GSTAT

Principle Bench at Delhi

Single Bench Court No. Court III

NAPA/58/PB/2025

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

Versus

MANGALBELA REAL ESTATES PVT. LTD. **.....Respondent**

Quorum

Hon'ble Sh. Anil Kumar Gupta, Member (Technical)

Counsel for Appellant **Counsel for Respondent**

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. : ZA070010926000248H **Date of order :** 30/09/2026

1.	GSTIN/Temporary ID/UIN - 19AAHCM8777E1ZW	
2.	Appeal Case Reference no. - NAPA/58/PB/2025	Date - 08/05/2025
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondant - 1. Mangalbela Real Estates Pvt. Ltd. , accounts@atrigroup.in , 836400046	

5.	Order appealed against -	
	(5.1) Order Type -	
	(5.2) Ref Number -	Date -
6.	Personal Hearing - 30/09/2026 22/09/2026 20/08/2026 10/08/2026 10/07/2026 08/07/2026 18/05/2026 15/04/2026 26/02/2026 14/01/2026 04/12/2025 16/10/2025 18/09/2025 28/08/2025 14/08/2025 08/08/2025 08/07/2025	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8.	Order in brief - The Respondent shall pass on the benefit of Rs. 31,20,542/- to the 66 eligible homebuyers, in proportion to their respective sold areas, within three months from the date of this order. The Respondent shall pay interest at 18% per annum on the said amount from the date of accrual of the benefit until the date of actual passing on.	
	Summary of Order	
9.	Type of order: Return to Recipient of Amount not passed on, along with interest	

Place :DELHI PB

Date : 30.09.2026

Final Order.

1. The present proceedings arise out of an application filed by Sh. Abhishek Chaudhary, resident of Saptarishi Apartment, 78, Boral Main Road, Garia, Kolkata-700084 (hereinafter referred to as **"the Applicant"**) before the Standing Committee on Anti-profiteering under Section 171 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as **"the Act"**) alleging that M/s Mangalbela Real Estates Pvt. Ltd., having registered office at 131, Park Street,

Kolkata, Pin: 700017 (W.B.) (hereinafter referred to as **"the Respondent"**) had not passed on the commensurate benefit of Input Tax Credit in respect of Unit No. 7/1F(15) in the project namely **"Atri Green Valley."**

2. The Standing Committee on Anti-profiteering examined the application and observed that the Respondent had not passed on the benefit of additional Input Tax Credit to the Applicant by way of commensurate reduction in price and accordingly forwarded the matter to the DGAP for detailed investigation under Rule 128 of the CGST Rules, 2017.

3. The DGAP submitted an Investigation Report dated 14.07.2021 under Rule 129 of the Central Goods and Services Tax Rules, 2017, before the erstwhile National Anti-Profiteering Authority (NAA).

4. 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.

5. The CCI vide letter dated 20.03.2024 remanded back the matter to the DGAP under Rule 133(4) of the CGST Rules, 2017 to re-investigate as the methodology adopted by DGAP was held to be flawed by Hon'ble High Court of Delhi in the matter of "**Reckitt Benckiser India Pvt. Ltd. v. Union of India (2024) 14 Centex 374 (Delhi)**". In the said Judgment, the Delhi High Court upheld the constitutional validity of Section 171 of the CGST Act, Nevertheless, in respect of the real estate sector, the Court in para 129 of the aforesaid judgment stated that:

> *"...that one needs to calculate the total savings on account of introduction of Goods and Services and 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."*

6. The Principal Bench of the GST Appellate Tribunal (hereinafter referred to as "this Tribunal"), constituted under sub-section (3) of Section 109 of CGST Act, 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.

