GSTAT

Single Bench Court No. Court IV

NAPA/54/PB/2025

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

Versus

MAATA RANI BUILDERS AND DEVELOPERS ....**Respondent**

Counsel for Appellant **Counsel for Respondent**

Hon'ble Sh. A. Venu Prasad, Member (Technical)

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. : ZA070010726000146H **Date of order :** 29/07/2026

1.	GSTIN/Temporary ID/UIN - 20ABAFM5633J1ZK	
2.	Appeal Case Reference no. - NAPA/54/PB/2025	Date - 09/01/2025
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondant - 1. Maata Rani Builders and Developers , maatarani2017@gmail.com	
5.	Order appealed against -	
	(5.1) Order Type -	
	(5.2) Ref Number -	Date -

6.	Personal Hearing - 29/07/2026 24/07/2026 01/07/2026 10/06/2026 22/05/2026 19/05/2026 30/04/2026 24/04/2026 20/04/2026 11/03/2026 05/02/2026 15/01/2026 03/12/2025 15/10/2025 16/09/2025 19/08/2025 08/08/2025 08/07/2025
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed
8.	Order in brief - The Respondent is directed to pass on the balance profiteered amount of Rs. 99,435/-, together with GST applicable thereon, to the concerned eligible homebuyers, along with interest at the rate of 18% per annum, calculated from the date of collection of the higher amount till the date of actual payment, in accordance with law.
Summary of Order	
9.	Type of order : Return to Recipient of Amount not passed on, along with interest

Place :DELHI PB)

Date : 29.07.2026

ORDER

1. The present proceedings arise from a complaint made by (i) Ms. Seema Singh, C/o Ram Naresh Singh, House No. 300 Barki Tand, Near Shiv Mandir, Jamadoba, Dist. Dhanbad, Jharkhand - 828309; and (ii) Smt. Anjani Singh W/o Bhola Nath Singh, New Police Line Colony, Near Water Tower, Hazaribagh - 825301 (both collectively hereinafter referred to as "the Complainants") under Rule 128 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "the CGST Rules") alleging profiteering in respect of the Construction Services supplied by M/s. Maata Rani Builders and Developers, Flat No. 604A, Shiv Subala Apartment, Chiragora, Hirapur, Dhanbad, Jharkhand-826 001 (hereinafter referred to as "the Respondent").

2. The complainants alleged that the Respondent did not pass on the benefit of Input Tax Credit (hereafter referred to as "ITC") to the complainants by way of commensurate reduction in the prices in respect of the purchase of Flat No. 301 & 302 respectively at 2nd floor from the Respondent in its project "Anamika Apartment" situated at Koyla Nagar, Kusum Vihar, Dhanbad, Jharkhand-826 004 in terms of Section 171 of the Central Goods and Services Tax Act, 2017, (hereinafter referred to as "the CGST Act, 2017).

3. The said complaint was examined by the Standing Committee on Anti-Profiteering and was forwarded to the Directorate General of Anti-Profiteering (hereinafter referred to as "the DGAP") on 11.11.2020 for a detailed investigation in respect of the application filed under Rule 129(1) of the CGST Rules, 2017.

4. Accordingly, the investigation was conducted and the Report dated 18.03.2021 was prepared and submitted to the National Anti-Profiteering Authority (or CCI), under the Rule 129(6) of the Rules.

5. The report dated 18.03.2021 sent by the DGAP was pending for Orders by the erstwhile NAA (then Competition Commissions of India (CCI)). Meanwhile, in the case of ***Reckitt Benckiser India Pvt. Ltd. v. Union of India, W.P.(C) No. 7743/2019*** and other connected matters, the Hon'ble High Court of Delhi passed its judgement in order dated 29.01.2024 and gave its findings on the methodology to be adopted by the DGAP.

6. Subsequently, taking the cognizance of observations of the Hon'ble High Court in order dated 29.01.2024, the CCI vide letter F.No. 22011/NAA/211/Legal-

Misc/2020/Pt.II dated 07.05.2024 directed the DGAP for re-investigation of the case under Rule 129 of the CGST Rules, 2017.

7. In view of the above, a notice dated 14.05.2024 was issued under Rule 129 of the CGST Rules, 2017 calling upon the Respondent to reply as to whether they admit 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 moto* determine the quantum thereof and indicate the same in their reply to the Notice as well as furnish all supporting documents. In response to the Notice, the Respondent submitted the replies and required documents vide Emails dated 06.06.2024, 25.06.2024, 08.07.2024**,** and 01.05.2025.

8. Upon completion of the investigation, the DGAP submitted its Report dated 08.08.2025 to the Principal Bench, GSTAT, which has been summarized as below:

   8.1. The DGAP conducted investigation for the period 01.07.2017 to 31.10.2020, as the Respondent had not opted for the scheme of payment of GST @ 5% without ITC w.e.f. 01.04.2019.

