

**BEFORE THE HARYANA REAL ESTATE REGULATORY  
AUTHORITY, GURUGRAM**

<b>Complaint no. :</b>	<b>2763 of 2021</b>
<b>Date of filing complaint:</b>	<b>26.07.2021</b>
<b>First date of hearing:</b>	<b>09.09.2021</b>
<b>Date of decision :</b>	<b>25.01.2022</b>

Ram Avtar Nijhawan Both R/o: H. No E-50, Bali Nagar, New Delhi	<b>Complainant</b>
Versus	
M/s Neo Developers Private Limited R/o: 1205,12 <sup>th</sup> floor, Tower B, Signature Tower, South City 1, NH 8 Gurugram	<b>Respondent</b>

<b>CORAM:</b>	
Dr. KK Khandelwal	<b>Chairman</b>
Shri Vijay Kumar Goyal	<b>Member</b>
<b>APPEARANCE:</b>	
Sh. Sandeep Chaudhary (Advocate)	Complainant
Sh. Venket Rao (Advocate)	Respondent

**ORDER**

1. The present complaint has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the rules and regulations made there under or to the allottee as per the agreement for sale executed inter se.

**A. Unit and project related details**

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession and delay period, if any, have been detailed in the following tabular form:

S.No.	Heads	Information
1.	Project name and location	"Neo Square", Sector 109, Gurugram
2.	Project area	2.71 acres
3.	Nature of the project	Commercial project
4.	DTCP license no. and validity status	102 of 2008 dated 15.05.2008 and valid up to 14.05.2022
5.	Name of licensee	Shrimaya Buildcon Pvt. Ltd., Kavita and 3 others
6.	RERA Registered/ not registered	<b>Registered</b>
	RERA Registration valid up to	<b>vide registration no. 109 of 2017 dated 24.08.2017</b> <b>23.08.2021</b>
7.	Unit no.	84, Ground floor, Tower A [Page 25 of the complaint]
8.	Unit measuring (super area)	685 sq. ft. [Page 25 of the complaint]
9.	Date of allotment letter	20.06.2012 [Page 21 of the complaint]
10.	Date of execution of builder buyer agreement	12.02.2013 [Page 23 of the complaint]
11.	Date of start of construction of the project	15.12.2015 On start of 3 <sup>rd</sup> basement roof [As per ledger account at page 46 of the complaint]



12.	Total sale consideration	Rs.66,70,198/- [Page 44 of the complaint]
13.	Total amount paid by the complainant	Rs.66,42,959/- [As per ledger account at page 46 of the complaint]
14.	Payment plan	Construction linked payment plan
15.	Due date of delivery of possession	<b>15.06.2019</b> As per clause 5.2 & 5.4- 36 months from the execution of the buyer's agreement or from the start of construction whichever is later + 6 months grace period is allowed
16.	Offer of possession	Not offered
17.	Occupation Certificate	Not Obtained

**B. Facts of the complaint:**

3. The complainant was allotted unit no. 84 admeasuring 571 sq. ft. in the said project vide allotment letter dated 20.06.2012. That thereafter a buyer's agreement dated 12.02.2013 was executed between the parties wherein unit no. 84 on the ground floor of the said project named "Neo Square", at Sector 109, admeasuring 682 sq ft of super area for a basic sale consideration @ Rs. 7000/- per sq ft amounting to Rs. 47,94,000/- and upon payment of Rs. 14,82,950/-, pertinent to note that the selling of the units on super area is throughout been deprecated and is condemnable.
4. That at the time of the said agreement dated 12.02.2013, the construction of the project had started, and the complainant was shown the process of digging of basement to be in place. And also, in the agreement vide para 5.2 the respondent themselves got noted that the project shall be complete within 36 months from the date of the agreement or from the date of start of construction.

