

Government of UP

Industrial Development Department; Section -4

No. 3574/ 77-4-25

Lucknow: Dated 15.7.2025

- 1) M/s Regnant Mall Pvt. Ltd. (34 Appeal/25) ..... Revisionist  
2) M/s Logix Buildtech Pvt Ltd. (36 Appeal/25)

Vs

NOIDA Authority ..... Respondent

1. The instant Revisions have been filed in respect of plot no BW 58, Sector 32 admeasuring 25000 sq.m. The said plot was allotted to M/s Logix Buildtech Pvt Ltd. and the Lease Deed for the same was executed on 23-07-2010. Subsequently, the plot was subdivided into two parts namely: BW58 admeasuring 18641sq.m. and BW-58A admeasuring 6359 sq.m by virtue of a sub lease deed dated 22.03.2017. BW58 remained in the name of M/s Logix Buildtech Pvt Ltd; whereas plot no. BW-58A was sub-leased in favour of M/s Invoke Realtors (a subsidiary of M/s Logix Buildtech Pvt Ltd with 90% ownership). Since the sub plots in question arise out of the same original lease deed and the facts pertaining to both the Revisions are similar, they are being decided through a common judgement.
2. The Revisionist has challenged the order dated 31-12-2019 passed by Respondent Authority whereby it has denied the request of the Revisionist/Allotee to exempt them from payment of time extension charges as well as granting them a two-year zero period during the currency of National Green Tribunal (NGT) restraint on construction activities in NOIDA. The main issues that need determination in this case are as under:
  - A) Whether the allottee/revisionist is in default of the clause II(i) in not obtaining completion certificate from Respondent Authority? If so, what is the quantum of time extension charges that needs to be levied on him?
  - B) The duration of zero period to be granted to the Revisionist in light of operation of the restraining orders of NGT.
3. In regard to the first issue, the Revisionist has contended that he has constructed the buildings in two phases; with the first phase amounting to 43.79% of the total permissible FAR having been completed by 2014 and the second phase comprising of an additional 22.64% of the permissible FAR was declared complete by the Authority on 09-03-2017. This was more than the minimum of 30% stipulated by U.P. Government notification dated 30-11-2010, clause 24.4(11). Since the completion was filed within 5 years of the execution of lease deed and the minimum stipulated construction was done in the first phase itself, the Authority order applying time extension charges has been prayed to be held as prima facie unacceptable. The Respondent Authority has contended that the said Government notification has itself mentioned in proviso Note (i) to the said



clause states "In the old allotments, the provisions of project report or lease deed or previous options may be followed". Therefore the 30% limit cannot be applied in the case of Revisionist, since their lease deed predated the issuance of the above notification. I have perused the relevant provision of the lease deed which is summarised as under: "The lessee shall have to construct the buildings and obtain the completion certificate in maximum five phases within 5 years from the date of execution of the lease deed. The lessee shall be required to complete the construction of minimum 15% of the total F.A.R. of the allotted plot as per approved layout and get temporary occupancy/completion certificate of the first phase accordingly issued from the building cell of the Lessor within a period of 3 years from the date of execution of lease deed. However, extension in exceptional circumstances can be granted by the LESSOR, on the payment of extension charges applicable as per the prevailing policy, at the time of grant of such extension. The "Completion Certificate" will be issued by the LESSOR on the completion of the project and on submission of the necessary documents required for certifying the completion of the project."

4. Clearly the provision simply states that the lessee is required to construct minimum 15% in the first 3 years and to obtain completion certificate for the project in 5 years. **There is no provision in the lease deed as to how the completion is to be interpreted.** The Revisionist also brought to a notice the decision of the NOIDA Board in its 152<sup>nd</sup> meeting dated 29-07-2008 in which the minimum constructed area and the maximum time limit of construction has been prescribed for various categories of plots. For plot sizes between 20,000 sq.m to 100,000 sq.m which the plot in question falls under, 30% minimum construction requirement has been stipulated with the 1<sup>st</sup> phase completion certificate to be obtained in 3 years and the final completion is to be obtained within 7 years of the date of execution of the lease deed. The impugned order has failed to take note of this Board decision and has merely stated that the rules and conditions prescribed by the brochure and lease deed supersede the decision of the NOIDA Board dated 29-07-2008. In the impugned order, the only issue that has been adjudicated is whether the completion period is 5 years or 7 years? No adjudication has been done as to what was the minimum construction obligation on the part of the lessee. The lease deed as well as brochure are silent on this. Even if we agree with the view expressed in the impugned order that the provisions of the lease deed will prevail over the decision of the Board of the respondent authority; that still begs the question as to how the completion is to be determined. In the absence of any clear rules to be contrary, **the decision of the Board dated 29-07-2008 requiring minimum 30% construction for grant of completion certificate** is to be taken as binding both upon the Authority as well as lessee. Moreover, this Board decision is prior to the date of execution of the original lease deed and therefore non-application of this criterion in adjudging whether the lessee has fulfilled his obligation for the purposes of obtaining completion certificate is inexplicable. It will also not be out of place to mention that the said Board resolution was further cemented with the issuance of the Government notification dated 30-11-2010, which also prescribed the same minimum construction requirement as mandatory obligation on the part of the lessee, on fulfilment of which no Time extension