   8.2. The Respondent had opted for the scheme of discharging GST @ 12% (after 1/3rd abatement towards Land) in accordance with the Notification No. 3/2019 - Central Tax (Rates) dated 29.03.2019 w.e.f. 01.04.2019. Accordingly, the Respondent was liable to pay GST @12% with ITC, and therefore, the profiteering in the present case has been computed upto 31.10.2020.

8.3. Prior to the introduction of GST, the Respondent was eligible to avail credit of Service Tax paid on the Input Services (CENVAT credit of the Central Excise Duty was not available) in respect of the units for the project "Anamika Apartment" sold by them but since they did not have any service tax and VAT registration, they could not avail any credit. Similarly, VAT and other State taxes paid by the builders get adjusted against the output VAT liability on property sold by them. In the pre-GST regime, ITC was generally restricted and could be utilised only against the same category of taxes. As a result, the incidence of Central Excise duty, VAT, Entry Tax, etc., on construction materials formed part of the cost, which was ultimately passed on to the customers as part of the price.

8.4. In the post-GST regime, the Respondent became eligible to avail ITC of GST paid on all input goods and input services used in the construction of the project. Therefore, the benefit of additional ITC was accrued to the Respondent after the implementation of GST.

8.5. The calculation of the profiteered amount, based on the data submitted by the Respondent, has been computed as tabulated in Table–A below:

Table- A

(Amount in Rs.)

(1)	(2)	(3)	(4)
S. No.	**Particulars**	**Pre-GST Period**	**Post-GST Period**
1	Purchase Value of Goods and Services (Excluding Taxes and Duties)	36,12,591	52,17,956

2	Credit of Central Excise and Service Tax availed	-	-
3	Credit of VAT availed	-	-
4	Total Credit Availed in Pre-GST Period	-	-
5	Net ITC of GST Availed	-	7,79,761/-
6	Ratio of Credit Availed to Purchase Value (in %)	00	14.94
	Difference		**(14.94)**

From the above Table - 'A', it is evident that the ITC as a percentage of the purchase value of the project has increased from 0% in the pre-GST period to 14.94% in the post-GST period, resulting in the additional benefit of 14.94% to the Respondent. Therefore, there is apparent savings made by the Respondent on account of introduction of GST as contemplated under the observations made by the Hon'ble High Court of Delhi in the impugned order dated 29.01.2024.

8.6. It was further observed that the Central Government on the recommendation of the GST Council, has levied 18% GST (effective rate 12% after 1/3rd abatement for land value) on construction service, vide Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. Accordingly, the Respondent was liable to pay GST @ 12% with ITC, and therefore, the additional ITC benefit was required to be passed on to the homebuyers.

8.7. Based on the above findings, the DGAP has computed the amount of profiteering by applying the additional ITC benefit of 14.94% to the post-

GST purchase value and apportioning the same on a per square foot basis, which is tabulated in Table-B below:

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

	Particulars		**Post-GST**
(1)	**(2)**	**(3)**	**(4)**
S. No.	Period	A	-
1	Ratio of Credit availed to Purchase Value as per Table - A above (%)	B	00/14.94
2	Increase in input tax credit availed post-GST (%)	C	14.94%
3	Purchase Value of Goods and Services (Excluding Taxes and Duties) during Post-GST Period	D	52,17,956
4	Total Savings on account of additional ITC benefit	E = D*C/100	7,79,761
5	Total Area (in Sq. Ft.) of the project (As per Certified details submitted by the Respondent Vide Email dated 01.05.2025)	F	12,655
6	Total Saving Per Sq. Ft.	G = E/F	61.61
7	Total Sold Area before OC (in Sq. Ft.) (As per Certified details submitted by the Respondent Vide Email dated 01.05.2025)	H	7,593
8	**Profiteered Amount**	**I = G * H**	**4,67,805**

From Table-A and Table-B above, it is clear that the additional ITC benefit of 14.94% ought to have resulted in a commensurate reduction in price. However, the Respondent has not passed on such benefit to the buyer. Accordingly, in terms of Section 171 of the CGST Act, 2017, the Respondent has profiteered an amount of

Rs. 4,67,805/-. After adding GST @12% amounting to 56,137/-, the total profiteered amount comes to Rs. 5,23,942/-, which is required to be passed on to the 6 eligible homebuyers.

9. With effect from 01.10.2024, the Central Government, on the recommendations of the GST Council, empowered the Principal Bench of the GST Appellate Tribunal (GSTAT), constituted under sub-section (3) of Section 109 of the CGST Act, 2017, to adjudicate anti-profiteering cases in terms of Notification No. 18/2024–Central Tax dated 30.09.2024.

10. The above Report was received in the Principal Bench, GSTAT, on 08.08.2025 for adjudication under Section 171 of the CGST Act, 2017. A Notice dated 25.08.2025 was issued to the Respondent directing it to file written submissions on the DGAP Report.

11. The Respondent, vide written submissions, affidavits and additional submissions dated 25.09.2025, 01.12.2025, 06.01.2026, 11.03.2026, 23.04.2026 and 05.05.2026, inter alia, contended as follows:

    11.1. The Respondent submitted that the benefit arising from additional ITC under the GST regime had been fully passed on to the homebuyers in compliance with Section 171 of the CGST Act, 2017 by way of discounts, reduction in taxable value and corresponding adjustments in invoice amounts. It was contended that the purchasers ultimately paid only the originally agreed base sale consideration and that no amount in excess thereof had been recovered from any homebuyer.

