

Advance India Projects Ltd.
Vs.
Neha Singh

Appeal No. 02 of 2023

Present: Shri Kunal Dawar, Advocate, with Ms. Tanika Goel,
Advocate, ld. counsel for the appellant.

Office report perused.

The appeal be registered.

As per the report of the office, the appellant has deposited a total sum of Rs. 1,73,237/- to comply with the provisions of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (in short the Act). So, the provision of proviso to Section 43 (5) of the Act stands complied with.

An application for condoning the delay of 21 days in filling of the present appeal has been moved, which is duly supported by an affidavit of the Authorised Representative of the appellant.

For the reasons stated in the application, which is duly supported by an affidavit of the Authorised Representative of the appellant, the delay of 21 days in filling of the present appeal is hereby condoned, however, subject to just objections by the respondents.

Ld. counsel for the appellant has inter alia contended that the Scheme under which the unit was allotted to the respondent-allottee was the Assured Return Scheme and, therefore, the matter falls under the Banning of Unregulated Deposit Schemes Act, 2019 (in short the Act of 2019). He further contended that in view of the provisions of the Act of 2019, ld. Authority has no jurisdiction to decide the issue. He further contended that the amount deposited by the complainant (respondent herein) would be a deposit in terms of the Act of 2019 read

with the Companies Act as well as the Companies (Acceptance of Deposits) Rules, 2014.

Ld. counsel for the appellant has also drawn the attention of this Tribunal towards order dated 20.11.2022 handed down by the Hon'ble High Court in CWP No. 26740 of 2022 titled as Vatika Ltd. Vs. Union of India & Anr., and has submitted that regarding the same issue of Assured Return, the Hon'ble High Court has also taken the cognizance and now the matter is fixed before the Hon'ble High Court for 15.02.2022.

Let notice of the present appeal be issued to the respondent for 22.02.2023 on filing the copies of paper book and registered cover etc. within two days.

Till the next date of hearing, the operation of the impugned order shall remain stayed.

It is pertinent to mention that the entire amount due as per the impugned order, has been deposited by the appellant with this Tribunal.

Inderjeet Mehta
Member (Judicial)
Haryana Real Estate Appellate Tribunal
Chandigarh

Anil Kumar Gupta
Member (Technical)

20.01.2023
Rajni