7. In compliance with the CCI letter dated 20.03.2024, the DGAP reinvestigated the matter and submitted a fresh report dated 20.11.2025 before this Tribunal. In the said report, the DGAP stated that:

7.1 The input tax credit as a percentage of the purchase value that was available to the Respondent during the pre-GST period i.e. April, 2013 to June, 2017 was 2.37% and during the post-GST period i.e. July, 2017 to March, 2019 was 8.42% in Project "Atri Green Valley Phase-II". The methodology adopted by the DGAP is tabulated hereinunder: -

Table-'A' **(Amount in Rs)**

(1)	(2)	(3)	(4)
Sl. No.	**Particulars**	**Pre-GST Period**	**Post-GST Period**
1	Credit of Central Excise Duty and Service Tax availed (A)	34,47,028	-
2	Credit of VAT availed (B)	-	-
3	Net ITC of GST Availed (C)	-	1,24,15,142
4	Total Credit Availed (D = A+B or C)	34,47,028	1,24,15,142
5	Purchase Value of Goods and Services (Excluding Taxes and Duties) (E)	14,53,03,274	14,74,86,859
6	**Ratio of Credit Availed to Purchase Value (F = D*100/E) (in %)**	**2.37**	**8.42**
7	**Difference between pre-GST and post-GST ratio of credit availed to purchase value**	**6.05**	

7.2 From the above Table, it is evident that the Respondent has benefited from additional ITC to the tune of 6.05% during the post-GST period and has failed to pass on the said benefit to the home buyers by way of

commensurate reduction in price. Accordingly, the Respondent has contravened the provisions of Section 171 of the CGST Act, 2017.

7.3 The Central Government on recommendation of the GST Council, had levied 18% GST (effective rate was 12% in view of 1/3rd abatement for land value) on construction service, vide Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. The effective GST rate was 12% for flats. Accordingly, based on the figures contained in Table-'A' above, the comparative figures of the ratio of input tax credit availed to the purchase value in the pre-GST and post-GST periods, the recalibrated base price and the excess realization (profiteering) during the post-GST period, are tabulated in Table-B below: -

Table-'B' **(Amount in Rs)**

Sl. No.	**Particulars**		**Post-GST**
1	Period	A	July, 2017 to March, 2019
2	Ratio of Credit availed to Purchase Value as per Table - A above (%)	B	2.37/8.42
3	Increase in input tax credit availed post-GST (%)	C	6.05
4	Purchase Value of Goods and Services (Excluding Taxes and Duties) during Post-GST Period	D	14,74,86,859
5	Total Savings on account of additional ITC benefit	E = D*C/100	89,22,955
6	Total Saleable Area (in Sq. Ft.) as per list of buyers	F	2,21,255
7	Total Saving Per Sq. Ft.	G = E/F	40.33
8	Total Sold Area (in Sq. Ft.) till the date of opting of new scheme	H	69,085
9	**Profiteered Amount**	**I = G * H**	**27,86,198**

7.4 The DGAP in its report concluded that the Respondent had contravened the provisions of Section 171 of the Central Goods and Services Tax Act, 2017 by failing to pass on the benefit of additional input tax credit to the 66 eligible homebuyers through commensurate reduction in prices, thereby resulting in profiteering amounting to Rs.27,86,198/-, along with 12% GST of Rs. 3,34,344/-, aggregating to Rs. 31,20,542/- (Rupees Thirty-One Lakh Twenty Thousand Five Hundred Forty-Two only).

7.5 The investigation further found that the Respondent had not produced any evidence showing that such benefit had been passed on to buyers by way of commensurate reduction in price.

8. This Tribunal Vide its order dated 14.01.2026 issued notice to the Applicant and the Respondent, calling upon their objections/written submissions against the DGAP report dated 20.11.2025.

9. The Applicant vide email dated 17.04.2026, submitted that the Respondent failed to pass on the commensurate ITC benefit under Section 171 of the CGST Act, 2017, resulting in profiteering. The Applicant relies upon the DGAP's findings and prays for appropriate consequential directions in accordance with law.

10. In response to the notice issued by this Tribunal, the Respondent filed his written submissions dated 15.05.2026, confining itself solely to jurisdictional and legal objections. The Respondent did not address the merits of the alleged profiteering calculation, contending that the proceedings themselves are without jurisdiction and bad in law. The contentions raised by the Respondent are summarized hereunder:

10.1 The re-investigation vide Notice dated 10.04.2024 is void ab initio. Para 129 of the Delhi High Court judgment in *Reckitt Benckiser* (supra) is a judicial observation on methodology, not an operative direction for universal re-investigation. The Respondent was not a party thereto.