11.2. It was submitted that under the respective Builder Buyer Agreements, GST was contractually payable separately by the purchasers over and above the agreed sale consideration. However, instead of recovering the GST component from the purchasers, the Respondent absorbed the GST liability by granting discounts equivalent to the GST amount while charging GST only on the reduced taxable value. According to the Respondent, such adjustment constituted passing on of the benefit contemplated under Section 171 of the CGST Act.

11.3. In support of the aforesaid contention, the Respondent relied upon the Builder Buyer Agreements, buyer-wise invoices reflecting discounts under Section 171 of the CGST Act, registered sale deeds, payment records, bank statements, ledger accounts, reconciliation statements, Chartered Accountant-certified workings and affidavits to contend that the benefit had in fact been passed on to all the purchasers and duly accounted for in its books of account. The Respondent also filed affidavits affirming that no amount over and above the consideration stipulated in the original sale agreements had been collected from any homebuyer and that the payments received corresponded only to the agreed base consideration after adjustment of the GST benefit.

11.4. The Respondent further submitted that the aggregate benefit passed on to the six homebuyers amounted to approximately Rs. 12.83 lakh, which exceeded the profiteered amount of Rs. 5.23 lakh computed by the DGAP. In support thereof, the following buyer-wise statement was furnished:

S. No.	Name of Home Buyer	Basic Amount (Rs.)	GST (Rs.)	Total Agreement Value (Rs.)	Actual Amount Collected (Rs.)
1 .	Sangita Devi	31,92,000.00	3,42,000.00	35,34,000.00	31,92,000.00
2 .	Sangita Prasad	24,25,800.00	32,764.44	24,58,564.44	24,25,801.00
3 .	Anjani Singh	26,85,760.00	2,87,760.00	29,73,520.00	26,85,760.00
4 .	Manju Sinha	26,74,560.00	2,86,560.00	29,61,120.00	26,74,560.00
5 .	Nisha Ambastha	23,96,250.00	42,455.40	24,38,705.40	23,96,255.00
6 .	Seema Singh	27,23,000.00	2,91,750.12	30,14,750.12	27,23,001.00
7 .	**Total**	**1,60,97,370.00**	**12,83,289.96**	**1,73,80,659.96**	**1,60,97,377.00**

11.5. The Respondent further furnished buyer-wise reconciliation statements demonstrating the agreed consideration, contractual GST liability, actual amount recovered and GST absorbed by it, which are reproduced below:

S. No.	Buyer (Flat)	Agreed Price	GST Due (Rs.) [Buyer's Liability per Agreement]	Total contractually payable (Rs.)	Actually charged (Rs.)	GST Absorbed as discount (Rs.)
1	Sangita Devi (Flat 401)	31,92,000	3,42,000	35,34,000	31,92,000	3,42,000
2	Sangeeta Prasad (Flat 202)	24,25,800	32,763	24,58,563	24,25,800	32,763
3	Anjani Singh- Complainant I (Flat 302)	26,85,760	2,87,760	29,73,520	26,85,760	2,87,760
4	Manju Sinha (Flat 402)	26,85,760	2,86,560	29,61,120	26,85,760	2,86,560

5	Nisha Ambasta (201)	26,74,560	42,449	24,38,699	23,96,250	42,449
6	Seema Singh - Complainant 2 (Flat 301)	27,23,000	2,91,749	30,14,749	27,23,000	2,91,749
		1,60,97,370	**12,83,281**	**1,73,80,651**	**1,60,97,370**	**12,83,281**

11.6.The Respondent further furnished the following reconciliation statement:

Particulars	**Amount (Rs.)**
ITC availed post-GST (as per DGAP Report	7,79,761
Total GST absorbed as discount – all six buyers	12,83,281
Excess benefit passed over ITC availed	5,03,520
Alleged profiteered amount as per DGAP Report (including GST)	5,23,942
Net benefit in excess of DGAP's alleged figure	7,59,339

11.7. The Respondent challenged the methodology adopted by the DGAP as erroneous, mechanical, and contrary to the actual transaction records. It was contended that the DGAP failed to appreciate the contractual clauses, revised invoices, buyer-wise workings, reconciliations, and documentary evidence already placed on record, and instead proceeded on what, according to the Respondent, were incorrect assumptions and incomplete calculations.

11.8. It was further submitted that none of the buyers, including the complainants, had disputed receipt of the benefit passed on through discounts reflected in the invoices, nor was there any evidence showing that the Respondent had realized any excess amount from the purchasers after adjustment of the Section 171 benefit.

11.9. On the aforesaid basis, the Respondent prayed that the anti-profiteering proceedings be dropped, contending that it had duly complied with Section 171 of the CGST Act and had not indulged in profiteering.

