

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

CM No. 1713 of 2026 in/and

Appeal No. 1132 of 2025

Date of Decision: October 09,2026

1. M/s Mascot Buildcon Pvt. Ltd.

2. M/s Hometown Properties Pvt. Ltd.

Both R/o 294/1, Vishakarma Colony, Opp ICD, M.B. Road,
Lal Kuan, New Delhi-110044

Appellants

Versus

Mukesh Yadav, R/o House No. 600, VPO: Rajokri, New Delhi-
110038

Respondent

CORAM:

Justice Rajan Gupta

Chairman

Dinesh Singh Chauhan

Member (Technical)

Present: Mr. Yashpal Sharma,
Advocate for the appellants.

O R D E R:

RAJAN GUPTA, CHAIRMAN

In the accompanying appeal, challenge has been
made to order dated 06.08.2025 passed by the Authority¹.

Operative part thereof reads as under:

“H. Directions of the Authority:

*27. 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. Cancellation dated 11.01.2024 is bad in eyes of law and hence set-aside and the respondents are directed to reinstate the unit of the complainant within 30 days of this order.

ii. The respondents are directed to pay the assured return at the rate i.e. Rs.72,003/- per month as per agreed terms of MOU dated 12.08.2013 per month from the date of execution of MOU i.e. 12.08.2013 till offer of possession i.e. 08.11.2023.

iii. The respondents are directed to pay arrears accrued regarding assured return as per MOU dated 12.08.2013 till date at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any, from the complainant and failing which that amount would be payable with interest @ 9.10% p.a. till the date of actual realization.

iv. The complainant is directed to pay outstanding dues, if any remains after adjustment of payable assured returns and thereafter the respondents shall handover the possession of the allotted unit to the complainant.

28. Complaint stands disposed of.

29. File be consigned to registry.”

2. The appeal is accompanied with an application (CM No. 1713 of 2026) seeking exemption from pre-deposit.

3. As per report from the Registry, the appellants were required to make pre-deposit of Rs. 88,49,169/-.

4. Vide order dated 27.07.2026, report of OSD (J) was sought. As per his report, the appellants are required to deposit Rs.88,49,169/-.

5. Counsel for the appellant-promoters contended that amount of assured returns paid by them to the respondent-

allottee has not been taken into consideration while calculating the pre-deposit. Thus, the appellants are not required to make pre-deposit.

6. The promoter is posing a challenge to the order, whereby it has been directed to pay assured return at the rate of Rs.72,003/- per month as per agreed terms of MOU dated 12.08.2013 per month from the date of execution of MOU i.e. 12.08.2013 till offer of possession i.e. 08.11.2023.

7. The plea regarding adjustment of assured returns is mis-conceived, as these are only in the nature of commercial transactions between the parties. On payment thereof, they vest in the allottee.

8. Pre-deposit has been calculated by the Registry accordingly. While computing the pre-deposit, the Registry cannot be expected to embark on cumbersome exercise of calculation on the basis of stand taken by the appellant in the appeal. The Registry has, thus, committed no error in calculating 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 of pre-deposit. 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. Thus, we find no substance in the application. The issue raised in the application will ultimately depend on the final outcome of the appeal. However, interest of the allottee has to be secured in view of judgment in **M/s Newtech Promoters and Developers Pvt. Ltd's case** (supra). For this reason, pre-deposit has to be made as calculated by the Registry. It also needs to be mentioned here that pre-deposit is kept in approved bank in fixed deposit; draws admissible rate of interest and is disbursed as per entitlement of the parties on final decision of the appeal. Thus, no prejudice is likely to be caused to either party.

12. In view of 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 application is, thus, dismissed. Consequently, the appeal is also dismissed.

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

CM No. 1713 of 2026 in/and
Appeal No. 1132 of 2025

14. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

October 09,2026/mk