

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

Case No.	12/2020
Date of Institution	06.09.2019
Date of Order	04.03.2020

In the matter of:

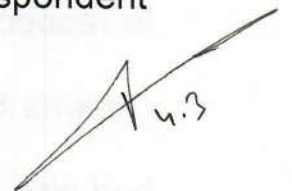
1. Sh. Abhishek Singh, Flat No. 106, Acropolis Apartment, Cyberhills, Guttalabegumpet, Madhapur, Hyderabad-500081.
2. Director General of Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.

Applicants

Versus

M/s Aparna Constructions and Estates Pvt. Ltd., 802, Astral Heights, 6-3-352/2&3, Rd. #1. Banjara Hills, Hyderabad-500034.

Respondent



Quorum:-

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

Present:-

1. Sh. Abhishek Singh the Applicant No. 1 in person.
2. None for the Applicant No. 2.
3. Sh. K. Joga Rao and Sh. B. Ravi Kumar, Authorised Representatives,
for the Respondent.

ORDER

1. The present Report dated 30.08.2019 has been received from the Applicant No. 2 i.e. the Director General of Anti-Profiteering (DGAP) after detailed investigation under Rule 129 (6) of the Central Goods & Service Tax (CGST) Rules, 2017. The brief facts of the case are that vide his application dated 26.02.2018 filed before the Standing Committee on Anti-profiteering under Rule 128 (1) of the CGST Rules, 2017, the Applicant No. 1 had alleged profiteering by the Respondent in respect of purchase of a 3BHK Flat No. 806, H-Block, 8th Floor in "Aparna Serene Park" project of the Respondent. The above Applicant had also alleged that the Respondent had not passed on the benefit of Input Tax Credit (ITC) availed by him, by way of commensurate

reduction in the price of the above flat. The aforesaid reference was considered by the Standing Committee on Anti-profiteering, in its meetings held on 11th March, 2019, wherein it was decided to forward the same to the DGAP to conduct detailed investigation in to the complaint according to Rule 129 (1) of the CGST Rules, 2017.

2. The Applicant had furnished the following documents along with his application:-

- (a) Copy of booking application form along with receipts.
- (b) Copies of e-mails sent to the Respondent, requesting to pass on the benefit of appropriate input tax credit.

3. On receipt of the recommendation from the Standing Committee on Anti-profiteering, the DGAP had issued Notice dated 04.04.2019 under Rule 129 (3) of the above Rules, asking the Respondent to intimate as to whether he admitted that the benefit of ITC had not been passed on to the above Applicant by way of commensurate reduction in the price of the flat and in case it was so, to suo moto compute the quantum of the same and mention it in his reply to the Notice along with the supporting documents. The Respondent was given opportunity to inspect the non-confidential evidence/information furnished by the above Applicant during the period between 10.04.2019 to 12.04.2019 in accordance with Rule 129 (5) of the above Rules and he availed of the said opportunity and inspected the documents on 22.04.2019. Vide e-mail dated 23.08.2019, the above Applicant was also given opportunity to inspect the non-confidential documents/reply submitted

by the Respondent on 27.08.2019 or 28.08.2019. However, the Applicant expressed his inability to do so due to medical emergency in his family and requested to provide copies of non-confidential documents which were sent to him by the DGAP vide e-mail dated 28.08.2019. The Applicant acknowledged the same vide e-mail dated 28.08.2019 and requested the DGAP to proceed further.

4. The DGAP has covered the period from 01.07.2017 to 31.03.2019 during the current investigation. The time limit to complete the investigation was extended by this Authority, vide its order dated 19.06.2019 in terms of Rule 129 (6) of the above Rules.
5. The DGAP has further stated that the Respondent had submitted replies vide his letters/emails dated 12.04.2019, 24.04.2019, 26.04.2019, 29.04.2019, 06.05.2019, 07.05.2019, 10.05.2019 and 04.07.2019. The submissions of the Respondent were summed up by the DGAP as under:-

- a) That the Respondent stated that he was engaged in the activity of Real Estate Business by way of developing the building properties since the financial year 1996-97, with consistent track record and there were several complexities in construction business and he was in the process of computing the benefit of additional input tax credit available after implementation of GST and had already informed his customers and assured that any benefit which would accrue to him post-GST over the period of completion of the project, would be duly passed on at the time of completion of the project, so that accurate benefit could be

passed on to the customers, as there might be certain units which would not be sold before issuance of completion certificate and in terms of Para 5 of Schedule III of the Central Goods and Services Tax Act, 2017, such units would not attract GST. In such cases, Respondent would be required to reverse the proportionate input tax credit attributable to unsold units on the date of issue of Occupancy certificate by the competent authority. Further, where the entire consideration would be received after issuance of completion certificate, in terms of Section 17 of the Central Goods and Services Tax Act, 2017 read with Rule 42 of the Central Goods and Services Tax Rules, 2017, the Respondent would have to reverse the input tax credit proportionately. Therefore, input tax credit which formed part of the cost of construction of such unsold units would be reversed and the exact input tax credit attributable to units sold prior to receiving of completion certificate would be known only at the end of the project and after issue of occupancy certificate. Accordingly, the Respondent would pass on the net benefit of input tax credit to the customers.

- b) That the Respondent had also mentioned a term in booking application form which reads as “(za) The Company is agreeable to pass the net benefit of input tax credit for the projects under construction as per methodology & procedure to be determined by GST Standing Committee & Screening Committee under relevant Sections & Rules of GST Act, 2017”.

In this regard it was submitted by the Respondent that the method of arriving or modus operandi to arrive at the benefit had not been provided in the statute and therefore this provision had not become workable at that time and hence the validity of the Rules and methodology adopted, without any guidelines or criteria in the statute, was subject matter of several Writ Petitions pending before the Hon'ble High Courts of Delhi and Bombay. Therefore, Respondent requested to await the decision in the said Writ Petitions before proceeding further in this matter.

