GSTAT
Division Bench Court No. Court I

DGAP Vs Laureate Buildwell Pvt. Ltd.
NAPA/134/PB/2025

DG ANTI PROFITEERING, DIRECTOR GENERAL OF ANTI-PROFITEERING, DGAP .....Appellant

Versus

LAUREATE BUILDWELL PVT. LTD. .....Respondent

Counsel for Appellant Counsel for Respondent

Hon'ble Justice (Retd.) Dr. Sanjaya Kumar Mishra, President
Hon'ble Sh. Anil Kumar Gupta, Member (Technical)

Date- 07.05.2026

The matter is taken up in Hybrid mode.

Shri Kundan Kumar Jha, learned Assistant Commissioner – Authorized Representative assisted by Shri Praveen Kumar, learned AAD and Shri Anurag Gupta, Inspector appear on behalf of the DGAP. Shri Pawan Arora Learned advocate assisted by Sh. Harshil Mittal, Chartered Accountant appear before us in-person. The original Complainant Shri Manoj Kumar Pawa appear virtually before us.

Order

1. In this case, DGAP after investigation on a complaint filed by Shri Manoj Kumar Pawa with respect of construction services supplied by M/s Laureate Buildwell Pvt. Ltd., has submitted that

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they have profiteered an amount of Rs. 5,95,56,344/- only in violation of Section 171 of the CGST Act. The DGAP report concluded that the profiteering amount has been computed in the following manner in table A and table B: -

Table - A

Sl. No.	**Particulars**	**Pre-GST Period (upto June 2017)**	**Post-GST Period (01.07.2017 to 31.03.2024)**
1	Credit of Central Excise Duty and Service Tax availed (A)	1,60,05,020	-
2	Credit of VAT availed (B)	6,88,47,604	-
3	ITC of GST Availed (C)	-	54,04,28,308
4	Total Credit Availed (D = A+B+C)	8,48,52,624	54,04,28,308
5	Purchase Value of Goods and Services (Excluding Taxes and Duties) (E)	1,31,02,27,000	3,19,65,00,000
6	**Ratio of Credit Availed to Purchase Value (in %) (F = D*100/E)**	**6.48**	**16.91**

Table – B

Sl. No.	**Particulars**		**Post-GST**
1	Period	A	July, 2017 to March, 2024
2	Ratio of Credit availed to Purchase Value as per Table - A above (%)	B	6.48/16.91
3	Increase in input tax credit availed Post-GST (%)	C	10.43

4	Purchase Value of Goods and Services (Excluding Taxes and Duties) during Post-GST Period	D	3,19,65,00,000
5	Total Savings on account of additional ITC benefit	E = D*C/100	33,33,94,950
6	Total Saleable Area (in Sq. Ft.)	F	25,03,630.97
7	Total Saving Per Sq. Ft.	G = E/F	133.16
8	Total Sold Area (in Sq. Ft.) till the date of Occupancy Certificate	H	17,11,421.39
9	**Profiteered Amount**	**I = G * H**	**22,78,92,872**

From the above table, it is evident that the profiteered amount comes to Rs. 22,78,92,872/- plus GST @ 12 % i.e. Rs. 2,73,47,145 /-, totalling to Rs. 25,52,40,017/-.

2. Further, the DGAP vide Table C of the Report submitted that Respondent claimed to have passed on ITC benefit amounting to Rs. 40,69,57,530 /- only, however, ITC benefit passed on to 187 buyers is less then the profiteering amount calculated in respect of these buyers by an amount of Rs. 5,95,56,344/-, the bifurcation has been shown below in table C: -

Table – C

S.No.	Category of buyers	No. of units	Area (in Sq. Ft.)	Amount of Profiteering	ITC benefit passed on	Benefit of ITC to be passed on	Remarks
1	Buyers to whom no benefit is to be passed on	141	5,68,742.00	-	-	-	Post OC buyers (as discussed in para 13 above)
2		186	2,23,467.58	-	-	-	Unsold units

3	Buyers to whom excess benefit has been passed on*	256	10,01,758.32	14,94,01,433	36,06,75,290	-21,12,73,857	Pre CC buyers other than Applicant
4	Buyers to whom benefit is to be passed on	172	6,70,443.91	9,99,89,469	4,62,08,785	5,37,80,684	
5		14	35,917.16	53,56,657	-	53,56,657	
6		1	3,302.00	4,92,458	73,455	4,19,003	Applicant
7	**Total**	**770**	**25,03,630.97**	**25,52,40,017**	**40,69,57,530**	**5,95,56,344**	

3. On the basis of this Report, notices were issued to the Respondent with a direction to file written submissions. In response, the Respondent filed written submissions on 10.12.2025, 05.02.2026 and 04.04.2026 on DGAP Report. The summary of the afore-said written submissions is numerated as follows; -

i. The Respondent claims that full and commensurate ITC benefit has already been passed on to the buyers. The position is inconsistent with the earlier investigation report (February 2023).

ii. The benefit passed on was properly reflected in customer receipts and financial records and it was distributed across all eligible homebuyers, not selectively.

iii. The Respondent has also provided list of buyers to whom benefit was passed vide their Annexure 1 as per their written submissions and the Details of

cancelled/disputed units vide Annexure 2 and Documents relating to the complainant vide Annexure 3.

iv. Therefore, the Respondent claimed that there is no profiteering, as the benefit has already been transferred.

v. Respondent submitted that ITC benefit has been duly passed on to all eligible buyers, including post OC i.e. 31.03.2024, supported by receipts and affidavits.

vi. Respondent further claimed that the alleged profiteering amount amounting to Rs. 5.95 crore approx., is overstated and stands substantially reduced based on actual benefit passed.

vii. Lastly, Respondent argued that DGAP methodology is flawed.