10.2 The CCI has no statutory power under the CGST Act or Rules to suo motu remand a concluded investigation. The DGAP, having submitted its report on 14.07.2021, became functus officio and cannot conduct a second investigation without a fresh reference from the Standing Committee under Rule 128 and no such reference was obtained.

10.3 DGAP report dated 14.07.2021 beyond deadline 30.06.2021. NAA passed no order by 15.01.2022. Proceedings are abated and cannot revive.

10.4 The fresh report submitted in November 2025 is beyond all permissible timelines. Under Rule 129(6), the DGAP must submit its report within six months, extendable by the Authority for a further period of three months only and maximum of nine months. The re-initiated proceedings commenced on 20.03.2024 and the statutory ceiling expired on 20.12.2024. The report submitted in November 2025 is approximately 11 months beyond the ceiling. The CCI lacks competence to grant extensions under Rule 129(6). The GSTAT's extension to 04.12.2025, beyond the nine-month ceiling, is ultra vires Rule 129(6).

10.5 Para 158 of the Delhi High Court judgment holds only that delay in submission of a report in an ongoing investigation does not abate proceedings. It does not authorize a fresh investigation, confer jurisdiction to re-open concluded proceedings, or override the statutory ceiling on extensions.

10.6 The Respondent was not heard before the Delhi High Court judgement and respondent was stranger to those proceedings, change of methodology mid-proceeding without hearing; legitimate expectation defeated. Hence, there is a violation of natural justice.

11. Thereafter, the DGAP, in its clarification dated 09.06.2026, responded to above mentioned objections raised by Respondent, inter alia, stating as follows:

11.1 The re-investigation was initiated in compliance with the Hon'ble Delhi High Court's judgment in *Reckitt Benckiser India Pvt. Ltd. v. Union of India* (W.P.(C) 7743/2019, dated 29.01.2024), As per the said judgment the earlier methodology adopted by the DGAP in real estate cases was held to be flawed, thereby rendering the earlier report null and void.

11.2 Consequently, the Competition Commission of India (CCI) uniformly remanded all pending cases for re-investigation on 20.03.2024.

11.3 Accordingly, the DGAP issued Notice of Investigation dated 10.04.2024. The Respondent's contention that the DGAP lacked power to re-investigate is accordingly denied as incorrect.

11.4 That the DGAP Report submitted on 20.11.2025 after receipt of complete documents in August 2025. Time limit under CGST Rules is directory, not mandatory as per Judgement of Reckitt Benckiser (supra) and same is affirmed by this Tribunal in M/s. A J Enterprises, NAPA/2/PB/2025 dated 20.02.20.

11.5 The applicability of the Hon'ble Delhi High Court's judgment is universal and not confined to the parties therein. The CCI's decision to remand all pending cases was based on a uniform application of the corrected methodology; hence, there is no mid-proceeding change in rules.

11.6 The proceedings are not concluded, as the final order of the CCI is pending. Hence, no abatement of proceedings.

12. The Respondent, vide Rejoinder dated 10.07.2026, filed in response to the DGAP's reply dated 09.06.2026, has reiterated and reaffirmed the grounds and submissions advanced in its Written Submissions dated 15.05. 2026.

12.1 The Respondent submits that the DGAP's reply fails to address the substance of its objections. The DGAP has either declined to comment on jurisdictional and limitation points or has offered the singular defence that the time limit is directory under Paragraph 158 of the Delhi High Court Judgment. The Respondent contends that specific averments not traversed stand admitted. The DGAP's failure to defend the statutory basis of re-initiation, the extensions of time, and its functus officio position renders these objections unrebutted.

12.2 The DGAP's reliance on Paragraph 158 is misplaced, as it deals with delay in a subsisting duty, not revival of a concluded mandate. The fresh investigation commenced years after the original report dated 14.07.2021, without statutory authority. Even directory provisions require reasonable compliance, whereas a delay of over fourteen months beyond the admitted deadline of 20.09.2024 cannot be allowed. The decision in *P.T. Rajan* supports the Respondent, as it concerns performance of a subsisting duty, not resurrection of a discharged duty. The GSTAT order in *A J Enterprises* is distinguishable, as it dealt with ongoing investigation, not reopening of concluded proceedings.

