

**BEFORE THE NATIONAL ANTI-PROFITEERING AUTHORITY UNDER  
THE CENTRAL GOODS & SERVICES TAX ACT, 2017**

|                     |            |
|---------------------|------------|
| Case No.            | 13/2019    |
| Date of Institution | 24.12.2018 |
| Date of Order       | 01.03.2019 |

In the matter of:

1. Kerala State Screening Committee on Anti-profiteering.
2. Director General of Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2<sup>nd</sup> Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.

Applicants

Versus

M/s Velbon Vitrified Tiles Pvt. Ltd., Unchi Mandal, Morbi, Gujarat.

Respondent

*Albert*  
Quorum:-

1. Sh. B. N. Sharma, Chairman
2. Sh. J. C. Chauhan, Technical Member
3. Ms. R. Bhagyadevi, Technical Member
4. Sh. Amand Shah, Technical Member

Present:-

1. Smt. A. Shainamol, Additional Commissioner, SGST, Kerala for the Applicant No. 1.
2. Sh. Anwar Ali, Additional Commissioner, DG Anti-Profiteering for the Applicant No. 2.

### ORDER

1. The brief facts of the case are that the Applicant No.1, vide the minutes of its meeting held on 08.05.2018 had referred the present case to the Standing Committee on Anti-profiteering, alleging profiteering by M/s Velbon Vitrified Tiles Pvt. Ltd., Unchi Mandal, Morbi, Gujarat "Ceramic Vitrified Tiles" 600X600 Nano Series PRE-I (HSN Code 69072100) (hereafter called as the Respondent), by not passing on the benefit of reduction in the rate of tax granted, vide Notification No. 41/2017-Central Tax (Rate) dated 14.11.2017. It was therefore alleged that the Respondent had indulged in profiteering in contravention of the provisions of Section 171 of Central Goods and Service Tax Act, 2017. In this regard, the Applicant No.1 had relied on two invoices issued by the Respondent, invoice no. 0651 dated 24.10.2017 issued in the pre-GST rate reduction period and invoice no. 0860 dated 15.12.2017 issued in the post-GST era.

*Abhinav*

2. The above application was examined by the Standing Committee on Anti-Profiteering and was referred to the DGAP vide minutes of its meeting dated 02.07.2018 for detailed investigation under Rule 129 (1) of the CGST Rules, 2017.



3. The present Report dated 28.09.2018 has been received from the Directorate General of Anti-Profiteering (DGAP) after detailed investigation under Rule 129 (6) of the CGST Rules, 2017.

4. The DGAP in his Report has stated that vide Notification No. 41/2017- Central Tax (Rate) dated 14.11.2017 the GST rate on the product "Ceramic Vitrified Tiles" Nano Series PRE-1 (HSN Code 69072100) was reduced to 18% from the existing rate of 28% w.e.f 15.11.2017. Based on scrutiny of the two invoices issued by the Respondent, the pre & post GST rate reduction sale invoice-wise details of the said product are furnished in the table below by the DGAP:-

**Table**

| Description of the Product  | Pre-revision<br>(Before 15.11.2017) |          |  | Post-revision<br>(After 15.11.2017) |          |  | Difference in Price (Rs.) |
|---|-------------------------------------|----------|--|-------------------------------------|----------|--|---------------------------|
|   | Invoice No./Date                    | Tax Rate | Base Price per Box Excluding GST (Rs.) | Invoice No./Date                    | Tax Rate | Base Price per Box Excluding GST (Rs.) |                           |
| Ceramic Vitrified Tiles<br>600X600 Nano Series PRE-I<br>(HSN Code 69072100) | 0651 dated 24.10.17                 | 28%      | Rs.232.50 /-                           | 0860 dated 15.12.17                 | 18%      | Rs.232.50 /-                           | -                         |

5. The DGAP after examining the above invoices has submitted that there was no increase in the per unit taxable amount (excluding GST) of the product "Ceramic Vitrified Tiles" in the post-GST rate reduction period as compared to the pre-GST rate reduction period and therefore he had recommended that the provisions of Section 171(1) of the CGST Act, 2017, relating to profiteering, had not been contravened.



6. The above Report was considered by the Authority in its meeting held on 03.10.2018 and it was decided that as there was no private applicant, the Applicant No.1 may be asked to appear before the Authority on 18.10.2018 however the hearing was postponed to 31.10.2018. Smt. Shainamol, Additional Commissioner, SGST, Kerala appeared on behalf of the Applicant No.1 and the DGAP was represented by Sh. Anwar Ali, Additional Commissioner.

7. The Authority during the course of the hearing had found that the above Report had not given any findings in respect of the price of the wholesaler, which was the basis for forwarding the case by the Applicant No.1 to the Standing Committee. Therefore, the Authority vide its' order dated 12.12.2018 passed under Rule 133 (4) of the CGST Rules, 2017, had directed the DGAP to investigate the above issue and send his Report accordingly.

8. The DGAP has submitted his Report on 24.12.2018 under Rule 133 (4) of the CGST Rules, 2017, and has stated that the present case was covered by Annexure-6 of the minutes of the meeting held by the Applicant No.1, alleging profiteering by the manufacturer/wholesalers by the Respondent in pursuant to GST rate reduction w.e.f. 15.11.2017, in respect of supply of tiles to M/s Sooraj Tiles. The Report has also stated that Kerala GST officers had conducted enquiries from M/s Sooraj Tiles, Palakkad, Kerala and had procured the latter's purchase and sale invoices, however, as profiteering had been alleged against the Respondent the purchase invoices of M/s Sooraj Tiles have been relied upon, which were the sale invoices of the Respondent.

9. We have carefully considered the DGAP's Report and the documents placed on record and find that the issue here is, whether the benefit of reduction in the rate of tax was passed on by the Respondent w.e.f 15.11.2017, when the GST rate was reduced from 28% to 18% vide Notification No. 41/2017-Central Tax (Rate) dated 14.11.2017.

10. We find that perusal of Section 171 of the CGST Act, 2017, 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.”

11. As seen from the invoices given above at para 4 it is clear that the base price of the product per box was Rs. 232.50 prior to 15.11.2017 and had remained the same even after GST rate reduction w.e.f. 15.11.2017. Therefore, the benefit of rate reduction appears to have been passed on. This Authority agrees with the DGAP's Report dated 28.09.2018 and accordingly, holds that the allegation of profiteering is not sustainable. Hence, we are of the opinion that the provisions of Section 171 of the CGST Act, 2017, have not been contravened and there is no merit in the application forwarded by the Applicant No.1 and therefore the same is dismissed.

*B. Bantam*



12. A copy of this order be sent to both the Applicants and the Respondent free of cost. File of the case be consigned after completion.



Certified copy

*B. Batar*

(Bhupinder Batar)  
Assistant Commissioner, NAA

Sd/-  
(B. N. Sharma)  
Chairman

Sd/-  
(J. C. Chauhan)  
Technical Member

Sd/-  
(R. Bhagyadevi)  
Technical Member

Sd/-  
(Amand Shah)  
Technical Member

F.No.22011/NAA/94/Velbon2018 | 1969 - 1972

Dated: 05.03.2019

Copy to:-

1. M/s Velbon Vitrified Tiles, Survey No.167/1p1, p2, p3, Village Unchi Mandal, Morbi-Halwad Road, Morbi, Gujarat- 363641.
2. Commissioner, State GST department, 9<sup>th</sup> floor, Tax Tower, Killipalam, Karmana, Post, Thiruvananthpuram, Kerala-695002.
3. Director General Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001
4. NAA website ,/ Guard File.