GSTAT

Single Bench Court No. Court II

NAPA/10/PB/2025

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

Versus

DEVI 70MM ....**Respondent**

Counsel for Appellant **Counsel for Respondent**

Hon'ble Justice Sh. Mayank Kumar Jain, Member(Judicial)

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : No

Order reference no. : ZA070010926000166H **Date of order :** 19/09/2026

1.	GSTIN/Temporary ID/UIN - 36ABAPT0429K1ZL	
2.	Appeal Case Reference no. - NAPA/10/PB/2025	Date - 27/11/2020
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondant - 1. Devi 70MM , rajtadla@gmail.com , 9849004440	
5.	Order appealed against -	
	(5.1) Order Type -	

	(5.2) Ref Number -	Date -
6.	Personal Hearing - 19/09/2026 07/09/2026 31/08/2026 21/08/2026 06/08/2026 14/07/2026 11/06/2026 29/05/2026 08/04/2026 23/02/2026 13/01/2026 02/12/2025	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8.	Order in brief - The DGAP report dated 26.11.2020 is hereby accepted.	
	Summary of Order	
9.	Type of order : Deposit in Consumer Welfare Fund/s	

Judgment Reserved on 07.09.2026
Judgment pronounced on 19.09.2026

ORDER

JUSTICE MAYANK KUMAR JAIN, JUDICIAL MEMBER.

1. The present proceedings arise from the application filed by the Principal Commissioner, Central Tax & Central Excise Hyderabad, GST Commissionerate, GST Bhavan, LB Stadium Road, Basheerbagh, Hyderabad-500004 (hereinafter referred to as **'the applicant'**) on 28.06.2019 under Rule 128 of the CGST Rules, 2017 (for short **'The Rules, 2017'**) before the Standing Committee on Anti- Profiteering against the **M/s Devi 70 MM**, Chikkadapally, Hyderabad (hereinafter referred to as **'the Respondent'**). The applicant has alleged that the Respondent has indulged in profiteering in contravention of the provisions of Section 171 of the Central Goods and Services Tax Act, 2017 (for short **"the CGST Act, 2017"**) in so far as it failed to pass on the benefit of reduction in GST rates on cinema admission tickets from 18% to 12% w.e.f. 01.01.2019 vide

Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018 (for short **"the Notification"**).

2. The genesis of the present dispute lies in the reduction of the GST rate on "***Services by way of admission to exhibition of cinematograph films***" vide said Notification. Pursuant to this notification, the GST rate on tickets priced at one hundred rupees or less were reduced from 18% to 12% with effect from 01.01.2019.

3. The Respondent operates a theatre in Hyderabad selling tickets in three categories, namely Upper and Lower Balcony for Rs. 118/-, First Class for Rs. 80/- and Second Class for Rs. 50/- during the pre-rate reduction period effective from 01.12.2018 to 31.12.2018. After the above-mentioned notification, the respondent did not reduce its selling prices commensurately instead increased the base price and continued with the same selling price.

4. The application was examined by the Standing Committee on anti-profiteering and the same was forwarded to the Director General of Profiteering (hereinafter referred to as "**the DGAP**") under Rule 129(1) of the CGST Rules, 2017.

5. Upon receipt of the reference from the Standing Committee, the DGAP issued a Notice under Rule 129 of the CGST Rules, 2017 on 09.07.2019, calling upon the Respondent to respond as to whether he admitted that he had not passed on the benefit of reduction in GST rate w.e.f. 01.01.2019 to the recipients by way of commensurate reduction in prices and, if so, to *suo-moto* determine the quantum thereof and indicate the same in his reply as well as to furnish all documents in support of his reply.

6. The Respondent has submitted his replies that the ticket prices, inclusive of GST, remained unchanged after 01.01.2019, with GST duly paid at the applicable reduced rates. No benefit of ITC accrued after the change in rates. The base prices or First Class and Second-Class tickets were reduced to Rs. 75/- and Rs. 45/-, respectively, from 11.03.2019 to 08.05.2019.