12. The Complainant 1, vide submissions dated 17.03.2026, contended as follows:

12.1. The complainant alleged that the Respondent had taken advantage of the innocence of the buyers and executed a vague agreement dated 30.08.2018 wherein the applicable GST rate was not specifically mentioned despite GST already being in force.

12.2. It was contended that the invoices subsequently produced by the Respondent before this Hon'ble Tribunal were allegedly created subsequently and were never issued to the complainant or other buyers. The complainant further submitted that no such invoices had been produced before the DGAP during investigation proceedings and, therefore, the Respondent's claim regarding discount / reduction in price under Section 171 of the CGST Act, 2017 was false and unreliable. It was additionally contended that the registered sale deed constituted the primary documentary evidence of the transaction.

12.3. The complainant submitted that the total sale consideration of the property is of the flat cost along with the proportionate land value/undivided share of land, and that no separate additional amount could be charged towards such land component. It was further alleged that GST had effectively been charged on the amount shown as proportionate land value.

12.4. The complainant prayed that the aforesaid submissions be considered during the course of hearing before this Hon'ble Tribunal.

13. The DGAP, vide clarification dated 15.10.2025 and 02.01.2026, contended as follows:

13.1. The DGAP submitted that the Respondent's claim regarding passing on of ITC benefit to the homebuyers could not be accepted as the Respondent had initially furnished only self- prepared calculations without sufficient corroborative documentary evidence. It was further contended that during investigation the Respondent was repeatedly directed to furnish supporting documents including demand letters, invoices, credit notes, ledger accounts, agreements for sale, sale deeds and bank statements pertaining to the concerned buyers.

13.2. The DGAP further submitted that certain buyers, namely Ms. Seema Singh and Ms. Anjani Singh, had alleged that the Respondent had not supplied invoices, tax invoices or credit notes to them and that the agreements executed by the Respondent were vague and did not specifically mention GST rates. It was additionally contended that the invoices subsequently relied upon by the Respondent before this Hon'ble Tribunal had not been produced during the original investigation proceedings and therefore the Respondent's claim regarding discount under Section 171 of the CGST Act, 2017 could not be accepted.

13.3. The DGAP contended that Section 171 of the CGST Act, 2017 mandates passing on of the benefit of additional ITC by way of commensurate reduction in prices and that the methodology adopted by the DGAP in comparing pre-GST and post-GST ITC ratios was correct and consistent with the statutory scheme. In this regard, reliance was placed upon the judgment of the ***Reckitt Benckiser India Pvt. Ltd. (supra)*** to contend that the methodology adopted by the DGAP appropriately captures the economic effect of GST implementation on the project cost structure.

13.4. Accordingly, the DGAP maintained that the Respondent had profiteered an amount of Rs. 5,23,942/- including GST and submitted that the Respondent's written submissions disputing the DGAP methodology and calculations were devoid of merit and liable to be rejected.

14. During the hearing held on 19.05.2026, the DGAP submitted that, in respect of the homebuyers Ms. Sangita Prasad and Ms. Nisha Ambastha, the Respondent had not passed on the entire benefit of additional ITC and that a differential amount of Rs. 99,435/- still remained payable to them. It was further submitted that, in respect of the remaining homebuyers, the Respondent had duly passed on the requisite benefit and no dispute survived. The Respondent sought a short adjournment to verify the said computation and reconcile the relevant records. In support, the DGAP furnished the following buyer-wise statement indicating the benefit passed on by the Respondent as against the amount required to be passed on to each homebuyer:

S. No.	Name of the Homebuyer	Profiteering amount passed on to the buyer of the flat during the post GST period, if any (in Rs.)	Profiteering amount to be passed on to the homebuyers @ Rs. 61.61 per Sq. Ft.	GST @ 12% (in Rs.)	Total amount to be passed on to the homebuyers
1 .	Sangita Devi	342000	78553	9426	87979
2 .	Sangita Prasad	32763	77382	9286	86668
3 .	Anjani Singh	287760	77382	9286	86668
4 .	Manju Sinha	286560	77382	9286	86668
5 .	Nisha Ambastha	42449	78553	9426	87979
6 .	Seema Singh	291749.1	78553	9426	87979
7 .	Unsold	NA			
	Total		**467805**	**56137**	**523942**

15. Pursuant to the hearing held on 19.05.2026, the Respondent, vide written submissions dated 10.06.2026 and reply dated 22.06.2026, inter alia, contended as follows:

15.1. The Respondent submitted that the benefit of additional ITC had been validly passed on to the homebuyers of Flat Nos. 201 and 202 by providing additional construction work free of cost, without charging any additional consideration. It was contended that Section 171 of the CGST Act does not prescribe price reduction as the exclusive mode of passing on the benefit and that any direct, identifiable and quantifiable economic benefit reaching the recipient satisfies the statutory requirement.

15.2. The Respondent contended that the reliance placed by the DGAP on paragraphs 131 to 135 of the judgment of the Hon'ble Delhi High Court in ***Reckitt Benckiser India Pvt. Ltd. (supra)*** was misconceived. It was submitted that the observations contained therein pertained to trade discounts and commercial concessions in FMCG distribution chains and were inapplicable to the present case, where the benefit was directly provided to the homebuyers without any intermediary.

