GSTAT

Principal Bench at Delhi

Single Bench Court No. Court II

NAPA/49/PB/2025

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

Versus

THE ANANT RAJ CORPORATION LTD. **.....Respondent**

Quorum

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

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. : ZA070011026000102H **Date of order :** 14/10/2026

1.	GSTIN/Temporary ID/UIN - 06AAOCA7650B1ZS	
2.	Appeal Case Reference no. - NAPA/49/PB/2025	Date - 09/01/2025
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondent - 1. The Anant Raj Corporation Ltd. , itr@tarc.in , 011-43559100	
5.	Order appealed against -	

	(5.1) Order Type -	
	(5.2) Ref Number -	Date -
6.	Personal Hearing - 14/10/2026 21/09/2026 03/09/2026 23/07/2026 06/07/2026 09/06/2026 22/05/2026 07/05/2026 27/04/2026 13/04/2026 06/04/2026 18/03/2026 09/02/2026 20/01/2026 16/12/2025 12/12/2025 05/12/2025 17/11/2025 13/10/2025 11/09/2025 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 DGAP report dated 01.09.2026 is hereby accepted.	
Summary of Order		
9.	Type of order : Closure Report	

Judgment Reserved on 21.09.2026
Judgment pronounced on 14.10.2026

Per:- Justice Mayank Kumar Jain, Judicial Member

JUDGEMENT

FACUTAL MATRIX

1. The M/s. TARC Limited (hereinafter referred to as "**the Respondent**") is a company registered under the CGST Act having its registered business premises at 2nd Floor, C-3, Qutab Institutional Area, Katwaria Sarai, New Delhi-110016. The respondent is engaged in the business of real estate development with headquarters situated in Delhi. The respondent is established in the year 2019.
2. The present proceedings arises from a complaint made by Smt. Renu Mittal W/o Mool Chand Mittal, 897, Sector-17, Faridabad-121002

(hereinafter referred to as **'the Complainant'**) under Rule 128 of the Central Goods and Services Tax Rules, 2017 (for short **'the CGST Rules, 2017'**) alleging profiteering in respect of construction services provided by the Respondent in their project "MACEO".

3. The Complainant has alleged that the Respondent did not pass on the benefit of Input Tax Credit (For short **'the ITC'**) to the Complainant by way of commensurate reduction in the prices on purchase of Flat in the project "MACEO" on the introduction of GST w.e.f. 01.07.2017, in terms of Section 171 of Central Goods & Services Act, 2017, (for short **'CGST Act, 2017'**).

Investigation & Conclusion

4. The complaint was examined by the Standing Committee on Anti-Profiteering and same was forwarded to Director General of Anti-Profiteering (hereinafter referred to as **'the DGAP'**) under Rule 129(1) of the CGST Rules, 2017 for detailed investigation.

5. The investigation was set into motion by the DGAP. Notice was issued to the Respondent calling upon to show cause whether the benefit of the ITC had been passed on to the consumers by way of commensurate reduction in prices, and if so, to *suo-moto* determine the quantum thereof.

6. The DGAP submitted its report dated 23.03.2020 to the National Anti-Profiteering Authority (for short **'the NAA'**). Thereafter, the Authority sent back the matter to the DGAP for re-investigation on issues pertaining to the NCLT proceedings carried out after 23.03.2020.

7. As per the composite scheme of arrangement for amalgamation and demerger approved by the Hon'ble NCLT, Chandigarh, the entire

project division including the project "MACEO" was demerged and transferred to the Respondent from the appointed date on 30.09.2018. In the Hon'ble NCLT Order No. CP(CAA)NO.19/Chd/Hry/2019 dated 24.08.2020, it was clearly ordered that all the liabilities and duties relating to the Project Division stand transferred to the Respondent.

8. Tenure of the NAA ended on 30.11.2022. Thereafter, the Competition Commission of India (for short **"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.

9. The CCI vide letter dated 23.03.2024 remanded the matter to the DGAP under Rule 133(4) of the CGST Rules, 2017 to re-investigate the matter as the methodology adopted by the DGAP was held to be flawed by Hon'ble High Court of Delhi in ***Reckitt Benckiser India Pvt. Ltd. v. Union of India (2024) 14 Centex 374 (Delhi).*** The said Authority sent back the case for re-investigation on issues pertaining to the NCLT proceedings carried out after 23.03.2020 and the DGAP submitted its re-investigation report to the Authority on 26.04.2023.

10. Pursuant thereto, a show cause notice dated 03.07.2024 was issued by the DGAP to the Respondent under Rule 129 of the CGST Rules, 2017, for redetermination of profiteering amount. Based on the submissions made by the Respondent, supporting documents placed on record and following the guidelines in ***Reckitt Benckiser (supra),*** the DGAP submitted its report dated 02.09.2025 to the authority.

11. The DGAP submitted its report on the following the observations and conclusions;

(i) The period covered under the current investigation is from 01.07.2017 to 31.03.2024 as the Respondent did not receive the final Occupancy Certificate (for short **"OC"**).