7. The DGAP submitted its report dated 27.12.2019 to the erstwhile authority National Anti-Profiteering Authority (hereinafter referred to as **"NAA"**).
8. In its report dated 27.12.2019, the DGAP observed that the Respondent maintained the price of cinema tickets for first class and second-class category inclusive of GST, even after 01.01.2019. However, the base prices for First Class and Second-Class tickets were reduced to Rs. 75/- and Rs. 45/-, respectively, from 11.03.2019 to 08.05.2019.
9. The DGAP has stated that based on the aforesaid reduction in GST rate and the details of outward supplies for the period from 01.01.2019 to 30.06.2019, it was found that two categories amounted to Rs. 0/- as the Respondent did not increase the base prices for Upper and Lower Balcony. The profiteering was computed to Rs. 39,066.46/- for the First Class and Rs. 90,176.39/- for the Second Class since the base price of the movie tickets for these two classes were increased by the Respondent despite the reduction in GST rate from 18% to 12%, therefore, the total profiteered amount arrived at Rs. 1,29,242.85/-.
10. The NAA, vide its Internal Order dated **07.10.2020** issued the directions to the DGAP to reinvestigate the matter. it observed: -

> "*(a) The prices of the first class and second-class movie tickets have been reduced commensurately by the Respondent w.e.f. 11.03.2019 in compliance of the provisions of the Section 171 of the CGST Act,2017. Therefore, the period from 11.03.2019 onwards has no relevance from the perspective of the Section 171 of the CGST Act,2017 and hence no profiteering can be established for the period after 11.03.2019.*
>
> *(b) The Respondent has increased the price of the movie tickets of the first class and the second class only in the month of May, 2019 and this price increase cannot be*

correlated to provisions of Section 171 of the CGST Act, 2017. Since profiteering has been established against the Respondent in the categories of first class and second-class movie tickets, taking the view that the Authority is not a price regulator, the computation of profiteering merits to be limited only upto 10.03.2019.

(c) The Authority directed the DGAP to re-compute the profiteering for the period limited to 10.03.2019 only."

11. Tenure of the NAA ended on 30.11.2022. Thereafter, the Competition Commission of India (hereinafter referred as to "**the CCI**") was empowered to examine matters related to Anti-profiteering with effect from 01.12.2022 vide Notification No. 23/2022 - Central Tax dated 23.11.2022.

12. Pursuant to the Internal Order passed by NAA, the erstwhile Authority, the DGAP submitted its report dated 26.11.2020. and computed the profiteering from 01.01.2019 to 10.03.2019 as under;

TABLE-B

S. No.	Admission ticket	01.12.2018 to 31.12.2018			01.01.2019 to 10.03.2019					
		Base Price (in Rs.)	GST Rate (%)	Price of Ticket inclusive of GST (in Rs.)	Actual Base Price charged (in Rs.)	GST Rate (%)	Amount Charged i.e. Base Price (in Rs.)	Commensurate Base Price (in Rs.)	Actual Base Price charged (in Rs.)	Increase in base price of the ticket (in Rs.)
1	Upper and Lower Balcony	100.00	18%	118.00	100.00	12%	112	100.00	100	0.00
2	First Class	67.80	18%	80	71.43	12%	80	67.80	71.43	3.63
4	Second Class	42.37	18%	50	44.64	12%	50	42.37	44.64	2.27

13. On the basis of the above calculations, the DGAP computed the profiteered amount at net higher sales realisation due to increase in the base price of cinema tickets. The profiteering amounts for Upper and Lower Balcony

remained as 0/- However, the profiteering during the period from 01.01.2019 to 10.03.2019 from the sale of tickets in two categories is computed as Rs. 24,453.78/- for First Class and Rs. 56,268.62/- for Second Class. The profiteering was computed to Rs. 25,453.78/- for the First Class and Rs.56268.62/- for the Second Class since the base price of the movie tickets for these two classes were increased by the Respondent despite the reduction in GST rate from 18% to 12%. /- for the period 01.01.2019 to 10.03. 2019.The details of such computation are tabulated as under: -

