GSTAT

Division Bench Court No. Court I

NAPA/56/PB/2025

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

Versus

L&T CONSTRUCTION EQUIPMENT PVT. LTD. ....Respondent

Counsel for Appellant Counsel for Respondent

Hon'ble Justice (Retd.) Dr. Sanjaya Kumar Mishra, President
Hon'ble Sh. Anil Kumar Gupta, Member (Technical)

ORDER

1. The matter was taken up today for the hearing. Shri Praveen Kumar, Learned AAD, appeared on behalf of the Director General of Anti-Profiteering (hereinafter referred to as "**the DGAP**"), and Shri Manish Gaur, Learned Advocate, assisted by Shri Dhruv Tiwari and Shri Shivam Batra, Learned Advocates, appeared for the Respondent.
2. The present proceedings arise out of an anti-profiteering investigation conducted by the DGAP against L&T Realty Developers Limited (hereinafter referred to as "**the Respondent**"), concerning its project 'L&T Raintree Boulevard' (Cluster-2) in Bengaluru. The investigation was initiated pursuant to complaints filed by homebuyers and subsequent directions from the Competition Commission of India (CCI) to re-investigate the case in light of the judgment of the Hon'ble Delhi High Court in ***Reckitt Benckiser India Private Limited v. Union of India [2024 SCC OnLine Del 588].***

3. The DGAP, vide its report dated 15.07.2025, alleged that the Respondent had profiteered an amount of Rs. 6,00,68,984/-, including GST, from the homebuyers of Cluster-2. The DGAP arrived at this conclusion by comparing the ratio of total ITC availed to the purchase value of goods and services in the pre-GST to the post-GST period and treating the difference as additional ITC benefit.

4. The Respondent has vehemently challenged the DGAP report dated 15.07.2025 on several grounds, a key submission being that the methodology adopted by the DGAP is flawed and not in compliance with the principles laid down by the Hon'ble Delhi High Court in the *Reckitt Benckiser* case. The Respondent submitted that the appropriate methodology is to examine the actual procurements made in the GST period and apply the rate of tax of corresponding pre-GST taxes, namely Excise Duty, CST, CVD and SAD on goods and Swachh Bharat Cess on input services and works contract services, which were not creditable under the erstwhile regime. The resulting amount represents the actual tax savings arising on account of GST and availability of ITC. This methodology is in line with the findings of the Hon'ble Delhi High Court in *Reckitt Benckiser (supra)* and has subsequently been recognised by this Hon'ble Tribunal in ***DGAP v. SVP Builders, [2026] 183 taxmann.com 671 (GSTAT - New Delhi)*** and in ***DGAP v. Laureate Buildwell (P.) Ltd, [2026] 187 taxmann.com 205 (GSTAT - New Delhi)***.

5. We have carefully perused the DGAP report dated 15.07.2025, the submissions made by the Respondent, and the documents available on record, including the EY Report relied upon by the Respondent as well as the clarifications filed by the DGAP.

5.1 The core issue is the correct methodology for calculating the benefit of Input Tax Credit (ITC) that needs to be passed on to consumers under Section 171 of the CGST Act, 2017. The Respondent has provided a detailed project-level anti-profiteering study conducted by EY. The EY Report purports to compute the actual tax savings by examining the Respondent's procurement data at the invoice level and applying the erstwhile pre-GST tax rates to the same basket of goods and services procured under GST.

5.2 This approach, which focuses on identifying the actual tax cost that has ceased to be a cost in the GST regime, appears to be more aligned with the direction of the Hon'ble Delhi High Court in the *Reckitt Benckiser* case, which advocated for calculating the "total savings" for a project rather than a broad ITC-to-turnover ratio comparison.

5.3 In a recent order 15.01.2026, the Co-ordinate Bench of this Tribunal, in the case of *DGAP v. SVP Builders (supra),* has already taken a view on this issue. The relevant extracts of that order are as follows:

> *"16. After our thoughtful consideration, we observe that keeping in view the spirit of principal laid down by Hon'ble High Court of Delhi in the case of Reckitt Benckiser India Pvt. Ltd. Vs. Union of (Supra), submissions made by the respondent regarding comparison of the GST availed on the actual Goods and Services purchased in the Post GST period with the ITC available on such goods and services by applying the applicable rates on such goods and services in the pre GST period carries weight... the contentions... have merits."*

5.4 Following the consistent view of this Tribunal, we are of the opinion that the methodology adopted by the Respondent, which is based on actual project-level data and the comparison of pre-GST tax rates on post-GST procurements, needs to be properly re-verified by the DGAP. The DGAP is accordingly directed to re-examine the data and computations as submitted by the Respondent and the EY Report.

6. In light of the above, we find it appropriate to remand the matter back to the DGAP for re-investigation under Rule 133(4) of the CGST Rules, 2017.

    6.1 The DGAP is directed to conduct a fresh investigation to re-compute the profiteering amount, if any, in accordance with the principles laid down by this Tribunal and the Hon'ble Delhi High Court in the *Reckitt Benckiser* case.

    6.2 The DGAP shall particularly examine and verify the data, assumptions, and computations contained in the EY Report submitted by the Respondent. The DGAP shall re-calculate the total tax savings for the "Raintree Boulevard" project by applying the applicable pre-GST rates (ED, CST, CVD, SAD, SBC, etc.) to the actual goods, services, and works contracts procured by the Respondent during the post-GST period.

    6.3 The Respondent is directed to provide full cooperation and furnish any further documents or data that may be required by the DGAP to effectively complete this re-investigation.

    6.4 The DGAP shall submit a fresh report after the completion of the re-investigation to this Tribunal within 3 months from the date of this order.

7. The matter be listed on 25th November 2026.

(Dr. Sanjaya Kumar Mishra)

(Sh. Anil Kumar Gupta)

Date- 18.08.2026