charges are applicable. In the instant case, the lessee had filed for a completion certificate with the constructed area **43.79% of the total permissible FAR which is well above the threshold** required for grant of completion certificate. Since the application for completion certificate was moved by the company/developer on 18-06-2014 (well within 5 years of execution of lease deed dated 23-07-2010), the contention of the Revisionist that the project was substantially complete within the period specified in the lease deed has to be upheld.

5. In so far as the legal position is concerned, Hon'ble Supreme Court has held that even a statutory notification under an Act, cannot go against a publicly announced policy of a government instrumentality. In the case of State of Bihar Vs Suprabhat Steel Ltd, reported in (1999) Supreme Court Cases 31, has held as under: *"We are not persuaded to accept the contention of Mr Dwivedi that it would be open for the Government to issue a notification in exercise of power under Section 7 of the Bihar Finance Act, which may override the incentive policy itself. In our considered opinion, the expression "such conditions and restrictions as it may impose" in sub-section (3) of Section 7 of the Bihar Finance Act will not authorise the State Government to negate the incentives and benefits which any industrial unit would be otherwise entitled to under the general policy resolution itself"*. Given the legal principle settled by the Supreme Court, the Respondent Authority was not right in brushing aside the policy decision taken by the Board Resolution dated 29.7.2008 and subsequently reaffirmed by the clause 24.4 (11) of the Government Notification dated 30.11.2010.
6. Consequently, both on factual as well as legal grounds, the Respondent Authority has erred in imposing time extension charges upon the Revisionist is not reasonable and hence is liable to be quashed.
7. As regards the second issue with respect to grant of zero period, the Respondent Authority has already granted zero period of 77 days between 14-08-2013 to 28-10-2013 during which the stay order of NGT was operational for previously sanctioned projects. Even by Revisionist's own submission, he has admitted to carrying on the constructional activities on the project (at his own risk) during the period of the said ban. Once the NGT restraining order on construction activities under previously sanctioned projects was removed on 28-10-2013; the Revisionist continued with his construction. In fact, he has filed the completion certificate on 03-09-2014, well inside the period in which the alleged ban has been alleged to be operational, indicating that the construction activities were going on in the period in which the zero period has been claimed. Moreover, the Respondent Authority has rightly argued that the two-year zero period has been applicable- without exception - only to the category of projects that has a Group Housing Component; which is not true in the instant case. Hence the claim of the Revisionist for a two-year Zero Period is clearly untenable and the Authority's order of 77 days zero period and waiver of 2 years penal interest is upheld.
8. In passing, a word about the sub-lease deed in respect of M/s Regnant Mall Pvt Ltd is in order; which has the following provision:  
*"AND WHEREAS lessee/ sub lessee is bound for integrated plan and develop the project and to get approval of building plan integrated accordingly to the terms of allotment and*

*brochure on the whole plot*" (Emphasis supplied). This clearly implies that the construction and development of the project was to be taken as an integrated plot and, consequently, all the terms and conditions laid down under the original lease deed would be *ipso facto* applicable to the sub-plot as well. It is therefore imperative to mention that since the development was integrated and the minimum threshold for construction against the permissible FAR had already been achieved by Logix Buildtech in 2014 as discussed in para 4 of this judgement; it would not be open to the Respondent Authority to impose Time Extension Charges on the sub-lesse as well. In any case, the Respondent Authority has not approved of the map in regard to the sub-lesse due to the dispute relating to applicability or otherwise of time extension charges and zero-period concession.

9. In light of the discussions above, the impugned order dated 31.12.2019 is partially set aside in so far as it relates to the imposition of time extension charges for the plots in question and the Revisionist are entitled to claim the consequential benefits in this regard. The order of the Authority dated 06.03.2018 levying time extension charges and the penal interest thereon is also set aside. However, the part of the impugned order with respect to the issue of zero period is upheld. Revision disposed of accordingly.

Sd/-  
(Alok Kumar)  
Principal Secretary

Letter No. 3574/ 77-4-25 /34 & 36 Appeal/25 Dated:

1. Chief Executive Officer, Noida
2. M/s Regnant Mall Pvt. Ltd. & M/s Logix Buildtech Pvt. Ltd.
3. Director, I.T Invest U.P. – to upload it on Department's website.
4. Guard File.

Order by  
  
(Jaivir Singh)  
Joint Secretary