TABLE-C

S. No.	Admission ticket	01.01.2019 to 10.03.2019						
		Base Price charged (Rs.)	**Commensurate Base Price (Rs.)**	**Excess Base Price charged per ticket (Rs.)**	**Excess tax charged per ticket @ 12% (Rs.)**	**Total Profiteering per ticket (Rs.)**	**Qty. Sold**	**Total Profiteering (including tax @ 12%) (in Rs.)**
1	First Class	71.43	67.80	3.63	0.44	4.07	6254	25453.78
2	Second Class	44.64	42.37	2.27	0.27	2.54	22153	56268.62
							28407	**81,722**

14. Thus, according to DGAP, the total alleged profiteering amounted to **Rs. 81,722/-**, inclusive of the applicable GST component.
15. DGAP further recorded that the Respondent had sold admission tickets only in the State of Telangana and that the individual recipients/consumers were not identifiable from the information furnished.
16. The DGAP concluded that the Respondent had contravened the provisions of Section 171(1) of the CGST Act as it failed to pass on the benefit of the GST rate reduction to the recipients through a commensurate reduction in prices.

17. The Principal Bench of the GST Appellate Tribunal (for short **"the GSTAT"**), constituted under sub-section (3) of section 109 of the CGST Act, 2017, has been empowered to examine Anti-Profiteering cases w.e.f. 01.10.2024, vide Notification No. 18/2024-Central Tax dated 30.09.2024. Consequent upon the constitution of the GSTAT.

<u>Proceedings Before the GSTAT: -</u>

18. A notice was issued to the Respondent calling upon their written submissions against the DGAP report dated 27.11.2020.

<u>Written Submissions on Behalf of The Respondent:</u>

19. That the Respondent filed their written submissions to justify their action to increase the prices of cinema tickets and contended that it had not indulged in profiteering and submitted that:-
    - (i) From the date on which the GST rate was reduced, it had charged the customers the reduced rate of tax. He correctly charged and collected the applicable tax for each transaction and had not retained any benefit arising from the reduction in the rate of GST.
    - (ii) Movie tickets constituted a service and that no stocking of goods was involved, therefore there was no possibility of accumulation or retention of any benefit of input tax credit arising from the reduction in GST rate.
    - (iii) Provision of Section 171 of the CGST Act, 2017 could not be invoked merely on the basis of the GST rate reduction without establishing an actual benefit which had accrued to the Respondent and had not been passed on to the customers.
    - (iv) The State Government provided a range of ticket prices within which the Respondent could determine its ticket prices. Ticket prices could vary depending upon several commercial factors, including:

- whether the movie was new or old;
- age of the movie;
- performance of the movie;
- weekends and holidays; and
- demand for the particular movie.

(v) The prices of movie tickets could not be treated as static merely because the GST rate had been reduced.

(vi) Different movies were produced by different producers, had different star casts and technical teams and were, therefore, essentially different products/services. Different products could not necessarily be compelled to be sold at the same price merely because they fell within the same GST classification. The Respondent furnished details of movies including **Antariksham, Vinaya Vidheya Rama, Maari-2, Mr. Majnu, Lovers Day, Anjali CBI, Rangasthalam, Love Game and Vishwasam**, together with their respective dates of exhibition.

<u>Clarification by the DGAP</u>

11. That DGAP filed its clarification and has submitted that the service supplied by the Respondent was classified as **"services by way of exhibition of cinematograph films"**. The DGAP also considered the Respondent's contention that the State Government provided a range of ticket prices and that ticket prices could be changed depending upon commercial factors and it observed that the Respondent had not produced any documentary evidence establishing that its prices were in fact fixed or controlled by the State Government or by the film producers/distributors in the manner claimed.

