GSTAT

Single Bench Court No. Court IV

NAPA/21/PB/2025

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

Versus

BENGAL PEERLESS HOUSING DEVELOPMENT COMPANY LTD. (OTHER PROJECTS) ....**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. : ZA070010726000185H **Date of order :** 31/07/2026

1.	GSTIN/Temporary ID/UIN - 19AABCB3038P1ZE	
2.	Appeal Case Reference no. - NAPA/21/PB/2025	Date - 10/04/2023
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondant - 1. Bengal Peerless Housing Development Company Ltd. (Other Projects) , bphdc@bengalpeerless.com , NA	
5.	Order appealed against -	
	(5.1) Order Type -	
	(5.2) Ref Number -	Date -

6.	Personal Hearing - 31/07/2026 17/07/2026 08/07/2026 19/05/2026 15/05/2026 27/04/2026 23/04/2026 18/03/2026 06/01/2026 16/12/2025 02/12/2025
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed
8.	Order in brief - The Final Investigation Report dated 12.03.2026 submitted by the DGAP is accepted. Since no additional benefit of Input Tax Credit accrued to the Respondent upon implementation of GST, no contravention of the provisions of Section 171(1) of the CGST Act, 2017 is established against the Respondent. Consequently, no amount is required to be passed on to the homebuyers by way of commensurate reduction in prices.
Summary of Order	
9.	Type of order: Closure Report

Place :DELHI PB

Date : 31.07.2026

ORDER

1. The Respondent, M/s Bengal Peerless Housing Development Company Limited, is a joint venture company between the West Bengal Housing Board, an undertaking of the Government of West Bengal, and The Peerless General Finance & Investment Company Limited, a public limited Non-Banking Financial Company. The Respondent is primarily engaged in the development and sale of residential and commercial real estate projects, with a particular focus on affordable housing in the State of West Bengal. It is registered under the Goods and Services Tax laws bearing GSTIN 19AABCB3038P1ZE.

2. The present proceedings arise out of an **Interim Order (hereinafter referred to as "the I.O.") No. 27/2022 dated 30.09.2022**, issued by the National Anti-Profiteering Authority, under the provisions of Section 171 of the Central Goods

and Services Tax Act, 2017, (hereinafter referred to as “the Act”) read with Rule 133(4) of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “the Rules”) against the report filed by the DGAP against the application filed by Sh. Sourav Majee,, Kollal Flat No. 2D, 6E/1, Baishnabghate Byelane, Naktala, Kolkata-700047 and applicant no. 2 Smt Susama Giri, Uttarchak, PO Sukrullapur, Dist. Purba Medinipur Pin-721626, alleging profiteering in respect of construction service supplied by M/s Bengal Peerless Housing Development Company. The said order directed re-investigation of the project executed by the Respondent, M/s Bengal Peerless Housing Development Company Ltd., for alleged violation of the Anti-Profiteering provisions of the Act.

3. Thereafter, the Hon’ble Delhi High Court, in ***Reckitt Benckiser India Pvt. Ltd. v. Union of India & Ors., W.P. (C) No. 7743/2019*** and connected matters, vide judgment dated 29.01.2024, laid down the principles governing determination of profiteering in real estate projects and held that no fixed or uniform mathematical formula could be prescribed for all cases and that the methodology must be evolved having regard to the facts and circumstances of each case. In view of the aforesaid judgment, the GST Appellate Tribunal (Principal Bench) (hereinafter referred to as “the GSTAT”), vide Order dated 06.01.2026, remanded the instant case to the DGAP for re-evaluation of profiteering in accordance with the directions issued by the Hon’ble Delhi High Court.

4. Pursuant to the said Order, the Directorate General of Anti-Profiteering (DGAP) conducted a detailed investigation in respect of the Respondent's project, **Avidipta-II"**, developed by **M/s. Bengal Peerless Housing Development**

Company Limited, and submitted its Report dated **25.06.2025** before the Hon'ble GSTAT), in compliance with paragraphs **9, 11, and 12** of the Interim Order dated **30.09.2022**. The said Report was accepted by the Hon'ble GSTAT vide Final Order dated **14.01.2026**.

5. Further, an investigation in respect of the other projects undertaken by the Respondent was conducted in terms of Rule 133(5) of the CGST Rules, 2017, and the investigation Report dated **06.04.2023** was submitted to the Competition Commission of India (CCI).