- c) That the Project "Aparna Serene Park" was a joint development project where development agreements were entered on 20.12.2012, 28.2.2013, 02.5.2013, 23.8.2013, 04.3.2013, 27.8.2013, 19.9.2013 and 05.5.2016 respectively with various land owners to develop the project. The Joint Development Agreements were signed after the approval for construction of project was obtained on 11.8.2016. The project consisted of 1679 Residential Units out of which the Respondent's share was 1173 Residential units (19,64,355 sq. ft.) and balance 506 Units (8,37,985 sq. ft.) pertained to around 58 land owners. The Respondent informed that he had discharged the appropriate Service Tax Liability under the works contract on Card rate/FMV as per the Sub Registrar's Office on the taxable value of land owner's exchanged flats during the period December, 2015 to March 2016. Further, in post-GST period, neither any

tax invoice was raised nor GST was charged to land owners by the Respondent.

d) That the impugned project Serene Park did not come under the ambit of RERA in the state of Telangana as construction approvals from HMDA (state authority) had been issued prior to the state RERA notification (January 2017). Hence the project need not be registered under RERA.

6. The Respondent had also submitted the following documents/information to the DGAP vide his above mentioned letters/e-mails during the course of the investigation:-

- (a) Copies of GSTR-1 Returns for the period from July, 2017 to March, 2019.
- (b) Copies of GSTR-3B Returns for the period from July, 2017 to March, 2019.
- (c) Copies of VAT & ST-3 Returns for the period from April, 2016 to June, 2017.
- (d) Copies of all demand letters, Sale Agreement, Contract issued to the above Applicant.
- (e) Tax rates - pre-GST and post-GST.
- (f) Copies of audited Balance sheets and cost audit reports for financial years 2016-17 & 2017-18.
- (g) Copy of Electronic Credit Ledger for the period from 01.07.2017 to 31.03.2019.

- (h) Reconciliation statement of ITC with VAT, ST-3, GSTR-3B for the financial years 2016-17, 2017-18 and 2018-19.
- (i) Sample copy of supplementary agreement of Serene Park with Land Owners along with details of flat allotment share details.
- (j) Details of turnover, output tax liability, GST payable and input tax credit availed for the project "Aparna Serene Park".
- (k) List of home buyers in the project "Aparna Serene Park".

7. The DGAP has also stated that all the documents placed on record were carefully examined by him and he had found that the main issues for investigation were whether there was reduction in the rate of tax or benefit of ITC on the supply of construction service by the Respondent after implementation of the GST w.e.f. 01.07.2017 and in case it was so, whether the Respondent had passed on the above benefits to the home buyers as per the provisions of Section 171 of the CGST Act, 2017 or not.

8. The DGAP has further stated that the Respondent, vide his letter dated 24.04.2019 had submitted the copies of the Sale agreement dated 28.08.2018, booking application form dated 17.06.2018, demand letters and payment receipts for the sale of Flat No. 806, H Block, 8th Floor to the Applicant, measuring 1,710 square feet, at total basic sale price of Rs. 1,05,49,290/- (Rs. 5,599/- basic sale price per square feet and Rs. 50,000/- for Gas Pipeline, Rs. 75,000/- for Air conditioner conducting & Copper wiring and Rs. 8,50,000/- for car parking, water drainage, electricity, D.G. Set etc). The details of

amounts and taxes paid by the Applicant to the Respondent are mentioned in Table-'A' below:-

Table-'A'

(Amount in Rs.)

S. No.	Payment Stage	Basic %	BSP	Maint. Charges	Corpus Fund & Caution Deposit	GST @ 12%	Total	Payment Date
1	20% payable on Unit Value	20.45%	21,57,143	-	-	2,58,857	24,16,000	05.08.2018
2	On Completion of Ground Floor Slab	8.55%	9,02,151	-	-	1,08,258	10,10,409	30.08.2018
3	On Completion of 3 rd Floor Slab	9.00%	9,49,436	-	-	1,13,932	10,63,368	
4	On Completion of 6 th Floor Slab	9.00%	9,49,436	-	-	1,13,932	10,63,368	
5	On Completion of 9 th Floor Slab	9.00%	9,49,436	-	-	1,13,932	10,63,368	
6	On Completion of 12 th Floor Slab	9.00%	9,49,436	-	-	1,13,932	10,63,368	
7	On Completion of 14 th Floor Slab	9.00%	9,49,436	-	-	1,13,932	10,63,368	
8	On Completion of 17 th Floor Slab	9.00%	9,49,436	-	-	1,13,932	10,63,368	
9	On Completion of 19 th Floor Slab	9.00%	9,49,436	-	-	1,13,932	10,63,368	
10	Completion of Flooring (of respective apartment)	4.00%	4,21,972	-	-	50,637	4,72,609	29.10.2018 & 07.02.2019
11	Completion of Painting (of respective apartment)	2.00%	2,10,986	-	-	25,318	2,36,304	
12	Handing Over (of respective apartment)	2.00%	2,10,986	1,23,120	1,50,000	47,480	5,31,586	
Total		100.00%	105,49,290	1,23,120	1,50,000	12,88,076	1,21,10,486	

9. The DGAP has observed that the contention of the Respondent that he would, compute the benefit on account of input tax credit of GST in respect of the project, at the end of the project and pass on the benefit that has accrued on account of GST, may have merit but the profiteering, if any, was to be determined at a given point of time, in terms of Rule 129 (6) of the above Rules. Therefore, the additional input tax credit available to the Respondent and the amounts received by him from the Applicant and other recipients post implementation of GST, had to be taken into account to determine the benefit of input tax credit that was required to be passed on.