12. Heard Ms. Nidhi Dabas, Additional Assistant Director/ Authorised Representative appeared on behalf of the applicant and Shri Raj Tadla, Owner of the Theatre on behalf of the respondent.

Oral Submissions on Behalf of The Parties:-

13. It is submitted on behalf of the DGAP that the Respondent maintained the movie ticket prices for first class and second class even after the reduction of the tax on “services by way of admission on exhibition of cinematograph films”. Vide notification No. 27/2018-Central tax (rate) dated 31.12.2018, the rate of tax on cinema ticket was reduced from 18% to 12 % where the price of tickets were Rs. 100 or less w.e.f. 01.01.2019. However, the Respondent reduced the prices of cinema ticket for the first class and second class from 11.03.2019 to 08.05.2019.
14. The Respondent did not reduce the prices of cinema tickets commensurately instead increase the base price and continued with the selling price.
15. The computation of profiteering as illustrated in Table B and Table C is not controverted by the Respondent. The contentions of the Respondent that he had charged the from the customer the reduced prices of the tickers from the date on which the GST rate were reduced is incorrect.
16. The Respondent had failed to submit any cogent evidence to show his bona fide.
17. Per contra, the Respondent submitted that movie tickets are service and no stock of goods is involved. Therefore, there is no possibility of retention of any benefit of ITC on account of reduction in ITC rate. Since no actual benefit had accrued to the Respondent therefore the provision of 171 of the CGST Act, 2017 cannot be evoked.
18. The prices of tickets cannot be maintained static for a longer period as some factors viz the status of movie whether it is old or new performance of the movie, weekend or holidays or the demand for the particular movie need to be taken into consideration.

OBSERVATIONS AND FINDING

19. Section 171 of the CGST Act, 2017 reads thus:

"Section 171 Anti-profiteering measure-

a. *Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.*
b. *The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.*

   Provided that the Government may by notification, on the recommendations of the Council, specify the date from which the said Authority shall not accept any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

   Explanation 1. —For the purposes of this sub-section, "request for examination" shall mean the written application filed by an applicant requesting for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

> *Explanation 2. —For the purposes of this section, the expression "Authority" shall include the "Appellate Tribunal*
>
> *(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.*
>
> *(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profiteered:*
>
> *Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.*
>
> *Explanation- For the purposes of this section, the expression "profiteered" shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both".*

20. The provisions contained in Section 171 of the CGST Act mandate that any reduction in the rate of tax, on any supply of goods and services, the benefit of ITC should be passed on to the consumer by way of a commensurate reduction in prices.

21. The Hon'ble High Court, for the State of Telangana at Hyderabad in WP No. 4760 of 2021 and 5351 of 2021, ***Sudarshan Theatre v. Union of India***

(2024) 20 Centax 303 (Telangana), observed about the spirit of the legislation behind the provision for Anti-Profiteering as provided under Section 171 of the CGST Act, 2017. It reads thus:

> *" **17.** A plain reading of the said provision of law clearly indicates that the said provision has been introduced to ensure that the supplier of goods and services should not make profit from the reduction of the tax rate under the G.S.T. law. Rather the intention of the Government is that the moment the rate of tax under the G.S.T. is reduced, the benefit should immediately be passed on to the end-user by way of reduction in the prices commensurate with the reduction in the rate of tax. This, in other words, would mean that, the moment there is a cut in the rate of G.S.T., the price of the commodity or the services rendered has to be reduced automatically to the extent of the reduction in the rate of tax. If the supplier continues to sell the product at the same price particularly when the prices are inclusive of G.S.T., the respondent-Department or the beneficiary is not being benefitted by the Government's decision in lowering the rate of tax. A reading of Sections 171 & 172 of the G.S.T. Act does not show any exception carved out in the event non-reduction in the price of the tickets, nor is the authority empowered to relax the conditions so enumerated under Section 171 (1). This, in other words, also mean that the provision of Sections 171 (1) has to be strictly adhered to.."*
>
> *(Emphasis added)*