15.3. It was further submitted that the present case attracted the rebuttable presumption recognised in paragraph 119 of the said judgment. According to the Respondent, the documentary evidence placed on record, including buyer acknowledgements, valuation of the additional work, and other contemporaneous records, sufficiently established that the benefit had in fact reached the concerned homebuyers.

15.4. The Respondent furnished details of the additional construction work carried out in the flats of Ms. Sangita Prasad and Ms. Nisha Ambastha, including upgraded flooring, structural modifications, wall finishing and aluminium window installations, and submitted that such additional work had an aggregate market value of approximately Rs. 1,08,000/-, exceeding the differential amount alleged by the DGAP in respect of the said buyers. The Respondent also relied upon written acknowledgements executed by the said homebuyers confirming receipt of the additional work without payment of any additional consideration.

15.5. The Respondent further submitted that the DGAP had selectively relied upon isolated observations from the judgment of the Hon'ble Delhi High Court while ignoring paragraphs recognising that the methodology for determining commensurate reduction is fact-specific and that the supplier may establish compliance by placing cogent documentary evidence on record.

15.6. It was also contended that, out of the six homebuyers, the benefit had already been accepted as having been passed on to four homebuyers and that the present dispute survived only in respect of 2 Flat Nos. 201 and 202. According to the Respondent, once the value of the additional construction work provided to these two homebuyers was taken into account, no profiteering remained payable.

15.7. On the above basis, the Respondent prayed that the additional construction work provided free of cost be recognised as a valid mode of passing on the benefit under Section 171 of the CGST Act, that the objections raised by the DGAP be rejected, and that the proceedings be dropped.

16. The DGAP, vide clarification dated 19.06.2026, furnished its comments on the additional submissions of the Respondent and, inter alia, submitted as follows:

16.1. The DGAP submitted that the Respondent's contention that the additional construction work provided to the homebuyers of Flat Nos. 201 and 202 constituted passing on of the benefit under Section 171 of the CGST Act was contrary to the judgment of the Hon'ble Delhi High Court in ***Reckitt***

Benckiser India Pvt. Ltd. (supra). According to the DGAP, the benefit of additional ITC is required to be passed on by way of commensurate reduction in prices and cannot be substituted by providing additional goods, services or construction work.

16.2. It was further submitted that the observations contained in paragraphs 131 to 135 of the judgment in ***Reckitt Benckiser India Pvt. Ltd. (supra)*** are of general application and are not confined to FMCG cases. Accordingly, the Respondent's contention that the said observations are inapplicable to the present proceedings was stated to be untenable.

16.3. The DGAP also opposed the Respondent's reliance on the rebuttable presumption discussed in paragraph 119 of the aforesaid judgment. It was contended that the Respondent could not invoke the said principle to circumvent the statutory requirement of passing on the benefit by way of commensurate reduction in prices and that paragraph 119 pertained only to cases involving cost escalation.

16.4. Insofar as the valuation of the additional construction work was concerned, the DGAP stated that it had no comments, as the valuation pertained to the additional work allegedly executed in Flat Nos. 201 and 202.

17. Hearings in the matter were held on 19.08.2025, 03.12.2025, 15.01.2026, 24.04.2026, 19.05.2026, 10.06.2026 and 01.07.2026. Shri Naman Dokania, Chartered Accountant and Shri Chandra Bhanu Tiwari, Partner of the Respondent Company appeared for the Respondent. Shri Ajay Kumar Tehlan, Additional

Assistant Director, assisted by Shri Ravi Passi, Inspector and Shri Rahul Rao Gautam- AAD, assisted by Shri Anurag Gupta, Inspector appeared for the Directorate General of Anti- Profiteering. None appeared on behalf of the Complainant.

Issues for determination

i. Whether the Respondent has complied with the provisions of Section 171 of the CGST Act, 2017 by passing on the benefit of additional ITC to the eligible homebuyers?

ii. Whether the provision of additional construction work free of cost to certain homebuyers constitutes valid compliance with the statutory requirement of passing on the benefit of additional ITC by way of commensurate reduction in prices under Section 171 of the CGST Act, 2017?

iii. Whether the Respondent is liable to pay interest on the amount determined to have been profiteered and, if so, to what extent?

iv. Whether the facts and circumstances of the present case warrant the imposition of penalty under the provisions of the CGST Act, 2017?

Determination of Issue No. (i)

Whether the Respondent has complied with the provisions of Section 171 of the CGST Act, 2017 by passing on the benefit of additional ITC to the eligible homebuyers?

18. Before examining the rival contentions, it would be apposite to reproduce Section 171(1) of the CGST Act, 2017, which reads as under:

Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.”