(ii) The Respondent were not registered as an assessee with VAT & Service Tax Department, since they came into existence in August, 2020. They get registered with the GST Department for providing taxable service under the category of construction services in August, 2020.

(iii) The Respondent had opted for old scheme for discharging GST @12% with ITC, in accordance with the Notification No. 3/2019-Central Tax (Rate) dated 29.03.2019 w.e.f. 01.04.2019. Therefore, the profiteering was calculated up to 31.03.2024, as they did not receive final OC.

(iv) Prior to 01.07.2017, i.e. before introduction of the GST, the Respondent was not availing credit of Service Tax on the input services (CENVAT credit of Central Excise duty was not available) in respect of the units for the project "MACEO" sold by them instead M/s Anant Raj Limited were availing since at the time of the Respondent did not come into existence.

(v) In post-GST regime, the Respondent was eligible to avail ITC of GST paid on all the inputs and input services as they had opted old scheme.

(vi) Total number of flats was 788, having total area of 15,84,208 Sq. Ft. All the 788 flats were sold before final OC. Therefore, the entire area of 15,84,208 Sq. Ft. was considered for the investigation.

(vii) The Respondent has developed multiple projects in post-GST period. The report of the GST relates to the project "MACEO" having RERA Registration No. 63 of the 2017. During the investigation, the Chartered Accountant Certificate were considered by the DGAP.

12. The DGAP adopted the methodology for computing the profiteering amount by calculating any input credit under GST which has become eligible to be taken as credit and has been availed and utilized by the supplier of service to discharge its GST liability on provision of the output services. Therefore, any ITC will result in saving to the supplier of service only if same has resulted in savings to the supplier in the form of decreased cost on account of ailment and utilization thereof in payment of GST on output service. Any positive difference in percentage of availability from the pre-GST was deducted from the post-GST can be multiplied with the amount spent in the post-GST on the purchase of input and input services, to calculate the savings made by the Respondent. As the excess availability of ITC in the GST period to the Respondent to pay output GST leads to reduction in cost to the Respondent which has to be passed on to the recipient.

13. The methodology adopted by the DGAP on the basis of the afore-mentioned procedure is tabulated below:

S.No.	Particulars	Pre-GST Period	Post-GST Period
1	Purchase Value of Goods and Services (Excluding Taxes and Duties)	14,54,17,279	1,79,54,30,365
2	Credit of Service Tax availed	2,03,58,419	-
3	Credit of VAT availed	-	-

4	Total Credit Availed in Pre-GST Period	2,03,58,419	-
5	ITC of GST Availed	-	26,01,79,734
6	**Ratio of Credit Availed to Purchase Value (in %)**	**14.00**	**14.49**
	Difference		**(0.49)**

14. The DGAP, on the basis of the aforesaid difference in ratio of credit availed to purchase value computed the profiteering amount as under:

	Particulars		**Amount in Rs.**
S. No.	**Period**	**A**	
1	Ratio of Credit availed to Purchase Value as per Table-A above (%)	B	14.00/14.49 Pre-GST/Post-GST
2	Increase in input tax credit availed post-GST (%)	C	0.49
3	Purchase Vale of Goods and Services (Excluding Taxes and Duties) during Post-GST Period	D	1,79,54,30,365
4	Total Savings on account of additional ITC	E=D*C/100	87,97,609
5	Total Area (in Sq. Ft.) of the project (As per CA Certified details submitted by Noticee)	F	15,84,208
6	Total Saving Per Sq. Ft.	G=E/F	5.55
7	Total Sold Area before OC (in Sq. Ft.) (As per CA Certified details submitted by Noticee)	H	15,84,208
8	**Profiteered Amount**	**I = G * H**	**98,53,322**

1. Thus, the DGAP arrived at the conclusion that the Respondent had indulged in profiteering and did not pass on the benefit to the recipient by way of commensurate reduction in prices as mandated under section 171 of the CGST Act, 2017. The total amount of profiteering is calculated to Rs. 98,53,322/-.
2. The Respondent submitted their written submissions denying with the allegations of profiteering that:
    (i) The computation of profiteering made by the DGAP is incorrect and erroneous. It is not in consonance with the directions given by Hon'ble High Court of Delhi in ***Reckitt Benckiser India Pvt. Ltd.*** **(supra)**
    (ii) The DGAP has determined alleged profiteering based upon comparison of the ratio of credit availed to purchase value during the pre-GST and post-GST periods. The respondent disputed this methodology that it does not properly account for changes in the rate of tax on goods and services after implementation of GST and consequently results in an incorrect computation. Section 171 of the CGST Act cannot be applied by comparing CENVAT/ VAT credit under the erstwhile regime with ITC under the GST regime, therefore the methodology adopted by the DGAP is beyond the scope of the said provision.
    (iii) The investigation cannot travel beyond the application submitted by the applicant and cannot cover other customers who had not filed applications.
    (iv) The GST component had already been collected from customers and deposited with the Government and, therefore,

inclusion of GST in the profiteered amount would result in GST being levied again.

