GSTAT

Principal Bench at Delhi

Court No. Court II

NAPA/106A/PB/2025

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

Versus

CANDEUR CONSTRUCTIONS **.....Respondent**

Quorum

Hon'ble Justice Sh. Mayank Kumar Jain, Member (Judicial)
Hon'ble Sh. A. Venu Prasad, 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. : ZA070011026000188H **Date of order :** 23/10/2026

1.	GSTIN/Temporary ID/UIN - 29AAKFC8006A1ZQ	
2.	Appeal Case Reference no. - NAPA/106A/PB/2025	Date - 18/06/2025
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondent - 1. Candeur Constructions , ashishdeshpande3082@gmail.com , 919620313813	
5.	Order appealed against -	

	(5.1) Order Type -	
	(5.2) Ref Number -	Date -
6.	Personal Hearing - 23/10/2026 24/09/2026 10/09/2026 24/08/2026 19/08/2026 13/07/2026 04/06/2026 29/05/2026 05/05/2026 01/04/2026 12/02/2026 07/01/2026 02/12/2025 14/10/2025	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8.	Order in brief - The revised computation of profiteering furnished by the DGAP vide its supplementary report/clarifications dated 08.09.2026 is accepted.	
	Summary of Order	
9.	Type of order : Return to Recipient of Amount not passed on, along with interest	

CORAM:
Hon'ble Justice Sh. Mayank Kumar Jain, Member (Judicial)
Hon'ble Sh. A. Venu Prasad, Member (Technical)

ORDER

1. The present proceedings arise from an application filed by Sh. Pramod Kumar and Smt. Parveen Kumari, residents of Flat No.- T1B701, Candeur Carlisle, TTPL Main Road, Mahadevapura, Bengaluru– 560048 (hereinafter referred to as "the Complainants"), under Rule 128 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "the CGST Rules"), alleging profiteering in respect of construction services supplied by M/s Candeur Constructions, No. 157, Devine, 3rd Floor, Kacharakanahalli, St. Thomas Post Office, Hennur Main Road, Near Cherna Kesava Swamy Temple, Bengaluru – 560084 (hereinafter referred to as "the Respondent").

2. The Complainants alleged that the Respondent had failed to pass on the benefit of Input Tax Credit (hereinafter referred to as 'ITC') by way of commensurate reduction in the price of Flat No. B-701 in the Respondent's project 'Candeur Carlisle 'upon introduction of GST w.e.f. 01.07.2017, in terms of Section 171 of the CGST Act, 2017.

3. The application was examined by the Standing Committee on Anti-Profiteering, which forwarded the matter to the Directorate General of Anti-Profiteering (hereinafter referred to as "the DGAP") for detailed investigation. Accordingly, an investigation was initiated to collect the necessary evidence and determine whether the benefit of ITC had been passed on by the Respondent. The Investigation Report was submitted to the Authority on 17.01.2024.

4. Subsequently, the Authority remanded the matter to the DGAP for re-investigation vide letter F. No. M/AP/43/Candeur/2024-Sectt./312 dated 21.03.2024, in light of the judgment of the Hon'ble High Court of Delhi dated 29.01.2024, insofar as it pertained to the real estate sector.

5. In view of the above, a Notice dated 09.04.2024 was issued under Rule 129 of the CGST Rules calling upon the Respondent and the Co-Respondent to state whether they admitted that the benefit of ITC had not been passed on to their customers by way of commensurate reduction in prices and, if so, to *suo motu* determine the quantum thereof and indicate the same in their reply to the Notice, along with all supporting documents.

6. In response to the aforesaid Notice, the Respondent and the Co-Respondent submitted the requisite documents/information through e-mails/letters.

7. Upon completion of the investigation, the DGAP submitted its Report dated 05.06.2025 to the Principal Bench, GSTAT, which has been examined and is summarised below:

7.1. The project "Candeur Carlisle" was being developed pursuant to a **Joint Development Agreement dated 30.11.2016** entered into between M/s

Kamani Tubes Limited, 32, Kamani Chambers, Ramjibhai Kamani Marg, Ballard Estate, Mumbai – 400038, the landowner (hereinafter referred to as "the Co-Respondent"), and the Respondent, i.e. M/s Candeur Constructions, the developer. Under the said arrangement, the project was to be developed in the ratio of 42:58, pursuant to which 176 units pertained to the Respondent and 128 units pertained to the Co-Respondent.

7.2. The DGAP conducted the investigation in respect of the project "Candeur Carlisle" for the **period from 01.07.2017 to 31.03.2023**. The project comprises 304 units having a total saleable area of 3,93,856 sq. ft.

7.3. The DGAP examined the Occupancy Certificate dated 09.12.2020 and observed that, prior to its issuance, 175 of the Respondent's 176 units and 13 of the Co-Respondent's 128 units had been booked. The remaining 01 unit of the Respondent and 115 units of the Co-Respondent, which were unsold on the date of the Occupancy Certificate, were excluded from the investigation in view of the provisions relating to ITC attributable to unsold units. Accordingly, the investigation covered 188 booked flats.

7.4. The DGAP also examined the Joint Development Agreement, which provided that the entire cost of construction, including the area falling to the share of the Owner, was to be borne by the Developer. Accordingly, the DGAP observed that the Respondent had borne the entire construction cost and availed the entire ITC in respect of the project "Candeur Carlisle" and was therefore liable to pass on the benefit of such ITC to the customers, including those pertaining to the Co-Respondent's share.

7.5. The DGAP observed that, prior to GST, the Respondent was eligible for credit of Service Tax and VAT, whereas under GST it became eligible

for ITC of GST on inputs and input services. Accordingly, the DGAP compared the ratio of credit availed to purchase value during the pre-GST and post-GST periods.

7.6. Based on the data furnished by the Respondent, the ratio of credit availed to purchase value was worked out as under:

Table- A

S. No.	Particulars	Pre- GST Period	Post-GST Period
1 .	Purchase Value of Goods and Services (Excluding Taxes and Duties) (A)	8,63,55,956	1,37,58,11,645
2 .	Credit of Service Tax availed (B)	19,33,174	-
3 .	Credit of VAT availed (C)	38,21,532	-
4 .	Total Credit availed in Pre-GST Period (D)= B+C	57,54,706	-
5 .	Net ITC of GST Availed (E)	-	11,50,74,530
6 .	**Ratio of Credit Availed to Purchase Value (in %) F= D/A or E/A**	6.66	8.36
	Difference between post-GST and pre-GST ratios		**1.7**

7.7. From Table-A, the DGAP observed that the ratio of ITC availed to purchase value increased from 6.66% in the pre-GST period to 8.36% in the post-GST period, resulting in an increase of 1.70 % , which was treated as the additional ITC benefit arising from the introduction of GST.

