



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(114)

1. RERA-APPL-21-2025 (O&M)

M/s Everrich Buildcon Pvt. Ltd.

....Appellant

Versus

Babreek Sharma and others

.....Respondents

2. RERA-APPL-22-2025

M/s Everrich Buildcon Pvt. Ltd.

....Appellant

Versus

Babreek Sharma and others

.....Respondents

Date of Decision: - 22.07.2025

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Promila Nain, Advocate, and
Ms. Kanchan Kumari, Advocate
for the petitioner.

Mr. Mandeep K. Dhot, Advocate
for respondents No.1 and 2/complainants.

VIKAS BAHL, J. (ORAL)

CM-3519-C-2025 in RERA-APPL-21-2025

1. Present application has been filed under Section 5 of the

Limitation Act for condonation of delay of 18 days in filing the appeal.

2. For the reasons mentioned in the application, the same is allowed and the delay of 18 days in filing the present appeal is condoned.

**RERA-APPL-21-2025 and
RERA-APPL-22-2025**

1. This order will dispose of two appeals i.e., RERA-APPL-21-2025 titled as “M/s Everrich Buildcon Pvt. Ltd. Vs. Babreek Sharma and others” and RERA-APPL-22-2025 titled as “M/s Everrich Buildcon Pvt. Ltd. Vs. Babreek Sharma and others”.

2. Challenge in both the appeals is to the orders dated 10.10.2024 passed by the Appellate Tribunal dismissing the appeals of the appellant for want of prosecution as there was non-compliance of provisions of Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter to be referred as “the 2016 Act”)

3. On 27.03.2025, this Court was pleased to pass the following order: -

“1. By this common order, two appeals i.e. RERA-APPL-21-2025 and RERA-APPL-22-2025 shall stand disposed of.

2. Learned counsel for the appellant has argued that two orders with respect to the same property have been passed in favour of the same respondent and the appellant is not required to deposit the amount under Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter to be referred as “the 2016 Act”) with respect to both the orders and has submitted that in the second case i.e. RERA-APPL-22-2025, an application for exemption was also filed.

3. A perusal of the paper book would show that the first order which is subject matter of challenge in RERA-APPL-21-2025, has been passed by the Adjudicating Officer vide which

*compensation and litigation expenses have been awarded to the respondents. In para 1 of the said order, it had specifically been noted that in pursuance of the judgment of the Hon'ble Supreme Court in **Civil Appeal No.6745-6749 of 2021 titled as "M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP and others etc."**, the prayer of the respondents with respect to compensation was segregated from the prayer of refund and interest and in the second case i.e., RERA-APPL-22-2025, the Real Estate Regulatory Authority, Punjab, vide order dated 18.01.2024, had ordered refund of the amount along with interest. It is thus, apparent that the said two orders are separate orders passed with respect to separate prayers, in accordance with the law laid down by the Hon'ble Supreme Court. Further perusal of the impugned orders in both the cases would show that several opportunities were sought by the appellant for compliance of provision of Section 43(5) of the 2016 Act. However, zimni orders prior to the passing of impugned orders have not been annexed. Nothing has been shown to this Court that application for exemption which is stated to have been filed in the second case (i.e., RERA-APPL-22-2025) was actually filed or pressed or was in the abovesaid facts even maintainable.*

4. Learned counsel for the appellant has submitted that in view of the above, both the appeals be disposed of at this stage but liberty be granted to the appellant to revive the case after studying all the aspects and after getting necessary instructions and also after placing on record all the zimni orders.

5. In view of the above, both the appeals are disposed of at this stage with liberty aforesaid."

4. Subsequently, on 22.05.2025, this Court was pleased to pass the following order: -

"CM-5647-C-2025

This is an application filed under Section 151 of CPC for the revival of the RERA appeal.

Learned counsel for the applicant-appellant has submitted

that the applicant-appellant would deposit the entire amount as mandated under Section 43(5) of RERA Act and same would be done on or before 15.07.2025.

In view of the same, the present application is allowed and order dated 27.03.2025 is recalled and the main case is restored to its original number and is taken on Board today.

Main case

In view of the statement made before this Court, let notice of motion be issued for 22.07.2025.

To be taken up in the urgent list.

Appellant as undertaken before this Court would deposit the entire amount in compliance to the provisions of Section 43(5) of the RERA Act before the Appellate Tribunal on or before 15.07.2025.

It is made clear that in case the said deposit is not done and the proof regarding the same is not shown on the next date of hearing then the present appeal would be liable to be dismissed.”

5. Learned counsel for the appellant has submitted that in pursuance of the undertaking given before this Court, the appellant has deposited an amount of Rs.41,71,093/- in Appeal No.37 of 2024 and an amount of Rs.8,40,411/- in Appeal No.38 of 2024 in compliance of Section 43(5) of the 2016 Act. The order dated 10.07.2025 recording the said fact is reproduced herein below: -

***“REAL ESTATE APPELLATE TRIBUNAL, PUNJAB
AT CHANDIGARH***

*Present: - Mr. Kuldip Singh, Advocate for the
Applicant*

Applicant in compliance of the Punjab and Haryana High Court order dated 22.05.2025 has deposited the amount of Rs.41,71,093/- in Appeal No.37 of 2024 and Rs.8,40,411/- in

Appeal No.38 of 2024 under Section 43(5) of the Act. These appeals were earlier dismissed on 10.10.2024 by this Tribunal on account of non-compliance of the mandatory provisions of Section 43(5) of the Act. The applicant has complied with the directions of the Hon'ble High Court. There are no further directions of the Hon'ble High Court of Punjab and Haryana. Keeping in view this fact, further directions of the Hon'ble High Court are awaited and till then no further action is required in the applications. In the meantime, DDs be converted into FDRs in favour of this Tribunal.

Photocopy of this order be placed in connected cases.

Sd/-

*DR. SIMMI GUPTA, IRS (IT)
CHIEF COMMISSIONER OF INCOME TAX (RETD)
MEMBER (TECH/ADMN)''*

6. Learned counsel for the appellant has submitted that in view of the above, the present appeals be allowed and the impugned orders be set aside and the Appellate Tribunal be directed to decide the appeals on merits.

7. Learned counsel appearing for respondents No.1 and 2/complainants has prayed that the Appellate Tribunal be directed to decide the said appeals on merits, as expeditiously as possible, after taking into consideration all the arguments raised on behalf of both the parties.

8. Keeping in view the above-said facts and circumstances, the present appeals are allowed and the impugned orders dated 10.10.2024 passed in both the appeals dismissing the appeals for want of prosecution due to non-compliance of provisions of Section 43(5) of the 2016 Act are set aside and the Appellate Tribunal is directed to decide the appeals on

merits, after hearing both the parties, as expeditiously as possible.

9. It is made clear that this Court has not opined on the merits of the matters and it would be open to both the parties to raise all the pleas which are available to them in accordance with law.

July 22, 2025
naresh.k

**(VIKAS BAHL)
JUDGE**

.....	Whether reasoned/speaking?	Yes/No
	Whether reportable?	Yes/No