10. The DGAP has further stated that Para 5 of Schedule-III of the Central Goods and Services Tax Act, 2017, defining activities or transactions which shall be treated neither as a supply of goods nor a supply of services, reads as "Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building". Further, Clause (b) of para 5 of Schedule II of the Central Goods and Services Tax Act, 2017 reads as "(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier". In the light of these provisions, the DGAP has contended that the ITC pertaining to the units which were under construction but not sold was provisional ITC that may be required to be reversed by the Respondent, if such units would remain unsold at the time of issue of CC, in terms of Section 17 (2) & Section 17 (3) of the Central Goods and Services Tax Act, 2017 which read as under:-

"17 (2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

17 (3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.”

Therefore, the DGAP has claimed that the ITC pertaining to the unsold units was outside the scope of this investigation and the Respondent was required to recalibrate the selling price of such units to be sold to the prospective buyers by considering the net benefit of additional ITC available to him post-GST.

11. The DGAP has also stated that the claim of the Respondent that the validity of the Anti-profiteering Rules and methodology adopted, without any guidelines or criteria in the statute, was subject matter of several Writ Petitions pending before the Hon'ble High Court of Delhi and Bombay was not acceptable as the Hon'ble High Court had not granted any stay on the present proceedings.
12. The DGAP has also observed that prior to 01.07.2017, i.e. before the GST was introduced, the Respondent was eligible to avail Credit of Service Tax paid on input services only (no credit was available in respect of Central Excise Duty paid on the inputs) and input tax credit of VAT paid on inputs was not available to the Respondent. Further, post-GST, the Respondent could avail input tax credit of GST paid on all the inputs and the input services including the sub-contracts. From

the information submitted by the Respondent for the period from April, 2016 to March, 2019, the details of the input tax credit availed by him, his turnover from the impugned project "Aparna Serene Park", the ratio of input tax credit to turnover, during the pre-GST period from April, 2016 to June, 2017 and post-GST period from July, 2017 to March, 2019 was furnished by the DGAP as per the Table-B given below:-

Table-'B'

(Amount in Rs.)

S. No.	Particulars	April, 2016 to March, 2017	April, 2017 to June, 2017	Total (Pre-GST)	July, 2017 to March, 2018	April, 2018 to March, 2019	Total (Post-GST)
(1)	(2)	(3)	(4)	(5)= (3)+(4)	(6)	(7)	(8)= (6)+(7)
1	CENVAT of Service Tax Paid on Input Services used (A)	1,48,84,446	41,50,093	1,90,34,539	-	-	-
2	Input Tax Credit of VAT Paid on Purchase of Inputs (B)	-	-	-	-	-	-
3	Input Tax Credit of GST Availed (C)	-	-	-	-	-	-
4	Total CENVAT/Input Tax Credit Available (D)= (A+B) or (C)	1,48,84,446	41,50,093	1,90,34,539	7,11,97,013	37,37,73,621	44,49,70,634
5	Turnover for Residential Flats as per Home Buyers List (E)	42,97,24,965	44,81,93,285	87,79,18,250	1,63,25,67,864	3,36,19,50,767	4,99,45,18,631
6	Total Saleable Build-up Area (including Land Owners' share) (in SQF) (F)			28,02,340			28,02,340
7	Total Sold Build-up Area relevant to turnover as per Home Buyers List (in SQF) (G)			4,89,960			13,91,175
8	Relevant ITC [(H)= (D)*(G)/(F)]			33,27,991			22,08,98,257
	Ratio of Input Tax Credit Post-GST [(I)=(H)/(E)]			0.38%			4.42%

13. The DGAP has also submitted from the Table-'B' that the ITC as a percentage of the total turnover that was available to the Respondent during the pre-GST period from April, 2016 to June, 2017 was 0.38% and during the post-GST period from July, 2017 to March, 2019, it was 4.42% which clearly confirmed that post-GST, the Respondent has been benefited from additional ITC to the tune of 4.04% [4.42% (-) 0.38%] of the turnover.

14. The DGAP has further observed that the Respondent had paid Service Tax on the total construction value pertaining to the area of land owners and had not charged any GST from them and therefore he was not required to pass on any benefit on account of input tax credit to them.
15. The DGAP has examined profiteering by comparing the applicable tax rate and input tax credit available in the pre-GST period (April, 2016 to June, 2017) when Service Tax @4.5% and VAT@1.25% were payable (total tax rate of 5.75% approx.) with the post-GST period (July, 2017 to March, 2019) when the effective GST rate was 12% (GST @18% alongwith 1/3rd abatement for land value) on the construction service, which was levied vide Notification No.11/2017-Central Tax (Rate), dated 28.06.2017. Accordingly, on the basis of the figures contained in the Table-'B' above, the ITC availed/available during the pre-GST and the post-GST periods, the recalibrated base price on the basis of benefit of ITC post-GST, the excess collection/realization by the Respondent (profiteering) has been tabulated by the DGAP as is given in Table-'C' below:-

Table-'C'

(Amount in Rs.)

S. No.	Particulars		Post-GST
1	Period	A	July, 2017 to March, 2019
2	Output GST rate (%)	B	12%
3	Ratio of CENVAT credit/ Input Tax Credit to Total Turnover as per table - 'B' above (%)	C	4.42%
4	Increase in input tax credit availed post-GST (%)	D= 4.42% less 0.38%	4.04%

5	Analysis of Increase in input tax credit:		
6	Base Price raised/collected during July, 2017 to March, 2019 (Rs.)	E	4,99,45,18,632
7	GST raised/collected over Base Price (Rs.)	F= E*B	59,93,42,236
8	Total Demand raised/collected	G=E+F	5,59,38,60,867
9	Recalibrated Base Price	H= E*(1-D) or 95.96% of E	4,79,27,40,079
10	GST @12%	I = H* B	57,51,28,809
11	Commensurate demand price	J = H+I	5,36,78,68,888
12	Excess Collection of Demand or Profiteering Amount	K= G-J	22,59,91,979

