PROCEEDINGS OF THE DAY	17
Day and Date	Wednesday and 24.05.2023
Complaint No.	CR/887/2020 Case titled as MRS VIJAY RANA AND AARUSHI SINHA Vs ILD MILLENNIUM PVT LTD
Complainant	MRS VIJAY RANA AND AARUSHI SINHA
Represented through	None
Respondent	ILD MILLENNIUM PVT LTD
Respondent Represented	Shri Aradhya AR of the respondent company
Last date of hearing	Rectification application
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint was disposed off vide order dated 14.09.2022 with a direction to the respondent to refund the amount paid by the complainant after deducting 10% of the sale consideration with interest @ 10% p.a. on the refundable amount from the date of letter of surrender i.e., 17.07.2017 till the actual date of refund of the amount.

The complainant has filed an application of rectification under section 39 of the Act on 29.09.2022 stating that the order dated 14.09.2022 may be rectified and the amount paid by complainants may be refunded from the respective payments therein till realisation without deduction of any amount since it was not considered that the failure to execute the BBA resulted in issuance of surrender letter dated 17.07.2017.

The authority observes that section 39 deals with the *rectification of orders* which empowers the authority to make rectification within a period of 2 years from the date of order made under this Act. The authority may rectify any mistake apparent from the record and make such amendment, if the mistake is brought to its notice by the parties. However, **rectification cannot be** allowed in two cases, *firstly,* orders against which appeal has been preferred, *secondly*, to amend substantive part of the order. The relevant portion of said section is reproduced below.

Section 39: Rectification of orders

"The Authority may, at any time within a period of two years from the date of the order made under this Act, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act:

Provided further that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act."

Since the present application involves amendment of substantive part of the order by seeking relief of allowing the refund the respective payments till realisation without deduction of any amount. Accordingly, the said application is not maintainable being covered under the exception mentioned in 2nd proviso to section 39 of the Act, 2016.

Thus, in view of the legal position discussed above, there is no merit in the application dated 29.09.2022 filed by the complainant for rectification of order dated 14.09.2022 passed by the authority and the same is hereby declined. File be consigned to the registry.

Ashok Sangwan
Member
24.05.2023