12.3 The CCI's suo motu decision to remand all cases, not being a direction of the Delhi High Court, is without statutory sanction under the CGST Act or Rules. The High Court merely recorded an observation and did not direct reopening. The contention that the judgment has universal applicability to non-parties is legally unsustainable, as a judgment lays down a binding ratio but does not authorize reopening proceedings against persons not before the Court without express statutory power.

12.4 In view of the above, the Respondent prays that this Hon'ble Tribunal may reject the DGAP's reply, declare the original Investigation Report dated 14.07.2021 as conferring no jurisdiction to re-investigate, hold

the re-initiated proceedings as without jurisdiction and barred by limitation, and pass such other orders as deemed fit.

13. The Respondent has filed an additional reply dated 22.09.2026, in compliance with this Hon'ble Tribunal's Order dated 20.08.2026, submitting as under:

13.1 The Respondent has tendered an unconditional apology for its non-appearance on 20.08.2026 and has stated that it does not wish to file any submissions on merits.

13.2 The Respondent has further stated that, by way of a deliberate legal election, it confines its case solely to the preliminary objections of jurisdiction and limitation, as already set out in its written submissions dated 10.07.2026 and its Rejoinder to the DGAP's clarification dated 09.06.2026, its case being that the re-initiated proceedings and the Investigation Report dated 20.11.2025 are void ab initio and without jurisdiction.

13.3 The Respondent has accordingly prayed that this Hon'ble Tribunal may be pleased to conclude the hearing and finally decide the matter on the basis of the written submissions, the DGAP's clarification and the Rejoinder already on record.

14. The matter was heard on various occasions pursuant to the hearing held on 17.04.2026. The Respondent, vide written submissions dated 15.05.2026, contested the proceedings only on the grounds of jurisdiction and maintainability. Despite being granted opportunities vide orders dated 10.07.2026 and 20.08.2026 to address the matter on merits, no substantive submissions were made. On 22.09.2026, Shri Sunny Jain, Chartered Accountant, appearing virtually for the Respondent, submitted that an additional reply had been filed and that the matter may be decided on the basis of the submissions already on record. The Respondent has neither disputed the figures determined by the DGAP nor challenged the

methodology adopted for computation of the profiteered amount. In view thereof, the following issues arise for consideration.

i. Whether the re-investigation initiated by the DGAP pursuant to the CCI letter dated 20.03.2024 is void ab initio for want of jurisdiction?

ii. Whether the DGAP, having submitted its original report on 14.07.2021, became functus officio, and whether a fresh reference from the Standing Committee under Rule 128 of CGST Rules, 2017 was mandatory before re-investigation?

iii. Whether the re-initiated proceedings are barred by limitation under Rule 129(6) of the CGST Rules, 2017, and whether the extension granted by this Tribunal is ultra vires?

iv. Whether the Respondent was denied natural justice due to an alleged mid-proceeding change in methodology?

v. Whether the Respondent contravened Section 171 of the CGST Act, 2017 by failing to pass on the benefit of additional Input Tax Credit to eligible homebuyers?

15. Issue No. 1: Whether the re-investigation is void ab initio?

15.1 The Respondent submits that paragraph 129 of *Reckitt Benckiser India Pvt. Ltd. v. Union of India*, (2024) 14 Centax 374 (Delhi), is only an observation regarding the methodology for computation of profiteering and does not constitute a direction for universal re-investigation. It is further contended that the Respondent, not being a party to the said proceedings, cannot be subjected to re-investigation on that basis and that the CCI had no jurisdiction to suo motu reopen a concluded investigation.

