

**M/s Athena Infrastructure Ltd.**  
**Vs.**  
**M/s N.B. Constructions Pvt. Ltd.**  
**Appeal No.178 of 2020**

Present: Shri Ajiteshwar Singh, Advocate, Ld. Counsel for the appellant.

[The aforesaid presence is being recorded through WhatsApp Video Conferencing since the proceedings are being conducted in virtual court.]

Vide our last order dated 11.08.2020, the appellant/promoter was directed to deposit the requisite amount to comply with the provisions of proviso to section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act'), on or before 07.09.2020. But as per the report of the office and the fact not disputed by the appellant, no amount has been so far deposited by the appellant with this Tribunal to comply with the aforesaid provisions.

It is settled principle of law that the provisions of proviso to section 43(5) of the Act are mandatory. It is a condition precedent for entertainment of the appeal filed by the promoter to deposit the requisite amount. In the instant case, the appellant/promoter has not complied with the mandatory provisions of proviso to section 43(5) of the Act inspite of sufficient opportunity. Consequently, the present appeal cannot be entertained and the same is hereby dismissed.

File be consigned to records.

Justice Darshan Singh (Retd.)  
Chairman,  
Haryana Real Estate Appellate Tribunal,  
Chandigarh

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)

September 08<sup>th</sup>, 2020

CL