5. That as per the payment schedule – Annexure 1 annexed to the said buyer's agreement the total price was agreed to be Rs. 66,70,198/- which was to be payable as per the stage of the construction.
6. That the complainant in all its readiness and willingness kept paying the payments as and when demanded by the respondent, however the respondent illegally and dishonestly kept the pace of construction slow and diverted the payments received for the project into their other avenues thereby misappropriating the money of the bona fide customers and the respondent demanded the third instalment due on start of 3rd basement roof only on 15.12.2015.
7. That since then the respondent had deliberately been very slow in developing the said project and till date also the project is not complete whereas the complainant had been paying the due amount with the hope of having his property as and when called by the respondent and not having any much bargaining power against the superior position and economic might of the respondent and as on 1.09.2018 the complainant had paid an amount of Rs. 66,42,959.56/- as per the ledger account statement of the respondent and only 3,598.44/- was due against the complainant as on 1.09.2018 but the construction of the project was still not complete. The said amount of Rs. 3598.44/- was also due only against the TDS and nothing else.
8. That on failure of the respondent in not completing the project the complainant was constrained to file a complaint bearing No. 1328 of 2019 before the Hon'ble Real Estate Authority, Gurugram

wherein vide judgement dated 5.09.2019 the Hon'ble Authority awarded interest on delay in possession @ 10.45%, however, the Hon'ble Authority was somehow misled by the respondent in believing the start of construction was from 15.12.2015 whereas on 15.12.2015 the respondent had completed the construction upto the 3rd basement roof which means the digging, basement slab and walls of the 3rd basement were complete on 15.12.2015 and the date of start of construction was not 15.12.2015. However, the Hon'ble Authority so misled awarded on the delayed interest for delay in possession w.e.f. 15.12.2015 instead from 12.02.2013. But the respondent did not comply that judgement of the Hon'ble Authority as well.

9. That being so victimized, a criminal case bearing FIR No. 165 dated 15.12.2020 u/s 406/420, 120B IPC was filed at the behest of the complainant against the respondent. Also, the complainant got instituted a consumer complaint bearing No. CC/53/2020 before Hon'ble State Consumer Disputes Redressal Commission, New Delhi for direction of possession and compensation. However, now the respondent has further acting illegally and hence the complainant is constrained to file the present fresh complaint as well.
10. That to further misery of the complainant the respondent in spite of the said order of interest for the delay in possession, and not completing the project and offering possession, started making wrongful demands. And vide payment request letter dated 25.10.2020 called the complainant to make a payment of Rs. 10,13,936/- which included a wrongful and untenable amount of

Rs. 4,75,380/- as VAT, Rs. 1,57,163/- as interest, Rs. 3,18,499/- as BSP and Rs. 62,894/- as ST/GST and claiming a highly unfair amount of 18% rate of interest if the said amount is not paid.

11. That the complainant duly objected to the said demands by filing of the reply dated 2.11.2020. The said payments were against the record, neither had the complainant defaulted to that extent nor did the respondent bring any such demand of VAT or interest ever before. Further the last instalment of BSP was to be made on the offer of possession for which the complainant sought the occupation or completion certificate but to no avail and the site visit also did not show that the project is anywhere close to be offered for possession. Pertinent to note that it is highly unconscionable that there would be a standalone VAT charge, because the VAT always has to be on the value addition and cannot be a standalone charge. Such tax was always part of all the other payments and therefore, the demand of such an exaggerated figure is highly unreasonable and unethical and is wrongful.
12. That on failure of the respondent in paying the amount of interest on delayed payment so allowed by the Hon'ble Authority vide judgement dated 5.09.2019, the complainant preferred an application for execution of the said judgement wherein the Hon'ble Authority vide its Order dated 5.03.2021 disposed off the said application directing the respondent to provide the credit of the interest to the complainant and a statement of account be sent to the complainant and that the ledger of the complainant's account having proof of crediting decretal amount be submitted in the registry. Further liberty was provided to the complainant to

approach the Hon'ble Authority by way of fresh complaint if it has any objection to the demands raised by the respondent.