6. The Respondent has also filed Writ Petition No. **WPO 24942 of 2022** before the Hon'ble High Court at Calcutta challenging the Interim Order dated **30.09.2022**. The Hon'ble High Court, vide its Order dated **03.01.2023**, modified the interim protection earlier granted on the proceedings. However, it directed that no final order shall be passed by the concerned Authority without obtaining the leave of the Hon'ble Court.

7. Upon receipt of the DGAP Report dated **06.04.2023**, the Competition Commission of India (then the Authority) issued a notice to the Respondent directing him to file his written submissions. However, the Respondent did not file any written submissions pursuant to the said notice.

8. With effect from 01.10.2024, the Government of India, 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.

9. The matter was heard in physical mode on **06.01.2026**. **Ms. Geetika Chib, Additional Assistant Director (AAD)**, assisted by **Shri Awanindra Kumar, Inspector**, appeared on behalf of the DGAP. During the hearing, the Departmental Representative of the DGAP apprised the Authority of the pendency of **Civil Writ Petition No. 24942 of 2022** and drew attention to the Order dated **03.01.2023** passed by the Hon'ble High Court at Calcutta. In view of the totality of the facts, the matter was remanded to the DGAP for re-computation of the profiteering amount, if any, in accordance with the directions issued by the Hon'ble High Court of Delhi, and to submit a fresh investigation report.

10. Upon completion of the re-investigation, the DGAP submitted its Final Investigation Report dated 12.03.2026 before this Tribunal. The relevant findings thereof are summarised below:

    10.1. The investigation covered the period from 01.07.2017 to 23.02.2021, i.e., up to the date of receipt of the Final Occupancy Certificate in respect of the project "Digangana Housing Complex".

    10.2. The DGAP examined all the projects and common services undertaken by the Respondent under the same GST registration to determine whether any additional benefit of input tax credit had accrued to the Respondent upon implementation of GST and whether such benefit had been passed on to the recipients in terms of Section 171 of the CGST Act, 2017.

10.3. The DGAP observed that the anti-profiteering provisions were held to be inapplicable to the projects Avidipta, Avidipta-II, Digangana Housing Complex Extension Phase-II, Axis Multi Complex, Anahita, Avishikta, Ghuni Mouza, Head Office and Siliguri, since the said projects had either been completed prior to 01.07.2017, were outside the ambit of GST, had not commenced construction or sales during the relevant period, or related only to common services. Accordingly, the investigation was confined to the project "Digangana Housing Complex", wherein construction activities had continued during both the pre-GST and post-GST periods.

10.4. The DGAP observed that the Respondent had opted to discharge GST under Notification No. 03/2019-Central Tax (Rate) with effect from 01.04.2019. Accordingly, the details of the area considered relevant for investigation were computed as under:

S. No.	**Particulars**	**Number of units**	**Saleable Area (Sq. Ft.)**
1 .	Total Units	62	52,754
2 .	Units booked after Final Occupancy Certificate (23.02.2021)	14	11,521
3 .	Unsold Units	-	-
4 .	Remaining units relevant for investigation	48	41,233

10.5. The DGAP thereafter examined the CENVAT credit availed during the pre-GST period, the transitional credit carried forward under GST, the GST input tax credit availed during the post-GST period and the purchase value of goods and services on the basis of the statutory returns, books of account, electronic credit ledgers and Chartered Accountant's certificates furnished by the Respondent. The DGAP also verified the reversals of input tax credit attributable to exempt supplies in accordance with Sections 17(2) and 17(3) of the CGST Act read with Rule 42 of the CGST Rules.

10.6. On the basis of the aforesaid examination, the DGAP computed the ratio of eligible credit to the purchase value during the pre-GST and post-GST periods as under:

	Particulars	**Pre-GST**	**Post-GST**
1.	Credit of Central Excise Duty & Service Tax availed (A)	Rs. 13,87,870	
2.	Credit of VAT availed (B)		
3.	Net ITC of GST availed (C)		Rs. 92,54,574
4.	**Total Credit Availed (D= A+B or C)**	**Rs. 13,87,870**	Rs. 92,54,574
5.	Purchase Value of Goods & Services (excluding Taxes and Duties) (E)	Rs. 1,32,89,574	Rs. 9,18,23,757
6.	**Ratio of Credit to Purchase Value (F= D*100/E) (in%)**	**10.44%**	**10.08%**
7.	**Difference from post- GST to pre- GST ratio of credit availed to purchase value**		**(-)0.36%**

10.7. From the above analysis, the DGAP observed that the ratio of eligible credit to the purchase value had decreased from 10.44% during the pre-GST period to 10.08% during the post-GST period, resulting in a reduction of 0.36%. Accordingly, it was concluded that the implementation of GST had not resulted in any additional benefit of input tax credit accruing to the Respondent in respect of the project under investigation.