15.2 Upon consideration of the submissions advanced by the parties and the law laid down in *Reckitt Benckiser* (supra), this Tribunal finds no merit in the Respondent's challenge to the validity of the re-investigation. The Delhi High Court, in *Reckitt Benckiser* (supra), upheld the

constitutional validity of Section 171 of the CGST Act. However, the Court held that the methodology adopted by the DGAP for determination of profiteering in real estate cases was legally unsustainable. Para 129 of the said judgement is reproduced herein under:

> *"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 and 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"*

15.3 The infirmity identified by the Hon'ble High Court was with respect to the methodology adopted for computation of profiteering and was not peculiar to the parties before it. At the outset, it is apposite to distinguish between the ratio decidendi of a judgment, which constitutes the binding precedent, and the relief granted in the facts and

circumstances of the particular case. The relief granted in *Reckitt Benckiser* (supra) was necessarily confined to the lis before the Hon'ble High Court; however, the legal principle authoritatively laid down therein, insofar as it governs the methodology for determination of profiteering, constitutes the law declared by the jurisdictional High Court and is binding upon this Tribunal. The binding force of the precedent flows from the principle of law which forms the ratio decidendi of the judgment and not merely from the operative directions issued in the particular proceedings.

15.4 The CCI's decision to remit pending real estate matters for re-investigation must therefore be viewed as an attempt to secure uniformity, consistency and conformity with the binding judicial precedent, rather than as an impermissible exercise of suo motu review. The Respondent has also not demonstrated that the impugned re-investigation was undertaken in disregard of any specific statutory prohibition or in excess of a jurisdictional limitation so fundamental as to render the subsequent proceedings a nullity from inception.

15.5 The Tribunal further finds that the decision of the CCI dated 20.03.2024 to remit the pending real estate matters for re-investigation cannot, in the circumstances, be equated with an exercise of review of a concluded adjudication. The object of the remand was to cure the legal infirmity in the investigative methodology and to ensure that the determination was undertaken in conformity with the binding judicial pronouncement. The mere fact that the Respondent was not a party to *Reckitt Benckiser* (supra), or that the earlier investigation had been completed, does not confer a right to have the matter determined on the basis of a methodology judicially found to be unsustainable.

15.6 The Tribunal is, therefore, of the considered view that the re-investigation undertaken pursuant to the decision dated 20.03.2024, being founded upon the necessity to bring the pending proceedings in

conformity with the binding law declared by the Hon'ble High Court, cannot be characterised as without jurisdiction or void ab initio.

16. **Issue No. 2: Whether the DGAP became functus officio?**

16.1 Respondent in its written submissions contested that the DGAP, having submitted its report on 14.07.2021, became functus officio and cannot conduct a second investigation without a fresh reference from the Standing Committee under Rule 128 of CGST Rules, 2017.

16.2 We are of the view that the doctrine of functus officio applies to a quasi-judicial authority that has finally discharged its function. However, in the present case, the DGAP's original report dated 14.07.2021 was rendered infirm by the subsequent judicial pronouncement in *Reckitt Benckiser* (supra). The report was based on a methodology that was declared flawed. The proceedings before the NAA had not culminated in a final order, and the matter was pending when the NAA's tenure ended on 30.11.2022.

16.3 The CCI, vested with the power to examine anti-profiteering matters w.e.f. 01.12.2022, remanded the matter to the DGAP under Rule 133(4) of the CGST Rules, 2017. Rule 133(4) empowers the Authority to remit the matter to the DGAP for re-investigation. Since the original report was based on a flawed methodology, the DGAP was directed to re-investigate and submit a fresh report. The DGAP did not act Suo Motu but pursuant to a lawful remand order.

16.4 The contention that a fresh reference from the Standing Committee was required is without merit. The original reference under Rule 128 remained alive, and the remand under Rule 133(4) did not necessitate a fresh reference. The DGAP was merely directed to correct the methodology and submit a fresh report in the same proceedings.

17. Issue No. 3: Whether the proceedings are barred by limitation?

17.1 Respondent contended that under Rule 129(6), the DGAP must submit its report within six months, extendable by the Authority for a further

period of three months only, i.e., a maximum of nine months. The re-initiated proceedings commenced on 20.03.2024, and the statutory ceiling expired on 20.12.2024. The report submitted in November 2025 is approximately 11 months beyond the ceiling. The CCI lacks competence to grant extensions, and the GSTAT's extension to 04.12.2025 is ultra vires Rule 129(6).