7.8. The DGAP further observed that the Central Government, on the recommendation of the GST Council, had levied 18% GST, with the effective rate being 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 for flats was accordingly taken as 12%. Based on the figures contained in Table-A, the recalculated base price and the excess realisation/profiteering during the post-GST period were worked out as under:

	Table-B		
	Particulars		**Post GST**
S. No	Period	A	
1	Ratio of Credit availed to Purchase Value as per Table - A above (%)	B	6.66/8.36
2	Increase in input tax credit availed post-GST (%)	C	1.70
3	Purchase Value of Goods and Services (Excluding Taxes and Duties) during Post-GST Period	D	1,37,58,11,645
4	Total Savings on account of additional ITC benefit	E=D*C/100	2,33,88,798
5	Total Area (in Sq. Ft.) of the project	F	3,93,856
6	Total Saving Per Sq. Ft.	G=E/F	59.38
7	Total Sold Area before OC (in Sq. Ft.)	H	2,44,370
8	**Base Profiteered Amount (in Rs.)**	I=G*H	1,45,10,691

The DGAP accordingly considered the additional ITC benefit to require commensurate reduction in the base price and cum-tax price under Section 171 of the CGST Act, 2017.

7.9. Accordingly, the DGAP concluded that the Respondent had contravened the provisions of Section 171 of the CGST Act, 2017, insofar as the Respondent had saved/profiteered an amount of Rs. 1,45,10,691/- plus GST @ 12%, i.e. Rs. 17,41,283/-, totaling to Rs. 1,62,51,974/-, which was required to be passed on to the eligible recipients in respect of the project "Candeur Carlisle". The DGAP further recorded that the Respondent had supplied construction services in the State of Karnataka only.

8. The above Report was received in the Principal Bench, GSTAT, on 18.06.2025 for adjudication under Section 171 of the CGST Act, 2017. A Notice was issued to the Complainants and the Respondent directing them to file written submissions on the DGAP Report.

9. The Respondent, vide its written submission dated 15.05.2026, submitted that it had no objection to the findings contained in the DGAP Report dated 05.06.2025. However, it submitted that a rectification was required in the computation of profiteering, as the DGAP had considered the total area of the project as 3,93,856 sq. ft., whereas, according to the Occupancy Certificate dated 09.12.2020, the total area of the project was 49,878.81 sq. metres, equivalent to 5,36,891 sq. ft. The Respondent accordingly furnished a copy of the Occupancy Certificate and requested that the profiteering computation be reworked on the basis of the said area so that the benefit of ITC could be accurately determined and passed on to the eligible recipients.

10. The Complainants vide their submissions dated 16.05.2026 contended that:

10.1. The Complainants submitted that, as per the DGAP's communication dated 23.10.2025, the calculated profiteered amount of Rs.

1,62,51,974/- was required to be passed on to the 188 eligible flats out of the total 304 flats in the project.

10.2. The Complainants further submitted that, since all 304 units had proportionated Undivided Share (UDS) in the project, the eligible amount in respect of each of the 188 flats should be determined with reference to the respective proportionate flat area and the applicable ITC benefit. They sought clarification as to how the revised total project area furnished by the Respondent would affect the computation and distribution of the profiteered amount among the eligible flat buyers.

10.3. The Complainants further submitted that the Respondent had initially agreed to pass on the ITC benefit vide e-mail dated 22.01.2020, but the matter was subsequently not acted upon despite repeated communications, including after issuance of the Occupancy Certificate dated 09.12.2020. They stated that the relevant e-mail communications with the Respondent had already been submitted to the NAA as part of the complaint.

11. The DGAP, vide its clarification dated 26.05.2026, stated that the project area of 3,93,856 sq. ft. considered in the Report dated 05.06.2025 was based on the data and certified Annexures furnished by the Respondent during the investigation. The DGAP, therefore, found no sufficient ground to modify the computation and reiterated the findings in its Report dated 05.06.2025.

12. Vide order dated 04.06.2026, this Tribunal, after considering the submissions of the parties regarding the total area of the project, noted that the Respondent had relied upon the total area of 5,36,891 sq. ft. mentioned in the Occupancy Certificate, whereas the DGAP had adopted 3,93,856 sq. ft. on the basis of the area disclosed by the Respondent in its earlier submissions. The Tribunal accordingly directed as under:

10. Further, the Authorised Representative of the DGAP submitted that he requires some time to examine the annexure in which the area of 3,93,856 Sq. ft. was disclosed to the DGAP by the Respondent.

11. Accordingly, learned Chartered Accountant is directed to file comparative table mentioning therein the entire area 304 units which is commensurate to the area mentioned in the Occupation Certificate within one week from today. A copy of such submission be made available to the DGAP as well as the Applicant.

12. The DGAP and the Applicant may also file their submissions/clarifications, if any, within two weeks thereafter.

13. The Respondent, vide its submissions dated 22.06.2026 stated as follows:

(a) The comparative area reconciliation directed by the Tribunal could not be prepared within the stipulated period, as the project had been completed several years earlier, the Respondent had since ceased its operations, and the requisite historical records and detailed break-up were not available.

(b) The Occupancy Certificate dated 09.12.2020 certified the final total constructed area at 49,878.81 sq. metres, equivalent to 5,36,891 sq. ft., and the Respondent requested that the said area be considered for determining the project area and the consequential computation.

14. The Complainants vide submissions dated 23.06.2026, in response to the submissions of the Respondent dated 22.06.2026, stated that:

14.1. The Respondent had failed to furnish the detailed break-up/reconciliation between the area considered by the DGAP in its Investigation Report and the area of 5,36,891 sq. ft. reflected in the Occupancy Certificate. The Complainants also submitted that the Respondent had not reconciled the unit-level built-up area, car parking

area and common-area share of the sold units with the total area reflected in the Occupancy Certificate. The Complainants, therefore, contended that the revised area ought not to be adopted without such reconciliation.