22. The Hon'ble High Court of Delhi in ***Reckitt Benckiser India Pvt. Ltd. Vs. Union of India (2024 SCC Online Del 588)****, has defined the mandate of*

legislation behind the enactment of Section 171 of the CGST Act, 2017. It is observed: -

> ***"97.*** *Section 171 of the Act, 2017 mandates that the suppliers shall pass on the benefit of reduction of the rate of Goods and Services Tax or Input Tax Credits by way of commensurate reduction in prices to the recipient. Section 171 deals with amounts that the Central and State Governments have foregone from the public exchequer in favour of the consumers. This Court is of the view that the amounts foregone from the public exchequer in favour of the consumers cannot be appropriated by the manufacturers, traders, distributors etc. To allow them to do so would amount to unjust enrichment. Consequently, when the Goods and Services Tax rate gets reduced or the benefit of input tax credit, becomes available as a necessary consequence the final price paid by the recipient obviously requires to be reduced. In the absence of such anti-profiteering provisions, there would be no legal obligation to pass on the benefit of the Goods and Services Tax regime and, consequently, the intended objective of reducing overall tax rates and mitigating the cascading effect would not be achieved."*
>
> *(Emphasis added)*

23. In the present matter the period under investigation is from 01.01.2019 to 10.03.2019.

24. The Respondent failed to substantiate with any cogent evident which can indicate that from the date on which the GST rates were reduced he had

charged reduced prices for its viewers. It is an admitted fact that the Respondent had reduced the prices of admission tickets for first class and second class from 11.03.2019 to 30.06.2019. Therefore, the DGAP has conducted present investigation for the period from 01.01.2019 to 10.03.2019. in absence of any evidence given by the Respondent, the argument of the Respondent cannot be accepted that it reduced the prices according to the notification w.e.f. 01.01.2019. Further, the Respondent failed to demonstrate that he did not retain any benefit and had correctly charged the applicable tax in accordance with the reduction in the rate of GST as per the said notification.

25. The arguments advanced on behalf of the Respondent that certain factors are required to be taken into consideration while determining the prices for admission tickets for each movie such as weekend and holidays, the performance of the movie, the age of the movie, whether the movie is old or new, and the public demand, cannot be accepted in view of the observations made by the Hon'ble High Court of Delhi in ***Reckitt Benckiser (Supra)*** which laid down the jurisdiction of the Authority as;-

> "*117…………… accordingly, costing and market, related factors are irrelevant for NAA, as it only required to examine whether or not there is any reduction rate reduction rate tax or benefit of accruing input tax credit and if so, whether the same has been passed on by way of commensurate reduction of price. The NAA is not concerned with the price determined by a supplier for the supply of particular goods or services exclusive of the GST or input tax credit component.*"
>
> *(Emphasis added)*

26. Insofar as the arguments of the Respondent is concerned that movie tickets constitute a service and no goods is involved, therefore, there was no possibility of retention of the ITC arising from the reduction in the GST rate is concerned, it is to be noted that the Respondent is duly registered with the GST department, he is filing returns to the department and he supplying the service to the cinema viewers.

27. It is incumbent upon the supplier of Goods and Services to pass on the benefit of Input Tax Credit to the recipient by way of commensurate reduction in prices as provided under Section 171 of the CGST Act, 2017. In the case in hand, the onus lies upon the Respondent, being the supplier of the services, to reduce the ticket prices to pass on the benefit of tax reduction. Therefore, we do not find any substance in the aforesaid argument advanced by the Respondent.