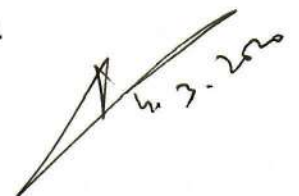
16. The DGAP has also observed from Table-'C' that the additional ITC of 4.04% of the turnover should have resulted in commensurate reduction in the base price as well as cum-tax price. Therefore, in terms of Section 171 of the Central Goods and Services Tax Act, 2017, the benefit of the additional ITC was required to be passed on to the respective recipients.
17. On the basis of the aforesaid CENVAT/ITC availability pre and post-GST and the details of the amount collected by the Respondent from the Applicant and the other home buyers during the period from 01.07.2017 to 31.03.2019, the amount of benefit of ITC not passed on or in other words, the profiteered amount has been quantified by the DGAP as Rs. 22,59,91,979/- (Rupees Twenty Two Crore Fifty Nine Lakh Ninty One Thousand Nine Hundred and Seventy Nine Only) which included GST @ 12%, on the base profited amount of Rs. 20,17,78,553/-. The home buyer and Unit No. wise break-up of this amount has been given in Annexure-18 of the DGAP's Report. This amount was inclusive of Rs. 4,74,865/- (including GST @ 12% on the base amount of Rs. 4,23,986/-) which was the profiteered amount in

respect of the Applicant No. 1, mentioned at Serial No. 300 of Annexure-18 of the Report. It was also observed that the Respondent had supplied the construction services in the State of Telangana only.

18. The DGAP has further stated that the above computation of the profiteered amount was with respect to 827 home buyers, whereas the Respondent had booked 842 units till 31.03.2019. 15 customers who had booked the flats and also paid the booking amounts in the pre-GST period, had not paid any consideration during the post-GST period from 01.07.2017 to 31.03.2019 (period under investigation). Therefore, if the input tax credit in respect of these 15 units was considered to calculate profiteering in respect of 827 units where payments were received after GST, the input tax credit as a percentage of turnover might be erroneous. Therefore, the benefit of input tax credit in respect of these 15 units may be calculated when the consideration would be received from such units by taking into account the proportionate input tax credit in respect of such units.
19. The DGAP has also claimed that the benefit of additional ITC of 4.04% of the turnover has, in fact, accrued to the Respondent and the same was required to be passed on to the Applicant and other recipients. Thus, the Respondent has contravened the provisions of Section 171 of the Central Goods and Services Tax Act, 2017 in as much as the additional benefit of ITC @ 4.04% of the turnover (base price) received by the Respondent during the period from 01.07.2017 to 31.03.2019, has not been passed on to the above Applicant and the other recipients. On this account, the Respondent has realized an additional

amount to the tune of Rs. 4,74,865/- from the Applicant No. 1 which included both the profiteered amount @ 4.04% of the turnover (base price) and 12% GST on the said profiteered amount. Further, the investigation has revealed that the Respondent has also realized an additional amount of Rs. 22,55,17,114/- (Rs. 22,59,91,979/- (-) Rs. 4,74,865/-) which included both the profiteered amount @ 4.04% of the turnover (base price) and GST on the said profiteered amount, from other recipients as well who were not Applicants in the present proceedings. These recipients were identifiable as per the documents provided by the Respondent giving the names and addresses along with Unit No. allotted to such recipients. Therefore, this additional amount of Rs. 22,55,17,114/- was required to be returned to such eligible recipients.

20. The DGAP has also stated that the present investigation has covered the period from 01.07.2017 to 31.03.2019. Profiteering, if any, for the period post March, 2019, has not been examined by him, as the exact quantum of ITC that would be available to the Respondent in future could not be determined at the stage, when the construction of the project was yet to be completed. He has further stated that the provisions of Section 171 (1) of the Central Goods and Services Tax Act, 2017 requiring that "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", have been contravened by the Respondent in the present case.

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21. The above Report was considered by this Authority in its meeting held on 11.09.2019 and it was decided that the Applicants and the Respondent be asked to appear before this Authority on 27.09.2019. The Respondent was issued notice on 16.09.2019 to explain why the above Report of the DGAP should not be accepted and his liability for violating the provisions of Section 171 of the CGST Act, 2017 should not be fixed. During the course of the hearings Sh. Abhishek Singh the Applicant No. 1 appeared in person and the Respondent was represented by Sh. K. Joga Rao and Sh. B. Ravi Kumar, Authorised Representatives. The Respondent has filed written submissions dated 09.11.2019, 27.11.2019, 28.11.2019, 10.12.2019 and 13.01.2020. The main issues raised by the Respondent in his above submissions are mentioned in the subsequent paras.
22. The Respondent has stated that the Report dated 30.8.2019 submitted by the DGAP was contrary to the provisions of the CGST Act, 2017 and the Rules made there under. The DGAP has not considered the relevant factors which were crucial to the case in correct perspective before submitting his investigation report.
23. The Respondent has also stated that the DGAP has failed to appreciate that there was no specific Rule prescribing the mechanism under the GGST Act, 2017 or the guidelines, to be followed to determine the quantum of additional benefit on account of GST implementation. Further it was not the case of the above Applicant that the Respondent had refused to pass on the benefit on account of implementation of GST to the customers. The Respondent had

voluntarily offered to pass on the benefit of Input Tax credit that would accrue to him on account of the implementation of GST in both the Booking Application and Sale Agreement but the actual passing on of the benefit to the customers could be done only after ascertaining the net benefit of ITC on account of implementation of the GST.

24. It is further stated by the Respondent that though Anti-profiteering provisions mandated passing on the tax benefits arising from the GST to the customers by way of price reduction but without clear guidelines or explicit rules it was not possible to decide the quantum of the net ITC benefit to be passed on to the customers. The sale prices of the flats were dynamic and were based on various factors like saleable area, floor rise, facing, location of the project and the payment terms etc. In the absence of specific instructions, it was difficult to determine the benchmark pre-GST price for passing on the benefit by reduction in the prices.