14.2. The entire eligible ITC benefit should be apportioned over the total super built-up area of the eligible units and passed on to the respective eligible flat owners. The Complainants further requested that statutory interest on the eligible ITC benefit be calculated from the date of the Occupancy Certificate and/or receipt of the amount, as applicable.

15. The Respondent vide submissions dated 19.08.2026 submitted that:

15.1. The Respondent submitted that the facts of the present case did not squarely fall within any of the four situations contemplated under paragraph 128(a) to (d) of the judgment in **Reckitt Benckiser India Pvt. Ltd. v. Union of India, 2024 (82) G.S.T.L. 344 (Del.)**. The Respondent, in support of its contention, furnished the following comparative position:

Para 128	**Situation contemplated under the respective paragraph**	**Position in the present case**	**Whether applicable**
Para 128(a)	Flat completely constructed before GST and buyer made full payment before GST	Construction did not commence before GST. Commencement Certificate is dated 04.09.2017. Further, consideration was received partly before GST and partly after GST.	**Not applicable**

Para 128(b)	Construction started before GST and continued after GST, and buyer made full payment after GST	Construction commenced only after GST. Further, buyer did not make full payment after GST; only the balance consideration was received after GST.	**Not applicable**
Para 128(c)	Construction started before GST and continued after GST, and buyer made full payment before GST	Construction commenced only after GST. Further, buyer did not make full payment before GST; only part consideration was received before GST.	**Not applicable**
Para 128(d)	Flat constructed after GST, purchased after completion, with full payment made upfront after completion	Although construction commenced after GST, the buyer had already paid part consideration before GST. The balance was paid after GST. Therefore, there was no full upfront payment after completion.	**Not applicable**

15.2. Relying upon the decision of the Principal Bench of GSTAT in ***DG Anti-Profiteering v. Arun Excello Constructions LLP NAPA/116/PB/2025, Final Order dated 04.06.2026***, the Respondent submitted that an actual and measurable incremental ITC benefit attributable to introduction of GST was required to be established and that the methodology adopted by the DGAP could not be mechanically applied without considering the actual facts of the project.

16. The DGAP vide its clarifications dated 08.09.2026 and 18.09.2026 submitted that:

16.1. The DGAP, vide its clarification dated 08.09.2026, submitted that, on examination of the material furnished by the Respondent and comparison with the figures contained in the Investigation Report dated 05.06.2025, it had revised the computation by adopting the total project area of 5,36,891 sq. ft. and the total area sold before issuance of the Occupancy Certificate as 3,34,570 sq. ft. Consequently, the saving per sq. ft. was revised from Rs. 59.38 to Rs. 43.56, the base profiteered amount from Rs. 1,45,10,691/- to Rs. 1,45,73,861/-, and the total profiteered amount including GST @ 12% from Rs. 1,62,51,974/- to Rs. 1,63,22,724/-. Thus, although the adoption of the larger project area reduced the saving per sq. ft., the corresponding increase in the eligible sold area resulted in a net increase of Rs. 70,750/- in the base profiteered amount. The DGAP also furnished the buyer-wise computation.

16.2. With regard to the Respondent's contention that the project commenced only after introduction of GST, the DGAP submitted that the certified ST-3 returns, VAT returns and purchase values furnished by the Respondent during investigation had been considered for determining the pre-GST credit and purchase value. According to the DGAP, these records demonstrated procurement and utilisation of inputs and services relating to the project and, therefore, provided the basis for comparison between pre- GST with the post-GST ITC and purchase value.

16.3. With regard to the applicability of paragraphs 128(a) to (d) of the judgment dated 29.01.2024 of the Hon'ble High Court of Delhi, the DGAP examined the homebuyer details furnished by the Respondent and noted that Sh. Pravin Kumar, Unit No. 2B503, having a saleable

area of 1135 sq. ft., had booked the unit on 24.08.2016, while the date of agreement in respect of Sh. Pramod Kumar, the Complainant, was 03.01.2017. On this basis, the DGAP submitted that the factual matrix was covered by paragraphs 128(b) and 128(c) of the said judgment. The DGAP accordingly submitted that the Respondent's contentions were not sustainable and reiterated the findings contained in its Investigation Report dated 05.06.2025

16.4. The DGAP further submitted that issuance of the Commencement Certificate after 01.07.2017 did not, by itself, determine the applicability of Section 171, which was required to be examined with reference to the actual pre-GST and post-GST ITC position and corresponding supplies.

16.5. Regarding the Respondent's reliance upon the Final Order dated 04.06.2026 in ***Arun Excello Constructions LLP (supra)*****,** the DGAP submitted that the said decision was distinguishable on facts, as the ratios of tax credit availed to purchase value for the respective periods in that case were negative, whereas the relevant ratios in the present case were positive. The DGAP accordingly submitted that the said decision could not be mechanically applied to the present case. With regard to the methodology, the DGAP submitted that the methodology adopted was correct, reasonable and in conformity with the principles laid down in ***Reckitt Benckiser (supra)***, wherein the Hon'ble High Court had held that no fixed or uniform mathematical formula could be prescribed and that the methodology had to be evolved having regard to the facts and circumstances of each case/industry. The DGAP submitted that the methodology adopted in the present case was rational and case-specific and had also been adopted in other real-estate cases and upheld by the Hon'ble GSTAT.

17. The Respondent vide submissions dated 21.09.2026 and 24.09.2026 contended that:

17.1. The Respondent reiterated that the DGAP had not established an actual, identifiable and quantifiable incremental ITC benefit arising solely on account of introduction of GST. It was submitted that the differential of 1.70 % between the pre-GST ITC-to-purchase ratio of 6.66% and the post-GST ratio of 8.36% could not, by itself, establish such benefit.

17.2. The Respondent further submitted that the revised computation by the DGAP, whereby the saving per sq. ft. and the resultant profiteering amount changed upon revision of the project area, demonstrated the sensitivity of the computation to the underlying factual inputs. It was accordingly contended that, even if Section 171 were held applicable, the matter required determination on the basis of the actual project-specific incremental ITC benefit, verified project area and eligible sold area.