19. A plain reading of the aforesaid provision leaves no manner of doubt that every registered person is under a statutory obligation to pass on the benefit arising from reduction in the rate of tax or from the availability of additional Input Tax Credit to the recipient by way of commensurate reduction in prices. The provision is mandatory in character and casts a corresponding obligation upon the supplier to ensure that the entire benefit of such additional ITC reaches each eligible recipient in the manner contemplated by the statute. Accordingly, while examining compliance with Section 171(1), the Tribunal is required to ascertain not merely whether additional ITC accrued to the supplier, but whether the entire benefit thereof has, in fact, been passed on to the eligible recipients.

20. In the present case, the DGAP, after conducting a detailed investigation, submitted its Investigation Report dated 08.08.2025 determining the profiteered amount in respect of the project. Thereafter, pursuant to the proceedings before this Tribunal and upon consideration of the additional documents and explanations furnished by the Respondent, the DGAP undertook a fresh verification and submitted a Supplementary Report dated 22.05.2026. The Supplementary Report records that, on such verification, the benefit of additional ITC had been duly passed on to four out of the six eligible homebuyers and that the surviving dispute was confined only to Ms. Sangita Prasad and Ms. Nisha Ambastha.

21. We have carefully examined the Supplementary Report, the revised computation made therein, the methodology adopted by the DGAP, the written submissions of the Respondent, the clarifications furnished by the DGAP and the entire material available on record. We find that the DGAP has duly considered the additional evidence produced by the Respondent and has revised its findings wherever the same was found to be substantiated. The Supplementary Report, therefore, represents the final outcome of the investigation after taking into account the Respondent's subsequent explanations and documentary evidence. We do not find any material irregularity, factual inconsistency or legal infirmity in the methodology or computation adopted therein warranting interference by this Tribunal.

22. The Respondent has not demonstrated any error in the computation of the differential amount determined by the DGAP. The principal defence advanced by the Respondent is that the additional construction work undertaken free of cost in the flats of Ms. Sangita Prasad and Ms. Nisha Ambastha ought to be recognised as constituting valid compliance with Section 171 of the CGST Act, 2017. However, the said contention has already been considered and rejected while deciding Issue No. II. Consequently, the additional construction work relied upon by the Respondent cannot be taken into account for determining compliance with the statutory obligation under Section 171.

23. In view of the foregoing discussion, we find no reason to differ from the conclusions recorded by the DGAP in its Supplementary Report dated 22.05.2026. We accordingly accept the findings contained therein and hold that

the Respondent has failed to pass on the entire benefit of additional Input Tax Credit to the eligible homebuyers in the manner mandated under Section 171 of the CGST Act, 2017. The Respondent has, therefore, failed to pass on the differential profiteered amount of Rs. 99,435/- (Rupees Ninety-Nine Thousand Four Hundred and Thirty-Five only), as determined in the Supplementary Report, and has consequently contravened the provisions of Section 171 of the CGST Act, 2017. Issue No. I is answered accordingly.

Determination of issue (II)

Whether the provision of additional construction work free of cost to certain homebuyers constitutes valid compliance with the statutory requirement of passing on the benefit of additional ITC by way of commensurate reduction in prices under Section 171 of the CGST Act, 2017?

24. The principal contention advanced by the Respondent is that the benefit of additional ITC, though not passed on by way of reduction in the price payable by the concerned homebuyers, stood duly passed on by providing additional construction work free of cost in the flats of Ms. Sangita Prasad and Ms. Nisha Ambastha. According to the Respondent, the value of such additional construction work exceeded the differential amount computed by the DGAP and, therefore, the statutory obligation under Section 171 of the CGST Act, 2017 stood fully discharged. The DGAP has disputed the said contention and maintained that the benefit envisaged under Section 171 can only be passed on by way of commensurate reduction in prices and cannot be substituted by providing additional construction work or any other commercial benefit.

25. The Respondent does not dispute the valuation, but contends that the execution of additional work satisfies Section 171, CGST Act, 2017. Thus, the only issue is whether in-kind work constitutes valid statutory compliance.

26. The scope and import of the aforesaid statutory requirement has been authoritatively explained by the Hon'ble Delhi High Court in ***Reckitt Benckiser India Pvt. Ltd. (supra)***. Since both the Respondent and the DGAP have placed reliance upon the said judgment, the relevant observations contained in paragraphs 119 and 131 to 135 thereof are reproduced below:

119. This Court is in agreement with the submission of learned Amicus Curiae that if there is any variation on account of other factors, such as any costs necessitating the setting off of such reduction of price, the same needs to be justified by the supplier. The inherent presumption that these must necessarily be a reduction in prices of the goods and services is a rebuttable presumption. It is clarified that if the supplier is to assert reasons for offsetting the reduction, it must establish the same on cogent basis and must not use it merely as a device to circumvent the statutory obligation of reducing the prices in a commensurate manner contemplated under section 171 of the Act, 2017.