25. The Respondent has also submitted that sale of properties after obtaining Occupancy Certificate (OC) was considered outside the ambit of GST therefore he was required to reverse proportionate credit of GST on expenses incurred during a financial year which were attributable to such revenue. Common expenses on administration, finance and marketing, etc. were required to be apportioned among the projects and ITC reversal was applicable on such expenses on sale of properties post obtaining of OC.

26. The Respondent has further submitted that the GST law provided for disallowance of ITC credit due to non-payment (of value and tax) to

the vendors within 180 days which might result in disallowance of ITC on the payments made to the sub-contractors.

27. The Respondent has also claimed that cancellation of bookings after 1-2 years was a common event in the real estate industry where the amount paid by the customers was required to be refunded by the developer after retention. Offering of rebates for timely payment and early move-in etc. was also prevalent in the industry. However, the time limits prescribed under the law for issuance of credit notes would lead to tax loss in many cases as the tax would have been paid but no adjustment was available. Thus, the issuance of credit notes on account of cancellation of contracts or as a result of rebates offered imposed a challenge for tax adjustments on the refundable portion and this might increase tax burden and the developer could not refund the tax amount to customers.

28. It was further claimed by the Respondent that though GST laws provided the credit of goods held in stock by the developers as on GST transition date subject to satisfaction of certain conditions: a) The developer needed to be in possession of the invoice evidencing payment of duty and such invoice should not be issued more than twelve months prior to the GST transition date. b) Credit of Central Excise and VAT paid on goods held in stock as on transition date was not availed as credit in returns and c) The goods were required to be stored in a manner easily identifiable. In this regard, it was submitted that the input tax credits on inputs procured for construction of property were not meant for further sale/supply. Thus, transition credit might be

available only with respect to such goods lying in stock as such in the same manner as procured and not in relation to goods used in the construction activity. Further, the goods needed to be easily identifiable. While this criteria was satisfied only for the items in stock; however, the identity was lost for all materials which were put to use in the work in progress (in the constructed property) and the credit was lost in respect of those items. Accordingly, the benefit of tax credits on under-construction projects was low.

29. The Respondent vide his submissions dated 28.11.2019 accepted the investigation Report dated 30.08.2019, submitted by the DGAP asking him to pass on the ITC benefit @4.04% of the turnover which amounted to Rs. 22,59,91,979/- for the period from July, 2017 to 31.03.2019.
30. It was also contended by the Respondent that with effect from 01.4.2019, he was collecting GST at 5% from the Buyers for the project in question i.e. "Aparna Serene Park" as against the applicable rate opted by him of 12%. He has been discharging GST at 12% with effect from 01.4.2019 and hence, was passing benefit of 7% to the customers effectively. Since the present investigation was confined only to the period from 01.07.2017 to 31.03.2019 and he has started passing of ITC benefit of 7% subsequent to 31.03.2019 it has resulted in additional cash flow of 2.96% when compared to the determined profiteering of 4.04% in the DGAP's Report. It is further contended by the Respondent that if the net benefit of ITC was computed by applying the same methodology which was adopted by the DGAP for

the post GST period from (i) 01.07.2017 to 31.06.2019 and from (ii) 01.07.2017 to 31.09.2019, it would come to Rs. 15,38,55,476 and Rs. 9,30,63,742 respectively. From the above computations for the periods ending on 30.6.2019 and 30.9.2019, it was evident that the benefit of ITC to all the customers would not be equal if the computation of the net benefit on account of implementation of GST was confined to a particular period and the deprived customers may initiate appropriate legal action against the Respondent before different judicial forums by claiming equal benefit of ITC. In such situation, the Respondent was required to re-compute and arrive at benefit of ITC after issue of OC after considering all the above factors and pass the benefit of ITC to all the buyers in just and equitable manner. Therefore, any order based on the Report dated 30-8-2019, would put the Respondent to irreparable loss and hardship. In this regard, the Respondent has also submitted following documents:-

- (a) Copy of the Form dated 04.5.2019 exercising the option of collection of GST @12% and discharging GST@12% by availing ITC.
- (b) Sample copies of Taxable Receipts issued to the customers showing collection of GST @5% by passing of ITC @7% for the months of April 2019, May 2019, June 2019, July 2019, Aug. 2019 and Sept. 2019.
- (c) Form GSTR-1 (monthly GST return) showing discharge of GST liability @12% along with list of buyers from whom GST has been

collected @5% for the months of April 2019, May 2019, June 2019, July 2019, Aug. 2019 and Sept. 2019.

31. The submissions of the Respondent dated 09.11.2019, 27.11.2019, 28.11.2019 and 10.12.2019 were forwarded to the DGAP for his Report. The DGAP vide his supplementary Report dated 02.01.2020 has stated that a number of issues raised by the Respondent have already been addressed in his Report dated 30.08.2019. He has replied on the remaining issues raised by the Respondent as follows:-

a. With regard to Respondent's concern of Methodology and Guidelines for determination of profiteering amount, the DGAP has submitted that in terms of Rule 126 of the Central Goods and Services Tax Rules, 2017 this Authority has notified the Methodology and Procedure, vide Notification dated 28.03.2018 which was available on its website. However, the Methodology and Procedure to be adopted for determination of profiteering might vary from case to case, depending on the facts and circumstances of the case as well as the nature of goods or services supplied. No fixed methodology could be prescribed to determine profiteering in all the cases.

b. The DGAP has further stated that the Respondent's submission regarding blockage of Working Capital due to disallowance of ITC on the retention in account of

performance clause made by the developers for the payments to be made to the sub-contractors did not have any bearing on determination and quantification of profiteered amount in terms of Section 171 of the Central Goods and Services Tax Act, 2017.