Oral Submissions of the Parties:

18. Submissions on behalf of the Complainant:

18.1. The Complainant submitted that construction activity had commenced before the introduction of GST on 01.07.2017. It was contended that excavation and foundation work had already been undertaken before the issuance of the Commencement Certificate dated 04.09.2017 and, therefore, the date of issuance of the certificate could not be treated as conclusive of the commencement of construction activity.

18.2. The Complainant further submitted that, prior to the introduction of GST, VAT was being charged at the rate of approximately 10.8%, whereas, after the introduction of GST, the applicable rate was reduced to 5% in the relevant category. Despite such reduction, the Respondent was alleged to have charged GST at the rate of 12% instead of passing

on the benefit of the reduction to the customers by way of a commensurate reduction in prices.

18.3. He also referred to a statement concerning CREDAI's response to GST rate reductions on construction materials, wherein the reduction in GST on materials such as cement, granite, marble and sand-lime bricks was stated to be capable of reducing overall project costs by approximately 3–5%.

18.4. The Complainant further contended that the computation undertaken by the State Screening Committee had not been duly considered by the DGAP. It was submitted that the said computation was relevant for determining the benefit arising from the introduction of GST and that the report furnished by the DGAP could be accepted only after considering the objections raised regarding the methodology and the project-area calculation.

19. Submissions on behalf of the Respondent

19.1. The learned Counsel appearing on behalf of the Respondent relied upon Section 171 of the CGST Act, 2017, and the judgment of the Hon'ble Delhi High Court in ***Reckitt Benckiser India Pvt. Ltd. (supra)***, particularly paragraph 128 thereof. It was submitted that the Hon'ble High Court had considered different factual situations concerning the stage of construction and the timing of payment by the buyers for determining the applicability and extent of the benefit of Input Tax Credit.

19.2. The learned Counsel further questioned the area adopted for the computation of profiteering and submitted that the difference between the area of 3,93,856 sq. ft. considered in the original DGAP report and the revised area of 5,36,891 sq. ft. had a direct bearing on the benefit calculated per square foot and the resultant profiteering amount. It was submitted that the revised computation and the material relied upon

for determining the total project area and eligible sold area required scrutiny before the amount of profiteering could be accepted.

20. Several hearings in the present matter were held on various dates, including 14.10.2025, 04.06.2026, 13.07.2026, 10.09.2026 and 24.09.2026. During these proceedings, Shri Ajay Kumar Tehlan, learned Authorised Representative, appeared on behalf of the DGAP, while Shri B. Veeresh, learned Chartered Accountant, appeared on behalf of the Respondent. Shri Pramod Kumar, the Complainant, appeared through virtual mode.

Issues for determination:

21. In view of the rival submissions, the following issues arise for determination:

(i) Whether the methodology adopted by the DGAP for determining the additional ITC benefit arising from introduction of GST, on the basis of the pre-GST and post-GST credit and purchase data, is legally and factually sustainable?

(ii) Whether having regard to the Commencement Certificate dated 04.09.2017 and the Respondent's contention that construction commenced only after introduction of GST, the pre-GST credit and purchase data can validly be taken into account for determining the additional ITC benefit under Section 171 of the CGST Act?

(iii) Whether the revised computation of profiteering furnished by the DGAP, including the determination of the total project area, eligible sold area, per-square-foot benefit and consequential profiteering amount, is factually and legally sustainable?

Determination of issue (i)

Whether the methodology adopted by the DGAP for determining the additional ITC benefit arising from introduction of GST, on the basis of the

pre-GST and post-GST credit and purchase data, is legally and factually sustainable?

22. We have considered the submissions of the Respondent, the Report of the DGAP dated 05.06.2025, the subsequent clarifications furnished by the DGAP, the documents placed on record and the judgments relied upon by both sides. The principal objection of the Respondent is that the DGAP has mechanically compared the ratio of credit availed during the pre-GST period with the ratio of GST ITC availed during the post-GST period and has treated the resultant difference as the additional ITC benefit arising on account of introduction of GST. It is submitted that such comparison does not establish any actual, identifiable or project-specific benefit.

23. The DGAP, on the basis of the data furnished by the Respondent, examined the credit of Service Tax and VAT availed during the pre-GST period and the GST ITC availed during the post-GST period, along with the corresponding purchase value of goods and services. The pre-GST credit comprised Service Tax credit of Rs. 19,33,174/- and VAT credit of Rs. 38,21,532/-, aggregating to Rs. 57,54,706/-, against a purchase value of Rs. 8,63,55,956/-. During the post-GST period, the Respondent had availed net GST ITC of Rs. 11,50,74,530/- against a purchase value of Rs. 1,37,58,11,645/-. On this basis, the DGAP determined the ratio of credit to purchase value at 6.66% during the pre-GST period and 8.36% during the post-GST period, resulting in a difference of 1.70%.

24. The Respondent has relied upon the judgment of the Hon'ble Delhi High Court in ***Reckitt Benckiser India Pvt. Ltd.(supra)***, wherein the Hon'ble High Court observed:

> *"124. This Court is of the view that no fixed/uniform method or mathematical formula can be laid down for determining profiteering as the facts of each case and each industry may be different. The determination of the profiteered amount has to*

be computed by taking into account the relevant and peculiar facts of each case. There is 'no one size that fits all 'formula or method that can be prescribed in the present batch of matters. Consequently, NAA has to determine the appropriate methodology on a case to case basis keeping in view the peculiar facts and circumstances of each case."

25. The aforesaid principle makes it clear that the determination of profiteering cannot be governed by a universally applicable mathematical formula and that the methodology must take into account the peculiar facts and circumstances of the project. However, paragraph 124 cannot be read as prohibiting mathematical computation altogether. What is required is that the methodology adopted should have a rational nexus with the benefit sought to be quantified.

26. The Respondent has also placed reliance upon paragraph 129 of ***Reckitt Benckiser (supra)***. The Hon'ble High Court therein held:

"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 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"

27. Thus, the specific methodology found to be flawed in ***Reckitt Benckiser (supra)*** was the determination of the benefit in the real-estate sector by comparing the ITC-to-turnover ratios of the pre-GST and post-GST periods. The rationale for rejecting such methodology was that turnover, advances, construction activity and ITC do not necessarily move in tandem during the life cycle of a real-estate project. The judgment, however, did not hold that every comparison between pre-GST and post-GST data is impermissible.

