- while filing the appeal. Said amount is much below the pre-deposit calculated by the Registry. In any case, same cannot be retained by the Tribunal. Same may thus be remitted to the Authority, along with interest accrued thereon, for disbursement to the parties after culmination of the execution proceedings as per their entitlement, subject to tax liability, if any.

13. Copy of this order be sent to the parties/counsel for the parties and the Authority.

14. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

January 19, 2026
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