- c. The DGAP has also stated that the Respondent has submitted that w.e.f. 01.04.2019 he has been passing on benefit of input Tax Credit of 7% subsequent to continuation of option of discharging output GST by 12% but collecting only 5% GST from his customers. To support this contention, the Respondent had submitted copy of form dated 04.05.2019 exercising the option of collection of GST @12% and discharging GST @ 12% by availing ITC w.e.f. 01.04.2019. Further, he has submitted sample copies of receipts showing collection of GST @5% from the customers post 01.04.2019. He has also submitted copies of GSTR-1 & 3B along with list of home buyers for the period from 01.04.2019 to 30.09.2019. Further, vide letter dated 28.11.2019, the Respondent has expressed his agreement with the methodology used for determination and computation of profiteered amount by the DGAP in his Report dated 30.08.2019. Accordingly vide letter dated 10.12.2019, the Respondent has recomputed the profiteering percentile as 3.33% for the period from 01.07.2017 to 30.09.2019 resulting into total

profiteering amount of Rs. 28,99,07,458/- as against Rs. 22,59,91,979/- computed by the DGAP in his investigation Report dated 30.08.2019 for the period from 01.07.2017 to 31.03.2019. The Respondent has also submitted customer wise list of profiteered amount of Rs. 28,99,07,458/- along with passing on of Rs. 12,44,96,038/- (by way of short collection of GST on receipts for the period from 01.04.2019 to 30.09.2019) and Rs. 16,54,11,420/- (by way of Bank Cheques dated 30.11.2019). Further, the Respondent has submitted computation of interest as Rs. 1,57,75,602/- on the above amount passed on to the customers. In this regard, the DGAP has clarified that the period covered by the present investigation was from 01.07.2017 to 31.03.2019 as conveyed vide para-6 of his Report dated 30.08.2019. Since the project was in execution stage, the Respondent had incremental ITC along with incremental receipts which had bearing on the computation of profiteered amount which was determined at a given point of time in terms of Section 171 of the Central Goods and Services Tax Act, 2017. However, the concern raised by the Respondent that he had collected short GST post 01.04.2019 but discharged full GST output liability due to exercising the one-time option to pay tax on construction of apartments in the project in terms of Notification No. 03/2019-Central Tax (Rate) dated 29.03.2019 w.e.f.

01.04.2019 had merit as it was peculiar in nature which differentiated the case from others. Therefore, this Authority may consider the same and if decided, may issue necessary directions under Rule 133 (4) for extension of investigation period till 30.09.2019 to verify the claim of the Respondent. It would also require Respondent's Bank Statement as referred to in Respondent's submission dated 10.12.2019 which had not been submitted yet.

32. The Applicant No. 1, vide his submissions dated 28.11.2019, has requested not to consider the submissions of the Respondent for extension of period of investigation. He has also stated that since December 2018 he had been approaching the Respondent for the ITC benefit but the Respondent was not ready to refund the buyer's money and has always tried to extend the time. He has also alleged that the Respondent has been keeping the buyer's hard earned money in his pocket since the implementation of GST. The Applicant has further alleged that till date the buyers have not received any benefit of ITC and therefore, the Respondent's request for extension of period of investigation should not be considered as it would give him chance to delay the passing on of the ITC benefit to his buyers. The Applicant has also requested to add interest in the ITC benefit amount.

33. A copy of the Report of the DGAP, dated 02.01.2020, on the submissions of the Respondent was sent to the Respondent vide

Order dated 08.01.2020 for filing re-joinder, if any. The Respondent vide his submissions dated 13.01.2020 has stated that he was totally in agreement with the Report of the DGAP dated 02.01.2020 and he did not want to file any re-joinder. The Respondent has further requested to conclude the hearings accordingly.

34. We have carefully considered all the submissions filed by the Applicants, the Respondent and the other material placed on record and find that the Applicant No. 1, vide his complaint dated 26.02.2018 has alleged that the Respondent was not passing on the benefit of ITC to him in spite of the fact that he was availing ITC on the purchase of the inputs at the higher rates of GST which has resulted in benefit of additional ITC to him and was also charging GST from him @12%. This complaint was examined by the Standing Committee in its meetings held on 11.03.2019 and was forwarded to the DGAP for investigation who vide his Report dated 30.08.2019, received by this Authority on 06.09.2019 has found that the ITC as a percentage of the total turnover which was available to the Respondent during the pre-GST period was 0.38% and during the post-GST period this ratio was 4.42% as per the Table-B mentioned above and therefore, the Respondent has benefited from the additional ITC benefit to the tune of 4.04% (4.42% - 0.38%) of the total turnover which he was required to pass on to the flat buyers of this project. The DGAP has also found that the Respondent has not reduced the basic prices of his flats by 4.04% due to additional benefit of ITC and by charging GST at the increased rate of 12% on the pre-GST basic price, he has contravened the provisions of Section 171 of the CGST Act, 2017. The DGAP has

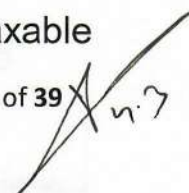
further submitted that the amount of benefit of ITC which has not been passed on by the Respondent or the profiteered amount came to Rs. 22,59,91,979/- which included 12% GST on the basic profiteered amount of Rs. 20,17,78,553/-. The DGAP has also intimated that this amount also included the profiteered amount of Rs. 4,74,865/- including 12% GST on the base amount of Rs. 4,23,986/- in respect of the Applicant No. 1. He has also supplied the details of all the buyers who have purchased flats from the Respondent along with their unit numbers and the profiteered amount vide Annexure-18 attached with the Report.