10.8. The DGAP, therefore, concluded that the Respondent had not contravened the provisions of Section 171(1) of the CGST Act, 2017, as no additional input tax credit benefit had accrued which was required to be passed on to the homebuyers by way of commensurate reduction in prices. Consequently, no profiteering was determined in the present case.

11. The above Report was initially received by the Principal Bench, GSTAT, for adjudication under Section 171 of the CGST Act, 2017. A Notice dated 18.03.2026 was issued to the Respondent directing it to file written submissions on the DGAP Report.

12. The matter was taken up for hearing on 23.04.2026, 27.04.2026 and 17.07.2026. Shri Ravi Passi, Inspector; Ms. Geetika Chib, Assistant Director; and Smt. Nutan, Assistant Director, appeared on behalf of the DGAP during the aforesaid hearings. Shri Amit Kumar Aggarwal, Chartered Accountant, appeared on behalf of the Respondent.

13. It is pertinent to note that despite due notice and repeated opportunities, neither of the Complainants entered appearance before this Tribunal at any stage of the present proceedings or filed any submissions in response to the DGAP's Final Investigation Report. The matter has, therefore, been considered on the basis of the material available on record, the Investigation Report submitted by the DGAP and the submissions made by the Respondent.

14. During the hearing held on 23.04.2026, the Respondent submitted that proceedings arising out of Interim Order No. 27/2022 dated 30.09.2022 were pending before the Hon'ble High Court at Calcutta in ***Bengal Peerless Housing Development Company Limited (supra)***. The Respondent also informed this Tribunal that it had accepted the findings contained in the DGAP's Final Investigation Report. In view of the pendency of the writ petition, this Tribunal directed the Respondent to place on record the latest status of the proceedings before the Hon'ble High Court at Calcutta.

15. During the hearing held on 17.07.2026, the Respondent, with reference to its e-mail dated 22.04.2026 and communication dated 28.04.2026, placed on record the order passed by the Hon'ble High Court at Calcutta in ***Bengal Peerless Housing Development Company Limited (supra)***. The Respondent submitted that in terms of the said order, there was no impediment to disposal of the present proceedings by this Tribunal. The order of the Hon'ble High Court records, inter alia, as follows:

The GST Appellate Tribunal is directed to dispose of the pending proceeding arising out of the impugned order dated 30.09.2022 and to arrive at a conclusive finding on the basis of the investigation report dated 12.03.2026. The said exercise shall be completed preferably on or before 31st August, 2026 after affording an opportunity of hearing to all parties."

ORDER

16. We have considered the Final Investigation Report submitted by the DGAP, the material placed on record, the submissions made by the Respondent and the orders passed by the Hon'ble High Court at Calcutta. The issue which arises for determination is whether any additional benefit of input tax credit accrued to the Respondent on implementation of GST and, if so, whether the same was required to be passed on to the recipients in terms of Section 171 of the CGST Act, 2017.

17. Furthermore, it is observed that, despite due service of notice and repeated opportunities granted by this Tribunal, neither of the Complainants entered appearance at any stage of the proceedings, nor were any submissions filed by them in response to the DGAP's Final Investigation Report.

18. For the reasons recorded hereinabove and upon an consideration of the material available on record, we find no reason to differ from the findings recorded by the DGAP in its Final Investigation Report dated 12.03.2026.

19. Accordingly, the Final Investigation Report dated 12.03.2026 submitted by the DGAP is accepted. Since no additional benefit of Input Tax Credit accrued to

the Respondent upon implementation of GST, no contravention of the provisions of Section 171(1) of the CGST Act, 2017 is established against the Respondent. Consequently, no amount is required to be passed on to the homebuyers by way of commensurate reduction in prices.

20. In view of the above, the anti-profiteering proceedings initiated against the Respondent stand disposed of. No further directions are called for.

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

22. The matter is disposed of accordingly.

23. Order pronounced in the open Court.

(A.Venu Prasad),

Date- 31.07.2026