28. One important aspect, which is surfaced from the perusal of the record and based upon the arguments forwarded on behalf of the Respondent, is that the Respondent did not challenge the methodology adopted by the DGAP for investigation and the calculation of the profiteering amount for the period 01.01.2019 to 10.03.2019. The Respondent has not disputed the report dated 27.12.2019. Consequently, it must be inferred that the facts, figures, calculations, observations, and conclusions drawn by the DGAP stand uncontested.

29. We take strength of a decision given by the Hon'ble Apex Court in ***Thangam v. Navamani Ammal (2024) 4 SCC 247***, where no specific denial was made by the opposite party in their written statement against the averment made in plaint filed before the trial court, it is observed:

> *"15. In the absence of para-wise reply to the plaint, it becomes a roving inquiry for the Court to find out as to which line in some paragraph in the plaint is either admitted or denied in the written statement filed, as there*

is no specific admission or denial with reference to the allegation in different paras.

15.1. Order VIII Rules 3 and 5 CPC clearly provides for specific admission and denial of the pleadings in the plaint. A general or evasive denial is not treated as sufficient. Proviso to Order VIII Rule 5 CPC provides that even the admitted facts may not be treated to be admitted, still in its discretion the Court may require those facts to be proved. This is an exception to the general rule. General rule is that the facts admitted, are not required to be proved.

15.2. The requirement of Order VIII Rules 3 and 5 CPC are specific admission and denial of the pleadings in the plaint. The same would necessarily mean dealing with the allegations in the plaint para-wise. In the absence thereof, the respondent can always try to read one line from".

(Emphasis added)

30. Suffice to say that irrespective of the fact that who will determine the admission-ticket prices according to the prevailing law, for examining the fundamental issue that whether profiteering is committed by the Respondent and the provisions under Section 171 of the CGST Act, 2017 can be invoked, it is to be determined on the basis of facts and circumstances of the case whether the benefit of the reduction in rate of tax had been passed to the end consumer by way of commensurate reduction in the prices. The Respondent remained free to determine its prices in a fair and transparent manner in accordance with the law. However, such freedom could not be used to defeat the statutory requirement of passing on the benefit of reduction in the rate of tax to the recipient.

31. We are of the view that the Respondent has failed to discharge rebuttable presumption under section 170(1) of CGST Act, 2017 by producing any cogent evidence to justify the increase in base price of first class and second class beyond its assertion. The Respondent's defence is therefore a mere pretence and a devise to circumvent the statutory implications of Section 171 of the CGST Act, 2017.
32. In view of the foregoing observations, discussions and legal pronouncements, we arrived at the conclusion that the Respondent failed to discharge the onus under Section 171 of the CGST Act, 2017, to reduce the price of cinema tickets to pass on the benefit of tax rate reduction to end consumers, i.e. viewers. Thus, the Respondent has contravened Section 171 of the CGST Act, 2017.
33. Resultantly, the objections made by the Respondent are liable to be rejected.
34. Accordingly, the DGAP report dated 26.11.2020 deserve to be accepted.

ORDER

35. The DGAP report dated 26.11.2020 is hereby accepted.
36. The objections made by the Respondent against the DGAP reports are rejected.
37. The Respondent is directed to deposit the profiteered amount of **Rs. 81,722/-**, inclusive of the applicable GST component along with the interest @ 18% from 01.01.2019 to 10.03.2019, as applicable. 50% of the profiteered amount, along with the interest, shall be deposited in the Central Consumer Welfare Fund and remaining 50% of the profiteered amount, along with interest, shall be deposited in the Telangana State Consumer Welfare Fund, however, no penalty shall be leviable upon the Respondent.
38. Let a copy of the Judgement be communicated to concerned CGST/SGST Commissionerate for record and necessary action at their end.

39. Judgement pronounced in open Court today.
40. The Judgement and Order be uploaded on the official portal of GSTAT by today itself.

(Justice Mayank Kumar Jain)

Dated: 19.09.2026