4. This case was taken by us earlier on 20.01.2026, the learned tax professional appearing for the Respondent brought to our notice by referring to point no. XVIII of Para 18 of the written submission filed on 10.12.2025 and emphasized that "no profiteering exists in respect of the few buyers as on date, and accordingly, the further alleged benefit stated to be passed on amounting to Rs. 5,95,56,344/- will further reduce, the same can also be verified by the investigation authority".

5. We had granted two weeks' time to the Respondent to file the relevant documents by way of an affidavit, to be uploaded on the portal. Advance copies of the same be served upon the DGAP. On the next date of listing, compliance of the order dated 20.01.2026 was not performed by the Respondent, therefore, Respondent was

directed to deposit a sum of Rs. 10,000/- (Rupees Ten Thousand only) as costs, in the Consumer Welfare Fund(s) of the Central Government.

6. The DGAP has not filed any clarification / reply on the same. Today, Shri Praveen Kumar, learned AAD admit that they have not carefully examined the submissions made by the Respondent, contents of the affidavit along with annexures. However, it was brought to our notice by Shri Pawan Arora, learned Advocate of the Respondent that on the last date of hearing on 09.04.2026, Shri Ravi Passi, Inspector appearing on behalf of the DGAP has admitted orally that profiteering should have been reduced, however, at present Shri Kundan Kumar Jha, learned Assistant Commissioner – Authorized Representative appearing on behalf of the DGAP disputes the same. There is nothing on record that Shri Ravi Passi, Inspector has admitted the contention of the Respondent.

7. In course of hearing today, learned Counsel for the Respondent took us to the observations made by the Hon'ble Delhi High Court in the judgment dated 29.01.2024 in the case of Reckitt Benckiser India Pvt. Ltd., in para 99 which reads as below:

> "**99.** The obligation of effecting/making a "commensurate" reduction in prices, as mentioned hereinabove, is relevant to the underlying objective of the Goods and Services Tax regime which is to ensure that suppliers pass on the benefits of reduction in the rate of tax and input-tax credit to the consumers, especially since the goods and services

> tax is a consumption-based tax (as adopted in India) and the recipient (consumer) practically pays the taxes which are included in the final price. Section 171 of the Act, 2017, therefore, is not to be looked at as a price control measure but is to be seen to be directly connected with the objectives of the goods and services tax regime. Consequently, the word "commensurate" in section 171 of the Act, 2017 means that whatever actual saving arises due to the reduction in rates of tax or the benefit of the input-tax credit, in rupee and paisa terms, must be reflected as equal or near about reduction in price. In other words, tax foregone by the authorities has to be passed on to the consumer as commensurate reduction in price."

8. After reliance on it, the learned counsel appearing for the Respondent submit that the word commensurate appearing in Section 171 means that "actual saving" arising because of reduction of taxes or availment of benefit of input tax credit, in terms of Rupees must be reflected as equal or near about reduction in price. Further, learned counsel appearing for the Respondent relies on paragraph 102 of the aforesaid judgment which reads as follows.

> **"102.** To summarise, section 171 of the Act, 2017 mandates that whatever is saved in tax must be reduced in price. Section 171 of the Act, 2017 incorporates the principle of unjust enrichment. Accordingly, it has a flavour of consumer welfare regulatory measure, as it

seeks to achieve the primary objective behind the goods and services tax regime i.e., to overcome the cascading effect of indirect taxes and to reduce the tax burden on the final consumer. Consequently, the judgments of *Ahmedabad Urban Development Authority* [*Ahmedabad Urban Development Authority* v. *Sharadkumar Jayantikumar Pasawalla*, (1992) 3 SCC 285.] , *Indian Carbon Limited* [*Indian Carbon Limited* v. *State of Assam*, (1997) 6 SCC 479.] , *V.V.S. Sugars* [*V.V.S. Sugars* v. *Government of Andhra Pradesh*, (1999) 114 STC 47 (SC); (1999) 4 SCC 192.] and *Shree Bhagwati Steel Rolling Mills* v. *Commissioner of Central Excise* [(2016) 36 GSTR 222 (SC); (2016) 3 SCC 643; (2015) 326 ELT 209 (SC).] , relied on by the petitioners, are not applicable as they deal with the validity of delegated authority imposing tax/fee or charging interest on delayed payment of tax in the absence of empowering provision in the statute.