13. That despite clear directions by the Hon'ble Authority, the respondent neither provided a statement of account nor offered the possession and the complainant was again constrained to write the letter dated 9.03.2021 asking for the statement of account upon crediting the due decretal amount. But to no avail and the complainant was constrained to file an application dated 25.03.2021 for restoration of the execution application, however, the said application has been disposed off with the direction to file a fresh complaint.
14. That on the other hand the respondent, to arm-twist the complainant vide letter dated 7.06.2021 gave a final notice demanding an amount of Rs. 11,15,106/- to be paid by 21.06.2021 failing which the allotment shall be treated as cancelled. The said letter dated 7.06.2021 was duly replied by the complainant on 17.06.2021 vide email as well as by post and the demand so raised was objected to and the respondent was again called to provide delay possession interest, occupation/completion certificate and to recall the letter dated 7.06.2021.
15. That the respondent was under an obligation to construct the project and offer the possession of the allotted unit to the complainant latest by 12.02.2016 i.e. 36 months from the date of agreement failing which the respondent is liable to pay the interest on delayed possession and is not entitled to any other extra charges apart from the ones agreed & permissible and the rate of Rs. 7,000/- per sq. ft of carpet area actually being sold and

conveyed and all extra demands of VAT and interest as claimed vide payment request letter dated 25.10.2020 and the letter dated 7.06.2021, being baseless and untenable are liable to be set aside.

**C. Relief sought by the complainant:**

16. The complainant has sought following relief(s):

- i. Direct the respondent to complete the construction of the project and to deliver physical possession, transfer and convey the Unit No. 84, on the Ground Floor of the said project named "Neo Square", at Sector 109, by execution of a conveyance deed against the total sale consideration to be calculated at the rate of Rs. 7,000/- per sq. ft of the actual carpet area along with applicable charges only and upon receipt of the balance sale consideration as reduced by the amount paid,
- ii. Direct the respondent to withdrawal of demand letters dated 25.10.2020 and 07.06.2021 and the claimed amount of VAT and interest etc. being untenable,
- iii. Direct the respondent to pay the delayed possession charges as per provisions of Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 for the entire period of delay i.e. from 12.02.2016 till availing the completion certificate of the project,

**D. Reply by respondent**

17. That the present complaint is an utter abuse of the process of law as a similar matter on the same cause of action has duly been considered judicially in complaint no. 1328 of 2019 by this



learned authority and have been disposed of vide order dated 05.09.2019.

18. That it is pertinent to note that the parties are bound by the principle of *res judicata* as it seeks to promote fair administration of justice and honesty and to prevent the law from abuse. The principle of *res judicata* applies when a litigant attempt to file a subsequent lawsuit on the same matter, after having received a judgment in a previous case involving the same parties and on the same cause of action. Section 11 of Code of Civil Procedure deals with this concept. It embodies the doctrine of Res Judicata or the rule of conclusiveness of a judgement, as to the points decided either of fact, or of law, or of fact and law, in every subsequent suit between the same parties. It enacts that once a matter is finally decided by a competent court; no party can be permitted to reopen it in a subsequent litigation. In the absence of such a rule there will be no end to litigation and the parties would be put to constant trouble, harassment and expenses.
19. In the instant case, the complainant had already filed a complaint vide complaint bearing no. 1328 of 2019 wherein the complainant sought relief for interest @ 24 % on total payment made by the complainant and to handover possession of the unit bearing no. 84 admeasuring 685 sq. ft. in the project "NEO Square" of the respondent. The said complaint was disposed off vide order dated 05.09.2019 wherein the Learned Authority directed the following:
- a. *The respondent is directed to pay interest at the prescribed rate of 10.45 % per annum on the amount deposited by the Complainant with the promoter from the **due date of possession i.e. 15.06.2019** till the actual delivery of possession.*



- b. *The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order and thereafter monthly payment of interest till offer of possession shall be paid before 10th of subsequent month.*
  - c. *The complainant shall pay the outstanding dues if any, after adjustment of interest for delayed period.*
  - d. *The promoter shall not charge anything from the complainant which is not a part of the buyer agreement.*
  - e. *Interest on the due payments from the complainant shall be charged at the prescribed rate of interest i.e. 10.45% by the promoter which is the same as being granted to the complainant in case of delayed possession.*
20. That the complainant with a malafide intention are filing a subsequent complaint regarding the same unit and seeking the following reliefs:

**Main Relief as Prayed:**

- a. *Direction for completion of construction of the project and to deliver physical possession, transfer and convey the unit no. 84 on the Ground Floor of the said project named "Neo Square", at Sector 109, by execution of a conveyance deed against the total sale consideration to be calculated at the rate of Rs. 7,000/- per sq ft of the actual carpet area along with applicable charges only and upon receipt of the balance sale consideration as reduced by the amount paid,*
  - b. *Direction for withdrawal of demand letters dated 25.10.2020 and 07.06.2021 and the claimed amount of VAT and interest etc. being untenable,*
  - c. *Direction to pay the delayed possession charges as per the provisions of Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 for the entire of delay i.e. from 12.02.2016 till availing the Completion Certificate of the Project,*
  - d. *Any further or other order as the Hon'ble Court deems fit and proper in the light of the facts of the case and interest of justice may also be passed in favour of the complainants and against the respondent.*
21. It is humbly submitted that in the present complaint the complainant is seeking delay possession charges from 15.02.2016. However, in order dated 05.09.2019 passed in complaint no. 1328 of 2019 for the same unit, the Learned Authority after due consideration of all facts and arguments has already adjudicated

on the due date of possession and allowed delay penalty charges accordingly. The Learned Authority has adjudicated the due date of possession to be 15.06.2019. Therefore, the complainant has filed this present complaint with an ulterior motive only to mislead the Learned Authority.

22. It is further submitted that the complainant had also subsequently filed an execution petition for the execution of the order dated 05.09.2019 passed in complaint No. 1328 of 2019. That the said execution petition has also been duly heard and adjudicated by the Learned Authority and was disposed off vide a detailed order dated 05.03.2021.
23. Therefore, it is humbly submitted that a perusal of the reliefs sought by the complainant in the present complaint, amply clears the fact that the said reliefs has been adjudicated by the Learned Authority and has attained finality and now at this stage cannot file a similar complaint as there will be no end to litigation and the parties would be put to constant trouble, harassment and expenses. Therefore, it is clear that the present complaint has been filed with a malafide intention as the Learned Authority has already adjudicated upon the said cause of action and therefore, the respondent should not be vexed twice for the same cause of action again. Hence, the present matter is badly hit by the principle of res-judicata.
24. That the *de novo* complaint filed by the complainant is between *same parties*, the *matter in issue* is identical and furthermore, it is pertinent to mention that even *cause title* is same as well as the matter is filed again in the same Learned Authority, Gurugram.

25. Order II Rule II of the Code of Civil Procedure Code is based on the principle that the respondent should not be twice vexed for one and the same cause. The rule is directed against two evils, the splitting of claims and the splitting of remedies. It provides if a complainant omits any portion of the claim to make in respect of the cause of action, then he will not be entitled to sue for the portion of the claim or the relief so omitted. Therefore, the respondent cannot be vexed twice by two separate complaints in respect of the same cause of action.
26. It is further submitted that vide order dated 05.09.2019 the Ld. Authority has already decided on the reliefs sought and has adjudicated the due date of possession to be 15.06.2019. If the Ld. Authority again adjudicated the same, it would amount to review of its earlier order. It is pertinent to note that there is no provision of review under the RERA Act, 2016.
27. That the order dated 05.09.2019 is passed after due consideration of the pleadings of the parties. The complainant, if aggrieved, ought to have challenged the same by filing an appeal before the Real Estate Appellate Tribunal in accordance with the provisions of Section 44 of the Act.
28. That the complainant is a litigant person, who had filed complaint against the respondent before the different forums in order to gain illegitimate monetary benefits from the respondent.
29. That the complainant had filed a false and frivolous criminal case bearing FIR No. 156 dated 15.12.2020 under Section 406, 420, 120 IPC against the respondent. And further the complainant has

also filed a complaint before the Hon'ble State Consumer Dispute Redressal Commission, New Delhi for direction of possession and compensation. That the complainant is doing forum shopping and is trying to put pressure on the respondent by filling complainant against the respondent before the various forums and it is pertinent to mention that complainant is seeking same relief in all the cases filed against the respondent.