28. This distinction has subsequently been expressly considered by the Hon'ble Delhi High Court in ***LICHFL Care Homes Ltd. vs. Director General of Anti- Profiteering, Central Board of Indirect Taxation and Customs & Ors. W.P. (C) 13665/2026.*** The Court held:

"31. The contention, however, proceeds on an incomplete reading of Paragraph No.129 of Reckitt Benckiser (supra). This Court did not hold that every comparison between the pre-GST and post-GST period was impermissible. What was found to be flawed was the methodology which sought to determine the benefit in the real estate sector merely by

comparing the ratio of ITC to turnover, on the premise that ITC accrual and turnover move in a corresponding manner.

32. In the present case, the DGAP did not apply the earlier ITC-to-turnover ratio to determine the benefit. The revised exercise was undertaken by examining the purchase value of goods and services, determining the ITC actually availed during the post-GST period, calculating the resultant additional ITC benefit and thereafter dividing the project-level saving by the total project area.

33. The distinction is significant. The purchase value has not been used as a proxy for turnover for the purpose of determining a benefit relatable to the amounts realised from individual buyers. It has been used as the denominator for quantifying the proportion of ITC available against the project expenditure during the relevant period. The resulting saving has thereafter been converted into a project-wide per square foot figure, precisely so that the benefit is distributed with reference to the area of the flats. This is materially different from the methodology considered and rejected by this Court in Reckitt Benckiser (supra).

34. The final step adopted by the DGAP is, in fact, directly aligned with the direction contained in Paragraph No.129 of Reckitt Benckiser (supra). The total saving is first determined at the project level and is thereafter divided by the total area. The benefit relatable to each recipient is then determined by applying the per square foot figure to the area sold to that recipient.

35. It is, therefore, not possible to accept the submission that the DGAP has simply resurrected the earlier methodology by

changing the denominator from 'turnover' to 'purchase value'."

29. The aforesaid distinction is applicable to the methodology adopted in the present case. The DGAP has not used the amounts realised from the flat buyers or the turnover of the project as the denominator. It has considered the actual Service Tax and VAT credit availed during the pre-GST period and the actual GST ITC availed during the post-GST period against the corresponding purchase value of goods and services. The purchase value has thus been used to determine the proportion of credit attributable to project expenditure and not as a substitute for turnover. The resulting project-level saving has thereafter been converted into a per-square-foot benefit for distribution among eligible recipients. The methodology, therefore, has a rational nexus with the project expenditure and the benefit sought to be quantified.

30. The Respondent has nevertheless contended that the difference between 6.66% and 8.36% represents merely a mathematical differential and does not establish an actual benefit arising from GST. In this regard, it is necessary to appreciate the nature of the change brought about by the GST regime in the construction sector. The availability of ITC under GST was intended to remove the cascading effect of taxes embedded in goods and services used for construction. The contemporaneous communication of the Central Government dated 15.06.2017, dealing with the reduced tax burden on construction under GST, recorded:

"5. This will change under GST. Under GST, full input credit would be available for offsetting the headline rate of 12%. As a result, the input taxes embedded in the flat will not (& should not) form a part of the cost of the flat.

6. The builders are expected to pass on the benefits of lower tax burden under the GST regime to the buyers of property by way

of reduced prices/ installments. It is, therefore, advised to all builders / construction companies that in the flats under construction, they should not ask customers to pay higher tax rate on instalments to be received after imposition of GST.

7. Despite this clarity on law position, if any builder resorts to such practice, the same can be deemed to be profiteering under section 171 of GST law."

These observations provide the policy and statutory context in which the additional ITC benefit under Section 171 was required to be examined.

31. Furthermore, the Hon'ble Delhi High Court, in ***Reckitt Benckiser India Pvt. Ltd (supra)***, while examining the object of the GST regime and the statutory mandate under Section 171 of the CGST Act, 2017, observed as follows:

93. The Goods and Service Tax is a destination-based tax and is levied at the point of consumption. Accordingly, the taxes get accumulated with the original price and due to the effect of Input Tax Credit, the cascading effect i.e. tax on tax is removed. This is best illustrated by the following example: -

OLD SYSTEM		*GOODS AND SERVICES TAX SYSTEM*	
MANUFACTURING COST OF CAR		MANUFACTURING COST OF CAR	
	250,000		250,000
ADD: PROFIT @20%	50,000	ADD: PROFIT @20%	50,000
TOTAL COST	300,000	TOTAL COST	300,000
ADD: EXCISE DUTY @10%	30,000	ADD: EXCISE DUTY @10% NA	0
COST AFTER TAX	3,30,000	COST AFTER TAX	3,00,000
ADD : VAT @10%	33000	ADD : VAT @10% NA	0
COST TO CUSTOMER	3,63,000		300,000
		ADD:GOODS And	
		SERVICES TAX@ 20%	60000
		COST TO CUSTOMER	3,60,000

32. From the above illustration, it is evident that the introduction of GST results in a tax benefit of Rs. 3,000/-, arising from the removal of the cascading

effect of taxation. The spirit of Section 171 of the CGST Act, 2017, is to ensure that such a benefit is passed on to the recipient by way of a commensurate reduction in price. Similarly, in the real estate sector, any benefit arising from the additional availability of ITC under the GST regime is required to be passed on by the developers to the eligible homebuyers. Similar in ***Reckitt Benckiser India Pvt. Ltd (supra)*** judgment the Hon'ble Court observed:

> *99….. 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.*

33. In the present case, therefore, the DGAP has not relied upon an industry-wide estimate or an assumed percentage of reduction in construction cost. The computation has been made from the Respondent's own figures of pre-GST credit, post-GST ITC and corresponding purchase values. This is significant because the determination under Section 171 has to be project-specific and cannot be based merely upon a general industry estimate.

34. The DGAP has determined that the additional benefit arising from the availability of Input Tax Credit (ITC) under the GST regime amounts to 1.70% of the purchase value of the project. The Respondent has challenged the methodology adopted by the DGAP and sought rejection of the investigation report, contending that no additional benefit has accrued which is liable to be passed on to the homebuyers. Conversely, the Complainant has contended that the benefit ought to be higher, relying upon the CREDAI estimate that reductions in GST rates on certain construction materials could result in an overall reduction in project costs of approximately 3% to 5%.