17.2 Upon consideration of the mentioned rule and the law laid down in *Reckitt Benckiser* (supra), this Tribunal finds that Rule 129(6) of the CGST Rules, 2017 provides:

> *"The DGAP shall, within a period of six months from the date of initiation of the investigation, or within such extended period as may be granted by the Authority, submit a report to the Authority."*

The Delhi High Court in *Reckitt Benckiser* (supra), in Para 158, held as under:

> *"158. In some cases, the Petitioners have pointed out that the timelines as provided in the Rules, 2017 have not been followed. They further contended that as a result, the proceedings are vitiated. However, it is important to note that the Rules, 2017 do not provide any consequences in case the time limits provided thereunder lapse. As held earlier, the anti-profiteering provisions in the Act, 2017 and the Rules, 2017 are in the nature of a beneficial legislation as they promote consumer welfare. The Courts have consistently held that beneficial legislation must receive liberal construction that favors the consumer and promotes the intent and objective of the Act. That being the scenario, it cannot be said that the proceedings as a whole abate on lapse of time limit of furnishing of report by DGAP. The Supreme Court in P.T. Rajan v. T.P.M. Sahir (2003) 8 SCC 498 has held that "It is well-settled principle of law that where a statutory functionary is asked to perform a statutory duty within*

the time prescribed therefore, the same would be directory and not mandatory. "and that" a provision in a statute which is procedural in nature although employs the word "shall" may not be held to be mandatory if thereby no prejudice is caused." Consequently, the time limit provided for furnishing of report by DGAP is directory in nature and not mandatory. Expansion of investigation beyond the scope of the complaint is not ultra vires the statute"

17.3 This Tribunal in *M/s. A J Enterprises*, NAPA/2/PB/2025 dated 20.02.2025, affirmed this position.

17.4 In the present case, the re-investigation was initiated on 10.04.2024. The DGAP submitted its fresh report on 20.11.2025. While the delay is substantial, the provisions of Rule 129(6) of CGST Rules, 2017 are directory. The delay occurred due to the need to obtain complete documents from the Respondent, which were received only in August 2025. The Respondent cannot be permitted to take advantage of its own delay in producing documents.

17.5 Furthermore, the extension granted by this Tribunal to 04.12.2025 was within the spirit of Rule 129(6), which permits extensions. The CCI's remand order and the subsequent proceedings were in compliance with the binding judicial precedent.

17.6 The proceedings are not barred by limitation. Issue decided against the Respondent.

18. Issue No. 4: Whether there was a violation of natural justice?

18.1 Respondent contended that there was a change of methodology mid-proceeding without hearing, defeating the Respondent's legitimate expectation and violating natural justice. This Tribunal is of considerate view that the change in methodology was not arbitrary but was mandated by the Delhi High Court's judgment in *Reckitt Benckiser* (supra). The Respondent was given notice of the re-investigation vide Notice dated 10.04.2024 and was afforded an opportunity to submit

documents. The DGAP's fresh report dated 20.11.2025 was served upon the Respondent, and this Tribunal issued notice on 14.01.2026 calling for objections. The Respondent filed its written submissions dated 18.05.2026, availing the opportunity to be heard.

18.2 The principles of natural justice require that a party be given a fair opportunity to present its case. In the present case, the Respondent was heard extensively on its jurisdictional and legal objections. The Respondent chose not to address the merits of the profiteering calculation, confining itself solely to preliminary objections. The Respondent cannot now allege violation of natural justice when it deliberately elected not to contest the merits.

19. Issue No. 5: Whether the Respondent contravened Section 171 of the CGST Act, 2017 by failing to pass on the benefit of additional Input Tax Credit to eligible homebuyers?

19.1 Section 171(1) of the Central Goods and Services Tax Act, 2017, mandates that any benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices. It is welfare-oriented, beneficial legislation designed to prevent unjust enrichment of suppliers at the expense of consumers, and must receive a purposive construction that advances the remedy and suppresses the mischief.