131. In the present instance, the legislative mandate is that reduction of the tax rate or the benefit of Input Tax Credit must not only be reflected in reduction of prices but it must also reach the recipient of the goods or services. Such a mandate cannot be tampered with by the supplier by substituting the benefit in the form of reduction of actual price with any other form such as increase in *volume or weight or by supply of additional or free material or festival discount like Diwali Dhamaka or cross-subsidisation.*

132. Further, the requirement that the benefit of the rate reduction and Input Tax Credit reach the final consumer by way of cash in hand through commensurate reduction in prices, cannot be said to be manifestly arbitrary. No fundamental or other rights of any of the petitioners are being affected in any manner by requiring that the benefit in reduction of tax rate or Input Tax Credits, be passed on to the recipients by way of commensurate reduction in prices.

133. This Court is in agreement with the submission of Mr. Zoheb Hossain, learned counsel for the Respondents, that the benefit of tax reduction has to be passed on at the level of each supply of SKU to each buyer and in case it is not passed on, the profiteered amount has to be calculated on each SKU.

134. The contention of the learned counsel for the Petitioners that it is legally impossible to pass on the benefits by reducing the price of goods in cases of low priced products is untenable in law. As pointed out by Mr. Zoheb Hossain, learned counsel for the Respondents, the provisions of the Legal Metrology (Packaged Commodities) Rules, 2011 are applicable. In cases for period prior to 31st December, 2017, the erstwhile Rule 2(m) of the Legal Metrology (Packaged Commodities) Rules, 2011 which provided detailed instructions for rounding off of the MRP would be applicable. Similarly, Rule 6(1)(e) of the above Rules as amended in 2017 with effect from 01st January, 2018 to 31st March, 2022 provides that the retail price of the package shall clearly indicate that it is the MRP inclusive of all taxes and the price in rupees and paise be *rounded off to the nearest rupee or 50 paise would be applicable. Consequently, there would be no legal impossibility in reducing the MRP even in such cases. There is nothing inconsistent in Section 171 with such rounding off.*

135. This Court is in agreement with the submissions of the respondents and the learned Amicus Curiae that bearing in mind the very nature of the Act, 2017, it is not proper or feasible to contemplate any specific period of time for application of the reduced price, as the same has to take effect so long as the direct relation between the reduction of tax rate or the benefit of Input Tax Credits exists and there is no other factor effecting/countering the same. If, conceptually, the reduction of tax rate has taken place on a specified date and there are no justified variations in the cost price or other factors for offsetting such reduction in the prices for a particular period of time, clearly for that period a reduced price must govern the transaction. This Court is of the view that providing for a particular period of time for operation of the provisions would be not be in conformity with the scheme and intent of the Act, 2017 itself.

27. A plain reading of the aforesaid judgment leaves no room for ambiguity. The Hon'ble High Court has unequivocally held that the legislative mandate under Section 171 is not merely that the recipient should derive some economic advantage, but that the benefit arising from reduction in the rate of tax or availability of additional ITC must reach the recipient by way of commensurate reduction in prices. The Court has specifically observed that such statutory mandate cannot be substituted by supply of additional or free material or any other commercial arrangement. The expression "additional or free material" employed

by the Hon'ble High Court is of wide amplitude and reflects the legislative intent that the mode prescribed under Section 171 cannot be altered merely because the supplier claims to have conferred an equivalent economic benefit in some other form.

28. We are unable to accept the Respondent's contention that the observations of the Hon'ble High Court are confined only to the FMCG sector or promotional schemes and are, therefore, inapplicable to the present case. The interpretation rendered by the Hon'ble High Court is of Section 171 itself and not of any industry-specific practice. The principle enunciated therein flows from the statutory language and applies uniformly to all supplies governed by Section 171, including supplies in the real estate sector. Merely because the additional construction work was undertaken in favour of the concerned homebuyers or because the value thereof is claimed to exceed the differential profiteered amount cannot, by itself, satisfy the statutory requirement where the legislature has expressly stipulated that the benefit is to be passed on by way of commensurate reduction in prices.

29. The documentary evidence produced by the Respondent regarding execution of additional construction work, the acknowledgements furnished by the homebuyers and the valuation of such work may establish that certain additional facilities or improvements were provided without separate consideration. However, those documents do not alter the legal position emerging from Section 171 of the CGST Act, 2017. The question before this Tribunal is not whether the Respondent provided additional construction work free of cost, but whether such

additional work constitutes compliance with the statutory mode prescribed under Section 171. Accordingly, this issue is answered against the Respondent and in favour of the DGAP.

30. We, therefore, hold that the provision of additional construction work free of cost to certain homebuyers does not constitute valid compliance with the statutory requirement of passing on the benefit of additional ITC by way of commensurate reduction in prices under Section 171 of the CGST Act, 2017. Consequently, the Respondent cannot avoid its statutory liability by treating such additional construction work as a substitute for the commensurate reduction in prices mandated under the Act. Issue No. II is answered accordingly.

<u>Issue No. III:</u>

Whether the Respondent is liable to pay interest on the profiteered amount and, if so, the period for which such interest is payable?

31. The next issue for determination is whether the Respondent is liable to pay interest on the profiteered amount determined under the Supplementary Report dated 22.05.2026 and, if so, the period for which such interest is payable. Section 171 of the CGST Act, 2017 casts a statutory obligation upon the Respondent to pass on the benefit of additional ITC to the recipients by way of commensurate reduction in prices at the time of supply. Consequently, where such benefit is not passed on in the manner mandated under the statute, the recipients are deprived of the monetary benefit to which they are legally entitled from the date of supply itself.

