**THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW**

**Division Bench Court No. 1**

**APPEAL-545/2023**

RISE PROJECTS PVT LTD **............Appellant**

**Versus**

BALDEV SINGHBALDEV SINGH **............Respondent**

**Counsel for Appellant**
SIDDHARTH NANDWANI
ABHISHEK SHUKLA

**Counsel for Respondent**

**Hon'ble Mr. Justice (Dr.) D.K. Arora, Chairman**
**Hon'ble Mr. K.K. Jain, Technical Member**

An application IA No. 2318/2023 has been filed by the applicant regarding of compliance of Section 43 (5) of the Act stating therein that the entire recoverable amount has been recovered by the Recovery Officer in pursuance to the Recovery Certificate dated 02.03.2023.

In pursuance to our order dated 08.08.2023, learned counsel for applicant has placed on record the copy of Bank Statement of Indian Bank indicating deduction of the amount in pursuance to the Recovery Certificate. The perusal of the same reveals that an amount of Rs 5,99,354/- on 09.06.2023 from the bank account of the applicant has been deducted.

Submission of learned counsel for applicant is that the amount required to be deposited in pursuance to the impugned order of the Adjudicating Officer has already been recovered and nothing is to be paid by the applicant to the respondent and therefore, the amount recovered from the applicant be treated as compliance of Section 43 (5) of the Act 2016.

We have examined the submission of learned counsel for applicant and perused the documents placed on record regarding the issuance of Recovery Certificate by the Regulatory Authority and the bank statement regarding the deduction of the amount in the account of Tehsildar concerned and in our considered view in pursuance to the Recovery Certificate, issued by the Regulatory Authority, the recovered amount will be treated as compliance towards the provisions of Section 43 (5) of the Act 2016.

Accordingly, the RA/concerned Recovery Officer is directed to deposit the amount recovered in a fixed deposit of a Nationalised Bank for a period of 60 days with the instructions to auto-renewal thereafter and the same be treated as amount deposited under Section 43(5) of the Act.

The application No. IA 2318/2023 is accordingly **disposed** of.

Let notice be issued to be respondent on the application for condonation of delay, returnable on 20.09.2023.

The Registry will generate a notice for 20.09.2023 and send the same through e-mail to the applicants and their counsel within 48 hours. The applicants after downloading the notice will send it through speed-post to the respondent annexing copy of application for condonation of delay as well as memo of appeal and its annexures within three days. The applicant will also send the copy of application for condonation of delay and memo of appeal and its annexures, annexing notice issued by the Tribunal through e-mail to the respondent within three days. The applicants will file an affidavit of service annexing copy of postal receipt and transaction report of e-mail sent to the respondent as well as copy of the track record of the postal department regarding service of notice upon the respondent.
On receipt of the notice, it is open for the respondent to send objections to the application for condonation of delay and ground of appeal to the applicants and their counsel through e-mail within 10 days. Reply, if any, will be sent by the applicants to the respondent within a week thereafter. The parties/ legal representatives are directed to upload their respective objection/reply on the e-portal of the Tribunal immediately thereafter.

List this defective appeal on **20.09.2023** for consideration of application for condonation of delay and hearing.

(K.K. Jain) (D.K. Arora)

**Dated: 16.08.2023**
SANTOSHKSHUKLA