



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1568 OF 2019

Kamal Goyal

....COMPLAINANT(S)

VERSUS

Pivotal Infrastructure Pvt Ltd

....RESPONDENT(S)

CORAM:

**Rajan Gupta
Anil Kumar panwar
Dilbag Singh Sihag**

**Chairman
Member
Member**

Date of Hearing: 30.11.2021

Hearing: 13th

Present through video conference: -

Mr. Denson Joseph, Advocate
Counsel for Complainant

None for the respondent

ORDER: (RAJAN GUPTA-CHAIRMAN)

1. Present complaint was disposed of by the Authority on 23.12.2020 directing respondent to hand over possession to the complainant along with delay interest. This case is relisted for hearing because the respondent has filed appeal against above said order. For the purpose of

adjudging the amount to be deposited by the respondent/promoter per requirement of Section 43(5) of the RERA Act, 2016, Hon'ble Appellate Tribunal vide its order dated 25.10.2021 passed in Appeal Case No. 88 of 2021 has directed the promoter to move an application before this Authority and the promoter has already filed the said application.

2. The Authority in the order against which appeal was filed before Hon'ble Appellate Tribunal, has adjudged the amount of delay interest payable to the allottee complainant but while doing so, has not adjusted the amount payable by complainant to the promoter and the said amount now needs to be adjudged for determination of the amount which the promoter is required to deposit under Section 43(5) of the Act. Regarding this, a detailed order was passed in the previous hearing, operative part of which is reproduced below for ready refence:

3. After hearing the parties, the Authority finds that the demand raised by the promoter for ₹15000/- in the form of legal administrative charges, the demand of ₹2,34,892/- raised as interest on account of delayed payment of instalments and the demand of ₹4,49,212/- raised on account of holding charges since December, 2017 were adjudged vide Authority's order dated 22.09.2020 as unjustified and are liable to be quashed. So, the total amount of all these demands, which works out to ₹6,99,104/- (₹15,000+₹2,34,892+ ₹4,49,212/-), are not payable by the complainant to the promoter.

However, this Authority vide order dated 22.09.2020 has not yet declared the amount of ₹86,094/- being charged as taxes; ₹70,380.62/- as VAT and ₹15,713.64/- as other taxes and amount of ₹17,500/- being demanded for electricity meter as unjustified and had neither directed the respondent to furnish the detailed

calculations for justifying these charges. The respondent has not furnished the justification and calculations of ₹86,094/- and ₹17,500/-. The respondent can be allowed to make adjustment of the amounts of the aforementioned charges of ₹86,094/- and ₹17,500/- against the amount of delay interest which the Authority had adjudged payable to the complainant only if he furnishes the justification and calculations of these amounts.

The respondent is, therefore, directed to furnish the detailed justification and calculations of the aforesaid amounts at least 15 days prior to the next date of hearing and supply its copy to the complainant in advance. The complainant will be at liberty to file his response and counter submissions and calculations in respect of the aforesaid two amounts.

4. Case is adjourned to 30.11.2021.

3. Further, it is observed that the demand of ₹58,323/- on account of interest was also declared as an unjustified demand and quashed by the order's dated 23.12.2020 passed by the Authority.

4. Now surviving questions are regarding the demands of ₹1,03,593/- being charged as VAT ₹70,380.62/-; as other taxes ₹15,713.64/- and meter charges of ₹17,500/-.

5. None present on behalf of respondent. However, the respondent has today sent an email to place on record details of calculation of tax amounts along with cost of electricity. On perusal of the same, it is observed that the said amounts are liable to be paid by the complainant as per laws. Therefore, the amount of ₹1,03,593/- as detailed above is payable by the complainant.

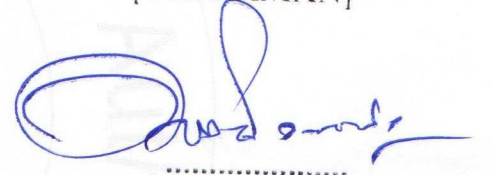


6. On the basis of above calculations, it is made out that total amount recoverable by the respondent from the complainant works out to ₹4,07,943/- and total amount payable to the complainant is ₹7,49,943/-. After adjustment of delay interest from the amount payable to the respondent, an amount of ₹3,41,380/- becomes payable by the respondent to the complainant.

7. Accordingly, case is disposed of in compliance of the orders dated 25.10.2021 passed by Hon'ble Appellate Tribunal.



RAJAN GUPTA
[CHAIRMAN]



ANIL KUMAR PANWAR
[MEMBER]



DILBAG SINGH SIHAG
[MEMBER]