32. The Provisions with respect to interest are as follows:-

Rule 133(3)(b) – return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with the interest at the rate of eighteen percent from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be.

33. Rule 133(3)(b) of the Central Goods and Services Tax Rules, 2017, as applicable to the present proceedings, empowered the Authority to direct the registered person to return to the recipient an amount equivalent to the amount not passed on by way of commensurate reduction in prices, along with interest at the rate of eighteen per cent per annum from the date of collection of the higher amount till the date of return of such amount. The said provision is mandatory in nature and leaves no discretion with the adjudicating authority regarding the levy of interest once profiteering is established.

34. The Hon'ble Delhi High Court in ***Reckitt Benckiser India Pvt. Ltd. (supra)***, while examining the validity of the anti-profiteering provisions, has also upheld the statutory scheme relating to interest. The relevant observations contained in paragraph 153 of the judgment are reproduced below:

153. This court is of the view that Section 171 of the Act, 2017 is broad enough to empower the Central Government to prescribe penalty and interest to ensure that the suppliers are deterred from pocketing the benefits meant for the consumers when taxes amounts so pocketed by the supplier /registered person would not have a sufficient deterrent effect on deviant behavior unless interest and penalty are levied to prevent such actions from taking place in the first place. The width and *amplitude of Section 171 by which the authority is empowered to ensure that a reduction in tax rate or the Input Tax Credit availed results in a commensurate reduction in the price of goods or services clearly encompasses within it the power to ensure that such conduct which leads to profiteering does not take."*

35. In the present case, we have upheld the findings recorded in the Supplementary Report dated 22.05.2026 and have held that the Respondent failed to pass on the balance benefit of additional ITC to the eligible homebuyers in accordance with Section 171 of the CGST Act, 2017. Consequently, the Respondent is liable to pay interest at the rate prescribed under Rule 133(3)(b) of the CGST Rules, 2017 on the differential profiteered amount determined in the Supplementary Report, from the date on which the higher amount was collected from the concerned homebuyers till the date of actual passing on or refund of such amount.

36. We, accordingly, hold that the Respondent shall pay interest at the rate of 18% per annum on the profiteered amount determined in the Supplementary Report dated 22.05.2026, computed from the date of collection of the higher amount from the concerned homebuyers till the date of actual payment thereof. Issue No. III is answered accordingly.

<u>Issue No. IV:</u>

Whether the Respondent is liable for imposition of penalty under Section 171(3A) of the CGST Act, 2017?

37. With regard to the imposition of penalty under Section 171(3A) of the CGST Act, 2017, it is noted that the said provision was inserted by the Finance (No. 2)

Act, 2019 and came into force with effect from 01.01.2020. The 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".

38. In the present case, we have held that the Respondent has contravened the provision of Section 171(1) of the CGST Act, 2017 by failing pass on the benefit of additional ITC to the eligible homebuyers by way of commensurate reduction in prices. The period of contravention extends both before and after 01.01.2020, the date on which Section 171(3A) of the CGST Act, 2017 came into force, and continues up to 31.10.2020. Consequently, the Respondent is liable for penalty under Section 171(3A) of the CGST Act, 2017. However, in terms of the proviso to Section 171(3A), no penalty shall be leviable if the profiteered amount is deposited within thirty days from the date of passing of this Order.

ORDER

39. In view of the foregoing discussion and our findings on the issues framed for determination, we hold that the Respondent has failed to pass on the entire benefit of additional Input Tax Credit to the eligible homebuyers by way of commensurate reduction in prices, as mandated under Section 171(1) of the CGST Act, 2017. We further hold that the Respondent cannot discharge the statutory

obligation under Section 171 by providing additional construction work free of cost in lieu of commensurate reduction in prices. Consequently, the Respondent has contravened the provisions of Section 171(1) of the CGST Act, 2017 to the extent determined in the Supplementary Report dated 22.05.2026.

40. Accordingly, in exercise of the powers conferred under Rule 133(3)(b) of the CGST Rules, 2017, the Respondent is directed to pass on the balance profiteered amount of Rs. 99,435/-, together with GST applicable thereon, to the concerned eligible homebuyers, along with interest at the rate of 18% per annum, calculated from the date of collection of the higher amount till the date of actual payment, in accordance with law.

41. Since the period of contravention extends beyond 01.01.2020, i.e., the date from which Section 171(3A) of the CGST Act, 2017 came into force, the Respondent is also liable for penalty under the said provision in respect of the profiteered amount.

42. Compliance with this Order shall be reported to this Tribunal within the period of 3 months.

43. The Registry is directed to supply a copy of this Order to the parties concerned as well as to the jurisdictional CGST/SGST Commissioner for information, monitoring of compliance and necessary action in accordance with law.

44. The matter stands disposed of accordingly.

45. Order pronounced in the open Court.

Sh. A. Venu Prasad

Date- 29.07.2026