30. That the present complaint shall be considered barred by law because of the sheer abuse of process of law and is barred by the principle of Res-judicata.
31. That the additional reliefs as claimed by the complainant in the instant complaint No. 2763 of 2021 should have been raised in the previous complaint [No. 1328 of 2019] itself. That having failed to raise an available relief, it shall be held that the same is barred by the *res judicata* while filing another complaint on the same cause of action.
32. That it is pertinent to note here that despite the best efforts by the respondent to hand over timely possession of the said apartment booked by the complainant herein, the respondent could not do so due to reasons and circumstances beyond the control of respondent. It was only on account of the following reasons/circumstances which were beyond the control of the respondent that the project got delayed:
  - A. **Delay in Payments by many Customers:** The most important factor in the delay of the project is that customers who didn't make timely payments which lead to the



squeezing of the working capital of the respondent. As a customer centric company, the respondent did not cancel the allotments even though there has been delay as well as non-payment by the customers but today these very customers are threatening/are filing fictitious litigation against the respondent for delay in possession. It is pertinent to note that the complainant had also defaulted in making timely payments.

- B. NGT Order:** The respondent stopped its development activities in compliance with the National Green Tribunal (NGT) order to stop construction in November 2016 due to emission of dust. The NGT orders simply ordered to stop the construction activities as the pollution levels were unprecedented took time of a month or so.
- C. Goods and Services Act, 2017:** It is submitted that the project of the respondent got slightly delayed due to reasons beyond the control of the respondent like the impact of Good and Services Act, 2017 [hereinafter referred to as 'GST'] which came into force after the effect of demonetisation in last quarter of 2016 which stretches its adverse effect in various industrial, construction, business area even in 2019. That it is precluded that respondent also has to undergo huge obstacle due to effect of demonetization and implementation of the GST.
- D. Demonetization of Rs. 500 and Rs. 1000 currency notes:** The Real Estate Industry is dependent on un-skilled/semi-skilled unregulated seasonal casual labour for all its



development activities. The respondent awards its contracts to contractors who further hire daily labour depending on their need. On 8th November 2016, the Government of India demonetized the currency notes of Rs. 500 and Rs. 1000 with immediate effect. Resulting into an unprecedented chaos which cannot be wished away by putting blame on respondent. Suddenly there was crunch of funds for the material and labour. The labour preferred to return to their native villages. The whole scenario slowly moved towards normalcy, but development was delayed by at least 4-5 months.

33. That as per the directions of the Ld. Authority, the respondent raised demands on the complainant towards pending dues of the allotted unit. That the complainant had failed to pay the dues despite repeated payment reminders being sent by the respondent from time to time. That when the complainant did not made payments of the outstanding balance amounts the respondent was left with no option but to send a Notice dated 07.06.2021 giving a final opportunity to pay the outstanding dues, failing which the allotment of the complainant shall be treated as cancelled.
34. That as per clause 5.2 of the agreement dated 12.02.2013 the respondent is entitled to complete the construction of the complex within 36 months from the start of the construction and as per clause 5.4 of the said agreement an additional grace period of 6 months is also provided to the respondent.

*Clause 5.2: "That the Company shall complete the construction of the said building/complex, within which the said space is located within 36 months from the date of execution of this Agreement or from the start of construction, whichever is late..."*

*Clause 5.4: "That the Allottee hereby also grants an additional period of 6 (six) months after the Completion Date as grace period to the Company after the expiry of the aforesaid period."*

That the agreement was executed on 12.02.2013 and the construction of the project started in the month of December 2015.