Section 171 falls within the law-making power of the Parliament under article 246A."

9. However, we are of the opinion that relevant paragraph for the purpose of determining profiteering with respect of real estate appears in para 129, which reads as follows: -

"129. However, this court finds that the methodology adopted by NAA and DGAP to arrive at the profiteering amount of the real estate industry was generally based on the difference between the ratio of input-tax credit to turnover under the pre-goods and services and tax and

post-goods and services and tax period. This court is in agreement with the contention of the learned counsel for the petitioners representing the real estate companies that the methodology adopted by NAA is flawed as in the real estate sector, there is no direct correlation between the turnover and the input-tax credit availed for a particular period. The expenses in a real estate project are not uniform throughout the life cycle of the project and the eligibility of credit depends on the nature of the construction activity undertaken during the particular period. As it is an admitted position that neither the advances received nor the construction activity is uniform throughout the life cycle of the project, the accrual of input-tax credit is not related to the amount collected from the buyers. This court is in agreement with learned counsel of the petitioners that one needs to calculate the total savings on account of introduction of goods and services tax for each project and then divide the same by total area to arrive at the per square feet benefit to be passed on to each flat buyer. This would ensure that flat-buyers with equal square feet area received equal benefit. The court, while hearing the present batch of matters on merits, shall take the aforesaid direction/interpretation into account.

It is the prerogative of the Legislature to decide how the benefit is to be passed on to the consumers."

10. Thus, on the basis of such observations of Delhi High Court, the learned counsel appearing for the Respondent submitted that the report of the DGAP is incorrect and has to be set aside.

11. Learned Counsel appearing for the Respondent also relies upon the observations made by the coordinate Bench of this Tribunal to which one of us namely Shri Anil Kumar Gupta, Member – Technical (Centre), GSTAT has dealt with a similar matter in the case of DGAP Vs. SVP Builders, bearing Case No. NAPA/78/PB/2025 as per judgment dated 15.01.2026, passed an interim order remanding to the DGAP for re-investigation. We consider it appropriate to take note of the exact words used by the coordinate Bench in para 15 to 20, which reads as follows: -

> **"15.** We have carefully examined the facts and findings in the DGAP report as well as the contentions made by the respondent in their written reply as well as during the course of personal hearing.
>
> **16.** After our thoughtful consideration, we observe that keeping in view the spirit of principal laid down by Hon'ble High Court of Delhi in the case of Reckitt Benckiser India Pvt. Ltd. Vs. Union of (Supra), submissions made by the respondent regarding comparison of the GST availed on the actual Goods and Services purchased in the Post GST period with the ITC available on such goods and services by applying the applicable rates on such goods and services in the pre GST period carries weight. The contentions contained in the written submission as well

made by learned counsel during the course of personal hearing have merits.

17. Since, the respondent have claimed that they have submitted the data and documents of actual goods and services purchased in the post-GST period and the respective applicable rates on goods and services in Pre GST period, DGAP needs to verify this data.

18. In view of the above we are of the opinion that reinvestigation is required by the DGAP. The matter is sent back to the DGAP for the re-investigation in accordance with the provision contain in the Rule 133(4) of the Goods and Services Tax Act, 2017.

19. The DGAP is directed to re-workout the ratio of ITC in the Pre-GST period and then compare it with the post GST period to calculate the amount of profiteering.

20. It is directed that during the course of re-investigation, the respondent would furnish any additional document or information as required by DGAP."

12. In that view of the matter, we adopt the view taken by the coordinate Bench, come to the conclusion that this matter be remanded to the DGAP for re-investigation on certain issues.

13. The original complainant, appearing virtually in this case submitted before us that he had not been provided with original receipt from which he could have gathered that actual ITC benefit had been passed on to him. He further submitted that he had been

provided the xerox copy of the receipt regarding the payment he had made for purchase of the apartment allotted to him. On query by the Tribunal, he admitted that the xerox copy of the receipt handed over to him showed that he had been granted seven percent concession/discount, however, he was not sure about actual concession granted to him.

14. Thus, keeping in view of the submissions made by all the parties, we set aside the Report submitted by the DGAP and direct the DGAP to re-investigate the matter by considering the material that has been submitted along with an affidavit 05.02.2026. The DGAP shall also grant proper and adequate opportunity to the Respondent regarding production of documents for a comparison of GST availed on the goods and services purchased post GST period with the ITC available on such goods and services in the pre-GST period. Such comparison should be given adequate consideration while re-calculating the amount of profiteering.

15. In course of such re-investigation the DGAP shall also consider the grievances raised by the original complainant and he should be allowed to produce documents and make statement. In view of above, the matter is sent back to DGAP for re-investigation in terms of the observations made earlier in the preceding paragraphs as per Rule 133(4) of the CGST Rules, 2017 and submit the Report within two months from the date of uploading of this order.

16. List the matter on 13.07.2026.

Dr. S. K. Mishra,
President, GSTAT.

Shri Anil Kumar Gupta,
Technical Member, GSTAT.

Date- 07.05.2026