(v) Interest under Rule 133 of the CGST Rules cannot be levied unless there is a quantified and enforceable liability and that, during the investigation, the respondent was not aware of the finally quantified profiteered amount until the impugned DGAP Report was prepared.

(vi) The Rule 133(3)(b), providing for interest on the profiteered amount, was introduced by Notification No. 26/2018-Central Tax dated **13.06.2018**, whereas the alleged profiteering relates to **FY 2017-18**, i.e. a period preceding the introduction of the provision, and the provision cannot be retrospectively applied in the absence of express legislative intent.

Clarifications by the DGAP

3. That the DGAP submitted its clarifications against the written submissions made by the Respondent: -

(i) DGAP emphasized that Section 171 does not regulate base pricing or violate Article 19(1)(g) of the Constitution; rather, it ensures that additional ITC benefits arising from subsumed pre-GST taxes are passed on to flat buyers rather than retained as undue profit.

(ii) The six-month timeline under Rule 133 of the CGST Rules is directory, preventive proceedings from abating due to time lapses. Calculation of profiteering across all project supplies is legally sound and defended including the 12% GST charged on the additional realization within the profiteered amount, citing Delhi High Court precedents holding that

suppliers cannot collect extra tax on inflated base prices. The suppliers could refund excess tax collections via credit notes under Section 34 of the CGST Act, 2017

4. During the hearing Shri Kapil Kumar Sharma, Learned Counsel appearing on behalf of the Respondent had submitted that in view of the findings laid down by the Co-ordinate bench of this Tribunal in DGAP Vs. M/S Laureate Buildwell Pvt. Ltd., 2026 SCC OnLine GSTAT 220. The computation of the Profiteering amount against the Respondent needs to be recalculated. He has impressed upon the findings expressed by the coordinate bench that profiteering should be calculated on the basis of actual saving incurred to the Respondent against the actual expenses made by him. Learned Counsel relied upon the observations made in Laureate Buildwell Pvt. Ltd.(supra), it reads thus;

"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 v. SVP Builders Case No. NAPA/ 78/PB/2025 = (2026) 40 Centax 32 (Tri. - GST - Delhi) 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. v. 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."

(emphasis supplied)

23. In view of the above, we have directed the DGAP to submit its supplementary report based upon examination and investigation of the documents to be submitted by the respondent.

24. Thereafter, the Respondent submitted certain documents to the DGAP. The computation methodology was revised by the DGAP to evaluate actual savings against actual expenses. Based upon CA Certificate and sample procurement invoices, the respondent demonstrated substantial post-GST cost increases in core construction materials.

25. The DGAP submitted its supplementary report dated 01.09.2026 whereby the revised re-computation, the post-GST purchase value of goods and services was calculated at Rs. 1,79,54,30,365/-, generating an additional ITC savings of Rs. 87,97,609/-. However, after deducting the verified cost escalation of Rs. 3,78,17,556/-, the net savings accrued to the respondent resulted in a negative figure i.e. Rs. 2,90,19,947/. Consequently, the DGAP submitted a revised finding of **Nil profiteering** for Project "Maceo" as mentioned in the table below:-

	Particulars		**Post-GST**
S. No.	Period	A	01.07.2017 to 31.03.2024
1	Ratio of Credit availed to Purchase Value as per Table - A above (%)	B	14.00/14.49
2	Increase in input tax credit availed post-GST (%)	C	0.49

3	Purchase Value of Goods and Services (Excluding Taxes and Duties) during Post-GST Period	D	1,79,54,30,365
4	Total Savings on account of additional ITC	E = D*C/100	87,97,609
5	Cost Escalation	F	3,78,17,556
6	**Net Savings on account of additional ITC benefit after subtraction of Cost Escalation**	**G = E-F**	**-2,90,19,947**
7	**Profiteered Amount (in Rs.)**		**0**

5. We have made sincere efforts to reach the Applicant to confront with the DGAP report dated 01.09.2026. The office has sent information to the Applicant through email, GSTAT portal and registered posts, but Applicant did not respond.

6. Heard Shri Praveen Kumar, Additional Assistant Director/ Learned Representative of the DGAP and Shri Kapil Kumar Sharma, Learned Counsel appearing on behalf of the Respondent.

7. Against the Report of DGAP dated 01.09.2026 no objections are brought on record on behalf of the Respondent.

8. The DGAP, based upon the documents submitted by the Respondent, indicating actual saving incurred against the total procurement, arrived at the conclusion that the Respondent has not contravened provision under section 171of the CGST Act, 2017. Since no objection is raised by the Applicant or any other home-buyers and the Respondent the DGAP report dated 01.09.2026 deserves to be accepted.

ORDER

9. The DGAP report dated 01.09.2026 is hereby accepted.
10. Let a copy of the Judgement and order be communicated to concerned CGST/SGST Commissionerate for record and necessary action at their end.
11. Judgement pronounced in open Court today in the presence of Authorised Representative for the DGAP and the learned Counsel for the Respondent.
12. The Judgement and Order be uploaded on the official portal of GSTAT by today itself.

(Justice Mayank Kumar Jain)

Dated: 14.10.2026