35. The Respondent has claimed that the method of calculation adopted by the DGAP while computing the profiteered amount in Table-C based on the computations made in Table-B was incorrect. Perusal of Table-B shows that the ratios of CENVAT/ITC to turnover for the pre and post-GST periods have been computed on the basis of the Returns filed by the Respondent during the pre and post-GST periods which have been duly verified by the DGAP. Therefore, the Respondent cannot contend that the above Table is incorrect. The computations made in Table-C are also based on the figures mentioned in Table-B and the information supplied by the Respondent in respect of the turnover and the area sold by him and hence, he cannot find fault with the above Table. It is also clear from the above Tables that the additional benefit of ITC can only be calculated by comparing the credit of CENVAT availed by the Respondent during the pre-GST period with the ITC availed by him during the post-GST period to calculate the benefit which should be passed on to the

buyers as per the provisions of Section 171 (1) of the above Act. The mathematical methodology applied by the DGAP while computing the above ratios and benefit as per the above Tables is correct and the same can be relied upon.

36. The Respondent has also claimed that the methodology for computation of profiteered amount has not been defined in the Act/Section. In this connection, it is stated that the main contours of the 'Procedure and Methodology' for passing on the benefits of reduction in the rate of tax and the benefit of ITC are enshrined in Section 171 (1) of the CGST Act, 2017 itself which states that "*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.*" It is clear from the perusal of the above provision that it mentions "reduction in the rate of tax on any supply of goods or services" which means that the benefit of reduction in the rate of tax is to be passed on each supply of goods or flat and not at the level of an entity/group/company or on the entire supplies. Therefore, the benefit of tax reduction has to be passed on at the level of each supply of Stock Keeping Unit (SKU) to each buyer of such SKU or flat and in case it is not passed on the profiteered amount has to be calculated on each such SKU/flat. Further, the above Section mentions "any supply" i.e. each taxable supply made to each recipient thereby clearly indicating that netting off of the benefit of tax reduction or ITC by a supplier is not allowed. A supplier cannot claim that he has passed on more benefit to one customer

therefore he could pass less benefit to another customer than the benefit which is actually due to that customer. Each customer is entitled to receive the benefit of tax reduction or ITC on each product/flat purchased by him. The word "commensurate" mentioned in the above Section gives the extent of benefit to be passed on by way of reduction in the prices which has to be computed in respect of each product based on the tax reduction as well as the existing base price (price without GST) of the product or the benefit ITC which has accrued to such supplier. The computation of commensurate reduction in prices is purely a mathematical exercise which is based upon the above parameters and hence it would vary from product to product and project to project hence no fixed mathematical methodology can be prescribed to determine the amount of benefit which a supplier is required to pass on to a recipient. However, to give further clarifications and to elaborate upon this legislative intent behind the law, this Authority has been empowered to determine/expand the Procedure and Methodology in detail under Rule 126 of the CGST Rules, 2017. Accordingly, the "Methodology and Procedure" has been notified by this Authority vide its Notification dated 28.03.2018 under the above Rule. However, no fixed formula which fits all can be set while determining such a "Methodology and Procedure" as the facts of each case are different. In one real estate project, date of start and completion of the project, price of the house/commercial unit, mode of payment of price, stage of completion of the project, timing of purchase of inputs, rates of taxes, amount of ITC availed, total saleable area, area sold and the taxable

 2.7

turnover realised before and after the GST implementation would always be different than the other project and hence the amount of benefit of additional ITC to be passed on in respect of one project would not be similar to another project. Issuance of Occupancy Certificate/ Completion Certificate would also affect the amount of benefit of ITC as no such benefit would be available once the above certificates are issued. Therefore, no set parameters can be fixed for determining methodology to compute the benefit of additional ITC which would be required to be passed on to the buyers of such units. Further, the facts of the cases relating to the Fast Moving Consumer Goods (FMCGs), restaurants, construction and cinema houses are completely different and therefore, the mathematical methodology employed in the case of one sector cannot be applied in the other sector otherwise it would result in denial of the benefit to the eligible recipients. Moreover, both the above benefits have been granted by the Central as well as the State Governments by sacrificing their tax revenue in the public interest and hence the suppliers are not required to pay even a single penny from their own pocket and hence they have to pass on the above benefits as per the provisions of Section 171 (1). Therefore, the above contention of the Respondent is frivolous and hence the same cannot be accepted.

37. The Respondent has further claimed that the profiteering should have been computed at the time of completion of the project as the exact amount of ITC benefit cannot be computed before completion. In this connection it would be appropriate to mention that the benefit of ITC is

required to be passed on as soon as the Respondent uses the ITC to discharge his GST output liability which he is doing every month and accordingly, he is required to pass on the above benefit every month. The Respondent is under legal obligation to pass on the above benefit as per the provisions of Section 171 (1) of the above Act and therefore, he has to pass it. He cannot be allowed to wait till the time of completion of the project. In case the Respondent proposes to pass on the above benefit at the time of the closure of the project he should also avail the benefit of ITC at that time only since, he cannot apply different yardsticks while availing the benefit himself and while passing it on to his recipients. The Respondent cannot use the amount of benefit in his business at the expense of the flat buyers and enrich himself more so when he is not required to pay the above benefit from his own pocket. The Respondent has sufficient leverage in adjusting the amount of above benefit while passing on the same periodically in case there is more or less passing on of the above benefit. Therefore, the above claim of the Respondent is incorrect.

38. The Respondent has also stated that the ITC considered during the post-GST period in Table-B might be required to be reversed as soon as the OC was received as per the provisions of Schedule-III read with clause (b) of para 5 of Schedule-II and Section 17 (3) of the CGST Act, 2017. In this regard it would be relevant to mention that the OC has still not been obtained by the Respondent and hence there is no question of reversal of the ITC at this stage. Moreover, as per the present proceedings no benefit of ITC is proposed to be passed on in

respect of those flats which have not been sold yet and the ITC in respect of these flats would be available with the Respondent in case it is required to be reversed at the time of issue of OC. Hence, the above argument of the Respondent is untenable.