35. We have considered the rival contentions. The estimate referred to by CREDAI is a general estimate of the possible reduction in construction costs and cannot, by itself, determine the additional ITC benefit available in the present project. The benefit has to be determined on the basis of the relevant project-specific data. In the present case, the DGAP has determined the additional ITC benefit at 1.70% on the basis of the pre-GST and post-GST credit and purchase-value figures. We find no sufficient ground to reject this computation merely on the basis of the general estimate referred to by the Complainant. Accordingly, the DGAP's computation of the additional ITC benefit at 1.70% is accepted, subject to the findings regarding the relevance of the underlying pre-GST transactions recorded under Issue No. (ii).

36. Accordingly, we hold that the methodology adopted by the DGAP, based on the actual pre-GST credit and post-GST ITC availed against the corresponding purchase value of goods and services, is correct, reasonable and appropriate for determining the additional ITC benefit in the present case. This interpretation is reinforced by the subsequent judgment in ***LICHFL Care Homes (supra)***.

37. We therefore answer Issue No. (i) in favour of the DGAP to the extent of the legal sustainability of the methodology adopted.

Determination of Issue No. (ii):

Whether having regard to the Commencement Certificate dated 04.09.2017 and the Respondent's contention that construction commenced only after introduction of GST, the pre-GST Input Tax credit and purchase data can validly be taken into account for determining the additional ITC benefit under Section 171 of the CGST Act?

38. Having held under Issue No. (i) that the methodology of examining the pre-GST credit and post-GST ITC with reference to the corresponding purchase value is legally permissible, the next question is whether such methodology

can appropriately be applied to the facts of the present project, particularly when the Respondent contends that construction commenced only after introduction of GST. The Respondent has relied upon the Commencement Certificate dated 04.09.2017 and submitted that no construction activity could have commenced prior to that date. It has consequently been contended that the pre-GST purchases, CENVAT/VAT credit and advances received from customers cannot, by themselves, be treated as evidence of construction activity during the pre-GST period.

39. The Respondent has also relied upon paragraph 128 of ***Reckitt Benckiser (supra)***, wherein the Hon'ble Delhi High Court considered four different factual situations relating to construction and payment in the real-estate sector. The relevant paragraph reads as under:

"128. There is no dispute with regard to the methodology to be adopted in the following four scenarios: -

a. If the flat was completely constructed in the pre-Goods and Services Tax period i.e. before 01st July, 2017 and if it was purchased by making upfront payment of the whole price in the pre-Goods and Services Tax period no benefit of Input Tax Credit would be required to be passed on as the price will include the cost of taxes on which Input Tax Credit was not available in the pre-Goods and Services Tax period viz. Central Excise Duty, Entry Tax etc.

b. If the construction of the flat had started in the pre-Goods and Services Tax period and continued/completed in the post-Goods and Services Tax period and a buyer purchased the flat by making full upfront payment in the post-Goods and Services Tax period he is entitled to the benefit of Input Tax Credit on the material which has been purchased in respect of this flat during the post-Goods and Services Tax period and on which

benefit of Input Tax Credit has been availed by the builder. The builder has to reduce the price commensurately and pass on the benefit.

c. *If the construction of the flat is started in the pre-Goods and Services Tax period and its construction was continued in the post-Goods and Services Tax period and it was purchased by the consumer by paying the full amount of price upfront in the pre-Goods and Services Tax period, the buyer is entitled to claim benefit of Input Tax Credit on the taxes paid on the construction material purchased by the builder in the post-Goods and Services Tax period during which he has been given benefit of Input Tax Credit on the taxes on which Input Tax Credit was not available in the pre-Goods and Services Tax and cost of such taxes has been built in the price of the flat by the builder.*

d. *If the flat is constructed in the post-Goods and Services Tax period and it is purchased after construction being complete by making upfront payment of the full price, no benefit of Input Tax Credit would be available as the price of the flat would have been fixed after taking into account the Input Tax Credit which has become available to the builder in the post-Goods and Services Tax period and which was not available to him in the pre-Goods and Services Tax."*

40. The Respondent has submitted that the present case does not fall within any of the four situations contemplated in paragraph 128. According to the Respondent, construction commenced only after 01.07.2017, and that no construction activity was undertaken during the pre-GST period, rather only a part of the consideration was received from the buyers before introduction of GST, with the balance being received thereafter. It is therefore contended

that none of the illustrations in paragraph 128 can be mechanically applied to the present project.

41. We find that the facts of the present case do not squarely fall within any of the four situations mentioned in paragraph 128 of ***Reckitt Benckiser (supra)***. The present case is neither one where the flats were completed and full payment was made before 01.07.2017, nor one where a completed flat was purchased after GST against full upfront payment. Since the consideration was received partly before and partly after the introduction of GST, the case requires examination on its own facts. Therefore, merely because the case does not fall within any of the four situations, the inquiry under Section 171 cannot be concluded. The actual project-related purchases, ITC availed and the additional benefit arising therefrom have to be examined on the basis of the material available on record.

42. We now turn to the Commencement Certificate dated 04.09.2017. The said certificate is relevant for determining the date on which construction of the project was formally authorised to commence. However, the date of formal commencement of construction and the existence of project-related purchases and tax-credit transactions are distinct factual matters. The issuance of the Commencement Certificate on 04.09.2017 does not, by itself, establish that no goods or services relating to the project were procured prior to 01.07.2017 or that no eligible CENVAT/VAT credit was availed in respect of project-related purchases during the pre-GST period.

43. The fundamental question that arises here is whether the pre-GST credit and purchase data relied upon by the DGAP constitute actual project-related transactions and provide a reasonable basis for determining the change in the availability of ITC after introduction of GST. Section 171 requires the benefit arising from the additional availability of ITC to be identified and passed on. Where the Respondent's own records disclose actual pre-GST credit attributable to project-related purchases and actual post-GST ITC

against project expenditure, such records cannot be disregarded solely because the formal commencement of construction occurred after 01.07.2017.

