

CM No 1956 of 2025 in
Appeal No. 374 of 2024

M/s Ireo Grace Realtech Pvt. Ltd. v. Anish Makker & another

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Present: Mr. Samarth Sagar, Mr. R. S. Khaira,
Mr. Rajeev K. Khare, Mr. Yashvir Singh Balhara,
Mr. N. S. Ghuman, Mr. Harsh Sharma, Mr. Alankar
Narula, Mr. Deepak Kumar Khushlani Advocates
for the appellant.

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Vide order dated 29.01.2025, application seeking waiver from making pre-deposit was dismissed. Consequently, the appeal also met the same fate.

2. An application (CM No. 1956 of 2025) has been moved for revival of the appeal as pre-deposit has been made.

3. In another case (Appeal No. 174 of 2024), the appellant filed appeal (RERA Appeal No. 11 of 2025) before the Hon'ble High Court, wherein the case was remanded with following directions:

“i) The appellant would deposit the demand draft of an amount of Rs.3,81,77,001/- with the Registry of the Appellate Tribunal in accordance with the procedure of the Appellate Tribunal within a period of one week from today.

ii) The impugned order dated 03.02.2025 is set aside qua Appeal No. 174 of 2024 and the Haryana Real Estate Appellate Tribunal is requested to decide the appeal No. 174 of 2024 afresh. It would be open to the respondent to raise the objection with respect to inadequacy of pre-deposit under Section 43(5) of the RERA Act before the Appellate Tribunal in accordance with law.

iii) It is made clear that this Court has not opined on the merits of the case or on the exact amount of pre-deposit and it would be open to both the parties to raise all the pleas available to them before the Appellate Tribunal, in accordance with law.”

4. In the present appeal, however, application has been directly moved before this Bench for revival of the appeal which was dismissed vide order dated 29.01.2025. Reliance has been placed on the judgment of Punjab and Haryana High Court in CUSAP No. 12 of 2022— ***Commissioner of Customs, Ludhiana v. Royal Industries Ltd.***, decided on 20.09.2024.

5. In our considered view, the aforesaid judgment is not applicable as proceedings before this Tribunal are covered by a special enactment i.e. The Real Estate (Regulation and Development) Act, 2016. The issue of pre-deposit has been considered by the Supreme Court in ***M/s Newtech Promoters and Developers Pvt. Ltd. v. State of UP, 2022(1) RCR (Civil) 367***. Paragraph 122 thereof is 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, if any, or with both, as the case may be, before the appeal is to be instituted.”

6. From a perusal of above, it is clear that there is a complete bar in entertaining the appeal in view of proviso to Section 43(5) of the Act. After dismissal of appeal vide order dated 29.01.2025, this Bench would be rendered *functus officio*. Being aware of this provision, the promoter, namely, M/s Ireo Grace Realtech Pvt. Ltd., challenged the order passed by this Tribunal before the Hon'ble High Court in RERA Appeal No. 11 of 2025, wherein remand order has been passed.

7. In these circumstances, possibility of revival of the appeal is ruled out. The application is, thus, dismissed.

8. The appellant is at liberty to move an application for withdrawal of the amount remitted by it in lieu of pre-deposit.

Justice Rajan Gupta
Chairman,
Haryana Real Estate Appellate Tribunal

Dr.Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

April 06 ,2026
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