19.2 The obligation under Section 171 is not discharged by mere forbearance; it is discharged only by actual transmission of the benefit. Once the DGAP, acting upon the Respondent own financial records, determines that a benefit has accrued and has not been passed on, the evidential burden shifts to the Respondent to establish that the benefit has, in fact, been transmitted.

19.3 In the present case, the Respondent, by its written submissions dated 18.05.2026, its Rejoinder dated 10.07.2026, and its additional reply dated 22.09.2026, expressly and deliberately confined its defence to preliminary objections of jurisdiction and limitation, and categorically elected not to address the merits of the profiteering computation. The

Respondent has neither challenged the accuracy of the figures tabulated by the DGAP nor disputed the methodology followed, which is in conformity with the law declared by the Hon'ble Delhi High Court in *Reckitt Benckiser India Pvt. Ltd. v. Union of India*, (2024) 14 Centax 374 (Delhi). The Respondent has not produced a single document, no revised price list, no credit note, no refund voucher, no adjusted invoice, no correspondence with any homebuyer to demonstrate that any part of the additional ITC benefit was passed on. The Respondent has not even made a bare assertion that it passed on the benefit. The DGAP's findings therefore remain unchallenged and uncontroverted, and the Respondent cannot be permitted to approbate and reprobate by refusing to engage with the merits and thereafter asserting that the findings are unsupported.

19.4 The DGAP, in its re-investigation report dated 20.11.2025, has placed on record uncontroverted material establishing that the input tax credit as a percentage of purchase value available to the Respondent during the pre-GST period (April 2013 to June 2017) was 2.37%, while during the post-GST period (July 2017 to March 2019) it was 8.42%, thereby yielding an additional ITC benefit of 6.05%. The total saleable area being 2,21,255 sq. ft., the per square feet benefit to be passed on to each homebuyer is Rs. 40.33. In respect of the sold area of 69,085 sq. ft., the total profiteered amount is Rs. 27,86,198. The Respondent has not challenged the entitlement of the 66 eligible homebuyers, the total saleable area, the sold area, the per square feet benefit, or the aggregate profiteered amount.

19.5 Based on the above discussion, this Tribunal is of the view that Respondent, M/s Mangalbela Real Estates Pvt. Ltd., has contravened the provisions of Section 171(1) of the Central Goods and Services Tax Act, 2017 by failing to pass on the benefit of additional Input Tax Credit amounting to 31,20,542/- (Rupees Thirty-One Lakh Twenty Thousand Five Hundred Forty-Two only) to the 66 eligible

homebuyers in respect of the project "Atri Green Valley," by way of commensurate reduction in price.

19.6 The said amount shall be refunded along with interest at the rate of 18% per annum, in the term of Rule 133(3)(b) of the CGST Rules, 2017. The interest shall be computed from the respective dates of payment of the last instalment by each eligible homebuyer until the date of actual refund.

19.7 In view of the fact that the entire period of contravention i.e. from 01.07.2017 to 31.03.2019 was completed prior to the coming into force of Section 171(3A) of the CGST Act, 2017, which was inserted by the Finance (No.2) Act, 2019 and took effect from 01.01.2020, the Respondent is not liable to pay any penalty under the said provision.

ORDER

20. The DGAP report is hereby accepted.

20.1 The Respondent shall pass on the benefit of Rs. 31,20,542/- to the 66 eligible homebuyers, in proportion to their respective sold areas, within three months from the date of this order.

20.2 The Respondent shall pay interest at 18% per annum on the said amount from the date of accrual of the benefit until the date of actual passing on.

21. The Registry is directed to supply a copy of this Order to the Applicant, Respondent, as well as to the jurisdictional CGST/SGST Commissioner concerned for information and necessary action.

22. The Respondent shall file a compliance report before the jurisdictional CGST/SGST Commissioner within thirty days of the expiry of the period of three months.

23. The matter is disposed of accordingly.

24. This Order is pronounced in the open court on 30.09.2026.

(Sh. Anil Kumar Gupta)

Date- 30.09.2026