44. In the present case, the pre-GST credit comprises Service Tax credit of Rs. 19,33,174/- and VAT credit of Rs. 38,21,532/-, aggregating to Rs. 57,54,706/-, against a pre-GST purchase value of Rs. 8,63,55,956/-. As stated by the DGAP in its clarification dated 08.09.2026, the aforesaid figures were derived from the certified ST-3 returns, VAT returns and purchase data furnished by the Respondent during the investigation. The DGAP has relied upon these records to determine the pre-GST credit and the corresponding purchase value for comparison with the post-GST position. The relevance of these figures depends upon their connection with the project under investigation. The Respondent has not placed any material before us to establish that the purchases and credits relied upon by the DGAP pertain to another project. The said records, therefore, have to be considered along with the DGAP's clarification and the other material available on record while determining the relevance of the pre-GST figures to the present project

45. The subsequent judgment in ***LICHFL Care Homes (supra)*** also does not support the proposition that the mere existence of a post-GST commencement date renders pre-GST data legally irrelevant. That judgment recognised the use of purchase value and actual ITC for determining project-level savings, while emphasising that the methodology has to be fair, reasonable and responsive to the peculiarities of the particular project.

46. We therefore find that the Commencement Certificate dated 04.09.2017 has significance, but not the consequence suggested by the Respondent. It establishes that the formal commencement of construction was after the introduction of GST. However, it does not, in isolation, establish the absence of all project-related expenditure or eligible tax credit during the

pre-GST period. Nor does it render the Respondent's statutory records relating to pre-GST purchases and credit irrelevant for the purposes of determining the change in the availability of input tax credit.

47. Accordingly, on the material placed before us, the existence of the Commencement Certificate dated 04.09.2017 does not invalidate the DGAP's consideration of the pre-GST credit and purchase data. The relevant pre-GST figures were derived from the Respondent's own records and statutory returns furnished during the investigation, and the Respondent has not established that the purchases and credits relied upon by the DGAP were unrelated to Candeur Carlisle. The pre-GST data therefore provides a reasonable project-level benchmark for comparison with the post-GST ITC position.

48. We therefore hold that the Commencement Certificate dated 04.09.2017 does not preclude consideration of the pre-GST credit and purchase data for the purposes of Section 171 in the facts of the present case. The relevant pre-GST transactions having been furnished by the Respondent himself and considered from its statutory records, and no material having been placed before us to establish that such transactions were unrelated to the project, the pre-GST figures constitute a permissible basis for determining the change in the availability of ITC after introduction of GST.

49. Issue No. (ii) is accordingly answered by holding that the post-GST date of formal commencement of construction, evidenced by the Commencement Certificate dated 04.09.2017, does not by itself render the pre-GST purchase and credit data inadmissible or irrelevant.

Determination of Issue (iii)

Whether the revised computation of profiteering furnished by the DGAP, including the determination of the total project area, eligible sold area, per-

square-foot benefit and consequential profiteering amount, is factually and legally sustainable?

50. Having considered the methodology adopted by the DGAP and the relevance of the pre-GST and post-GST data under Issues Nos. (i) and (ii), we now proceed to examine the revised computation furnished by the DGAP and whether the same is sustainable.

51. In its original Report dated 05.06.2025, the DGAP had considered the total project area as 3,93,856 sq. ft. and the area sold before issuance of the Occupancy Certificate as 2,44,370 sq. ft. On this basis, the saving was calculated atRs. 59.38 per sq. ft., resulting in a base profiteered amount of Rs. 1,45,10,691/- and a total profiteered amount of Rs. 1,62,51,974/-, including GST at 12%. Subsequently, the Respondent, vide its submission dated 15.05.2026, pointed out that the Occupancy Certificate dated 09.12.2020 recorded the total project area as 49,878.81 sq. metres, equivalent to approximately 5,36,891 sq. ft. The Respondent requested that the computation be revised by taking the said area into consideration.

52. The difference in the project-area figures was considered by this Tribunal in its interim orders. Vide order dated 05.05.2026, the DGAP was directed to clarify the basis on which the project area of 3,93,856 sq. ft. had been adopted in the original Report. Thereafter, vide order dated 04.06.2026, this Tribunal directed the Respondent to furnish a comparative statement showing the area of all 304 units corresponding to the area mentioned in the Occupancy Certificate. The relevant direction reads as follows:

> *"Accordingly, learned Chartered Accountant is directed to file comparative table mentioning therein the entire area 304 units which is commensurate to the area mentioned in the Occupation Certificate within one week from today. A copy of such submission be made available to the DGAP as well as the Applicant."*

The DGAP and the Applicant were also permitted to file their respective submissions or clarifications. It is, therefore, clear that the revised computation was undertaken to examine the discrepancy in the project-area figures pursuant to the directions of this Tribunal.

53. The Respondent, in its submission dated 22.06.2026, stated that the area of 3,93,856 sq. ft. furnished during the investigation had been prepared for a specific purpose and did not represent the final total construction area of the project. The Respondent relied upon the Occupancy Certificate, which recorded the total built-up area as 5,36,891 sq. ft. However, the Respondent could not furnish the detailed reconciliation between the area considered in the original investigation and the area recorded in the Occupancy Certificate. The Complainants also objected to the adoption of the revised area without such reconciliation, particularly because the Occupancy Certificate included car parking and common areas.

54. The DGAP, vide its clarifications dated 08.09.2026 and 18.09.2026, reconsidered the computation and adopted the total project area of 5,36,891 sq. ft. and the eligible sold area before issuance of the Occupancy Certificate as 3,34,570 sq. ft. As per the material on record, 188 flats had been booked before the issuance of the Occupancy Certificate, comprising 175 flats in the share of the Respondent and 13 flats in the share of the landowner. Accordingly, the eligible sold area of 3,34,570 sq. ft. was considered for the revised computation. Consequently, the saving per sq. ft. was revised from Rs. 59.38 to Rs. 43.56, and the base profiteered amount was revised from Rs. 1,45,10,691/- to Rs. 1,45,73,861/-. The total profiteered amount, including GST at 12%, was revised to Rs. 1,63,22,724/-. Thus, although the saving per square foot decreased on account of the revised project area, the corresponding increase in the eligible sold area resulted in an increase of Rs. 70,750/- in the base profiteered amount.

55. We have also considered the Occupancy Certificate dated 09.12.2020, which records the total built-up area of the completed project as 49,878.81 sq. metres, equivalent to approximately 5,36,891 sq. ft. The floor-wise statement forming part of the certificate includes residential units, car parking, lobbies, lifts, staircases and common amenities. The Occupancy Certificate is relevant for determining the total built-up area of the completed project. However, the total built-up area cannot automatically be treated as the saleable area of individual flats. The Respondent did not furnish the detailed reconciliation directed by this Tribunal between the area considered in the original investigation and the area recorded in the Occupancy Certificate. The revised computation must, therefore, be examined with reference to the Occupancy Certificate, the material furnished by the Respondent and the clarifications submitted by the DGAP. The area adopted for calculating the benefit per square foot and the area used for determining the benefit payable to eligible recipients must be applied consistently.