35. It is submitted that in this instant project the respondent has already applied for the grant of occupation certificate on 29.06.2021. That the respondent is waiting for the Government authorities to grant the occupation certificate for the project, and it is specifically mentioned that the delay on part of the Government Authorities in granting the occupation certificate does not amount to delay on part of the respondent.
36. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

**E. Jurisdiction of the authority:**

37. The plea of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E. I Territorial jurisdiction**



As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

## **E. II Subject matter jurisdiction**

Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

### **Section 11(4)(a)**

*Be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;*

### **Section 34-Functions of the Authority:**

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

## **F. Findings regarding relief sought by the complainant:**

- F.1 Direct the respondent to complete the construction of the project and to deliver physical possession, transfer and convey the Unit No. 87, on the Ground Floor of the said project named "Neo Square", at Sector 109, by execution of a conveyance deed against the total sale consideration to be calculated at the rate of Rs. 7,000/- per sq. ft of the actual carpet area along with applicable charges only and upon receipt of the balance sale consideration as reduced by the amount paid,**
- F.2 Direct the respondent to pay the delayed possession charges as per provisions of Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 for the entire period of delay i.e. from 12.02.2016 till availing the completion certificate of the project.**

The above issues have been already decided by the authority on 05.09.2019 in CRN 1328 of 2019 titled as Ram Avtar Nijhawan v/s Neo Developers Pvt. Ltd. where the authority has given following directions:

- a. *The respondent is directed to pay interest at the prescribed rate of 10.45 % per annum on the amount deposited by the Complainant with the promoter from the **due date of possession i.e. 15.06.2019** till the actual delivery of possession.*
- b. *The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order and thereafter monthly payment of interest till offer of possession shall be paid before 10th of subsequent month.*
- c. *The complainant shall pay the outstanding dues if any, after adjustment of interest for delayed period.*
- d. *The promoter shall not charge anything from the complainant which is not a part of the buyer agreement.*
- e. *Interest on the due payments from the complainant shall be charged at the prescribed rate of interest i.e. 10.45% by the promoter which is the same as being granted to the complainant in case of delayed possession.*

After issuance of above order by the authority, the Decree Holder also filed an execution petition no. 4257/2020 for compliance of the above noted directions which also stands disposed off and decided on 05.03.2021.

So, in view of the above-mentioned findings detailed above in complaint no. 1328/2019 no fresh directions can be given.

**F.3 Direct the respondent to withdraw demand letters dated 25.10.2020 and 07.06.2021 and the claimed amount of VAT and interest**

**For projects where due date of possession was after 1.4.2017 (date of coming into force of GST)**

The projects where due date of possession was/is after 1.04.2017 i.e., date of coming into force of GST, the builder is entitled for charging GST, but the builder has to pass the benefit of input tax credit to the buyer. In the event the respondent-promoter has not passed the benefit of input tax credit to the buyers of the unit, the same is in contravention to the provisions of section 171(1) of the HGST Act, 2017 and has thus committed an offence as per the provisions of section 171 (3A) of the above Act. The allottee shall be at liberty to approach the State Screening Committee Haryana for initiating proceedings under section 171 of the HGST Act against the respondent-promoter for appropriate relief.

During the proceedings an advocate appeared on behalf of main counsel to submit justification of dues as has been raised by the promoter and objected to by the allottee. The reasoning was considered and found to be totally deficient and unjustifiable. Accordingly, the VAT shall be payable only when justification is given and till then it is disallowed. The allottee is directed to make the payment of other dues which are as per BBA. As per this order, calculations be done by the allottee and payment be deposited alongwith calculations to the promoter within one month.

**G. Directions of the authority:**

38. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act of 2016 to ensure compliance of obligation cast upon the promoter as per the function entrusted to the authority under section 34(f) of the Act of 2016:

- i. The respondent is directed to charge VAT only when justification is given to the allottee and till then it is disallowed. The calculations of the amount due as per BBA are to be done by the allottee and the payment, if any be made by him to the promoter within a month.

39. Complaint stands disposed of.

40. File be consigned to registry. सत्यमेव जयते

  
(Vijay Kumar Goyal)  
Member

  
(Dr. KK Khandelwal)  
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

**Dated: 25.01.2022**

**HARERA**  
**GURUGRAM**