56. The Respondent has questioned whether the difference between the pre-GST credit-to-purchase-value ratio of 6.66% and the post-GST ratio of 8.36%, resulting in a difference of 1.70%, establishes an additional ITC benefit. The Respondent has contended that the difference between these ratios does not, by itself, establish that any additional benefit has accrued which is required to be passed on to the homebuyers. On the other hand, the Complainants have contended that the benefit should be higher, relying upon the CREDAI estimate that reductions in GST rates on certain construction materials could result in an overall reduction in project costs of approximately 3% to 5%.

57. We have considered the rival contentions. The estimate referred to by CREDAI indicates the possible reduction in construction costs generally and cannot, by itself, determine the additional ITC benefit available in the present project. The DGAP has calculated the difference of 1.70% on the

basis of the pre-GST and post-GST credit and purchase-value figures relating to the project. We find no sufficient ground to reject this computation merely on the basis of the general estimate referred to by the Complainants or to enhance the quantified benefit on that basis. Accordingly, the difference of 1.70% is accepted for the revised computation, subject to the finding under Issue No. (ii) regarding the connection of the underlying pre-GST transactions with the project.

58. For the revised computation, the DGAP has adopted the total project area of 5,36,891 sq. ft. and the eligible sold area of 3,34,570 sq. ft. By determining the project-level saving on the basis of the difference of 1.70% and dividing it by the total project area, the saving has been calculated at Rs. 43.56 per sq. ft. Applying this saving to the eligible sold area, the DGAP has determined the base profiteered amount at Rs. 1,45,73,861/-. After including GST at 12%, the total profiteered amount has been determined at Rs. 1,63,22,724/-. We accordingly accept the revised computation furnished by the DGAP, subject to the findings recorded under Issues Nos. (i) and (ii).

59. In view of the foregoing discussion, we hold that the revised computation was undertaken pursuant to the directions of this Tribunal and after examination of the project-area figures by the DGAP. Issue No. (iii) is accordingly answered, subject to the findings recorded under Issues Nos. (i) and (ii).

Conclusion

60. In view of the foregoing discussion and the findings recorded under Issues Nos. (i) to (iii), we hold that the Respondent was required to pass on the benefit arising from the additional availability of ITC under the GST regime by way of commensurate reduction in prices, in terms of Section 171 of the CGST Act, 2017. We further hold that the methodology adopted by the DGAP, based on the pre-GST credit and post-GST ITC with reference to the

corresponding purchase values, is legally sustainable in the facts of the present case. The Commencement Certificate dated 04.09.2017 does not, by itself, render the pre-GST purchase and credit data irrelevant, subject to the project-specific nexus of the underlying transactions. The revised computation determines the benefit at Rs. 43.56 per sq. ft. and the total profiteered amount at Rs. 1,63,22,724/-, inclusive of GST at 12%.

61. The DGAP has computed the base profiteered amount by applying the differential in the credit-to-purchase-value ratio to the corresponding post-GST purchase value, exclusive of GST. Since the amount realised by the Respondent from the homebuyers included GST, the GST component is also required to be considered while determining the total amount to be passed on. In this regard, the Hon'ble High Court of Delhi, in ***Reckitt Benckiser India Pvt. Ltd. (supra)***, observed as follows:

> *"157. Both the Central as well as the State Government had no intent of collecting additional Goods and Services Tax on the higher price as they had sacrificed their revenue in favour of the buyer. By compelling the buyers to pay the additional Goods and Services Tax on a higher price, the supplier has not only defeated the intent of the Governments but has also acted against the interest of the consumer and therefore, the Goods and Services Tax collected by him on the additional realization has rightly been included in the profiteered amount."*

The aforesaid observation clarifies that the GST collected on the additional realisation arising from profiteering is also includible in the profiteered amount. Accordingly, in the present case, the GST component has been included in determining the total profiteered amount.

62. Accordingly, the revised computation furnished by the DGAP vide its clarifications dated 08.09.2026 and 18.09.2026, determining profiteering of

Rs. 1,45,73,861/- before GST and Rs. 1,63,22,724/- inclusive of GST, is accepted.

63. Further, insofar as the imposition of penalty under Section 171(3A) of the CGST Act, 2017 is concerned, the said provision came into force with effect from 01.01.2020. The period of investigation in the present case extends from 01.07.2017 to 31.03.2023 and, therefore, includes the period subsequent to the coming into force of the said provision. Accordingly, the applicability of the penalty provision is required to be examined in light of the period of contravention and the legal position governing its application. The relevant provision reads as under:

> *"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."*

ORDER

64. The revised computation of profiteering furnished by the DGAP vide its clarifications dated 08.09.2026 and 18.09.2026 is accepted.

65. Accordingly, in terms of Section 171 of the CGST Act, 2017 read with Rule 133(3)(b) of the CGST Rules, 2017, the Respondent is directed to pass on the profiteered amount of Rs. 1,63,22,724/- (Rupees One Crore Sixty-Three Lakh Twenty-Two Thousand Seven Hundred Twenty-Four only), inclusive of GST @ 12%, to the 188 eligible homebuyers, in proportion to the benefit

attributable to their respective units, as per the buyer-wise computation furnished by the DGAP.

66. The Respondent shall pass on the aforesaid benefit to the eligible recipients along with interest @ 18%, as applicable under Rule 133(3)(b) of the CGST Rules, 2017, from the date of collection of the higher amount from the respective recipients till the date of actual passing on of the corresponding benefit.

67. The Respondent is further liable to penalty under Section 171(3A) of the CGST Act, 2017. However, no penalty shall be leviable if the profiteered amount is deposited within thirty days from the date of passing of this Order.

68. A copy of this Order shall be supplied to the DGAP, the Respondent, the Complainants and the jurisdictional Commissioner(s) for information and necessary action.

69. Order pronounced in the open court.

(Justice Mayank Kumar Jain)

(Sh. A. Venu Prasad)

Dated: 23.10.2026

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