39. The Respondent has further stated that he would be entitled to the ITC only if the four conditions mentioned in Section 16 of the CGST Act, 2017 are complied with one of which requires that his suppliers should have deposited the GST which they had charged from him on the supplies made to him and in case they have not deposited the GST his ITC would be disallowed. The above contention of the Respondent is hypothetical as the suppliers are required to deposit the GST charged by them regularly and in case they default they are liable for penalty and interest. The Respondent is also required to reconcile his supplies regularly with his suppliers. Therefore, the above contention of the Respondent is not correct.
40. The Respondent has also submitted that he had not refused to pass on the benefit of ITC however, it is clear from the submissions dated 28.11.2019 filed by the Applicant No. 1 that the Respondent has not passed any benefit of ITC to his buyers till date and hence the claim of the Respondent that he has not refused to pass on the benefit of ITC is not bonafide and hence it cannot be accepted.
41. It is further submitted by the Respondent that though Anti-profiteering provisions mandated passing on of the tax benefits by way of price reduction but without clear guidelines or explicit rules it was not possible to decide the quantum of the net ITC benefit. In this

connection it would be pertinent to mention that the Respondent had all the details of the CENVAT Credit and the ITC available to him on payment of VAT with him as well as the ITC which was available to him post implementation of GST and hence, there should have been no problem in computing the benefit of additional ITC which had accrued to him post GST and pass the same every month as he was availing the benefit himself through his monthly returns. No specific rules or guidelines were required to be provided for mathematical calculation of the benefit as the methodology to compute the above benefit has already been provided in Section 171 (1) itself. Hence, the above contention of the Respondent is not correct.

42. The Respondent has also claimed that cancellation of bookings and offering of rebates would increase his tax liability as he would not be able to adjust his tax liability on the basis of the credit notes. However, the above contention of the Respondent is incorrect as there is provision in Section 34 of the CGST Act, 2017 to issue Credit Notes and also to claim adjustment of the tax as per the above Section. The Respondent can also claim refund as per the provisions of Section 54 of the above Act. Therefore, the claim made by the Respondent on the above grounds is frivolous and hence it is not tenable.

43. The Respondent has further claimed that the transitional credit was available only on those goods which were lying in stock and not on the goods which had been used in the construction activity. It would be relevant to mention here that once the goods have been used proportionate ITC stood available to the Respondent as per the

existing provisions and it was only in respect of those goods which had not been used, ITC benefit was to be given as transitional credit under the GST. It is also incorrect to claim ITC on the goods which are not identifiable as their value is required to be taken into account while granting benefit of ITC. Therefore, the above claims of the Respondent are far-fetched and cannot be accepted.

44. It was also contended by the Respondent that with effect from 01.4.2019, he was collecting GST @ 5% from the buyers and was paying GST @12% and was passing on benefit of 7% to the customers. The above claim of the Respondent has no effect on the computation of the profiteered amount till 31.03.2019 as he has not passed any benefit of ITC during the investigation period w.e.f. 01.07.2017 to 31.03.2019. The claim of the Respondent that he has started passing benefit of 7% and there was additional cash flow of 2.96% is completely hypothetical and unverified and hence the same cannot be relied upon. His further claim that the net benefit of ITC for the period from (i) 01.07.2017 to 31.06.2019 and from (ii) 01.07.2017 to 31.09.2019, would be Rs. 15,38,55,476/- and Rs. 9,30,63,742/- respectively is also without any basis as he has not explained the methodology of computation and the amount of benefit which is to be passed to each flat buyer. The above calculation of the benefit cannot be taken in to account on the mere assertion of the Respondent. He has also contended that the benefit of ITC to all the customers would not be equal if the computation of the net benefit on account of implementation of GST was confined to a particular period. The above

contention of the Respondent is frivolous as the benefit is required to be passed on the basis of the amount of price collected from each buyers post GST which can never be same in the case of all the buyers as it would depend upon multiple variables mentioned supra. Moreover, the benefit is also required to be passed periodically and the buyers cannot be forced to wait till the completion of the project. Therefore, there is no question of the buyers claiming equal amount of ITC benefit and his suffering irreparable loss the Respondent is not paying even a single penny from his own account.

45. The Respondent vide his submissions dated 13.01.2020 has also claimed that he has adequate balance towards profiteered amount of Rs. 16,54,11,420/- and interest of Rs. 1,57,75,602/- (subject to TDS@ 10%) in the HDFC Bank Ltd., Jubilee Hills Branch, Hyderabad and he has disbursed cheques to the respective customers at the Serene Park's site Accounts office. He has also enclosed bank statement evidencing the above amount. In this connection it would be pertinent to mention that the Respondent has furnished different figures of the profiteered amount and interest in his various submissions as per his own whims and fancies without explaining how he has computed the above amounts and how much amount is due to each buyer. He has also not produced even a single acknowledgement from the buyers to prove that they have received the above amount. Mere entries in the bank account cannot be construed as passing on of the benefit. Therefore, the above claim of the Respondent cannot be relied upon in the absence of corroborative evidence.

46. The submissions of the Respondent dated 09.11.2019, 27.11.2019, 28.11.2019 and 10.12.2019 were forwarded to the DGAP for his Report who has stated that the Respondent has submitted that w.e.f. 01.04.2019 he has been passing on the benefit of input Tax Credit of 7%. The DGAP has also stated that the Respondent has claimed that he has collected short GST post 01.04.2019 but discharged full GST output liability due to exercising the one-time option to pay tax in terms of Notification No. 03/2019-Central Tax (Rate) dated 29.03.2019 w.e.f. 01.04.2019 which has merit and which needed to be examined by him. In this connection it would be appropriate to mention that the DGAP has computed the benefit of ITC w.e.f. 01.07.2017 to 31.03.2019 during which the Notification dated 29.03.2019 was not applicable and therefore, the impact of this Notification would be only on the benefit which the Respondent is required to pass on after coming in to force of the above Notification. The genuineness of the claim of the Respondent that he has not collected 7% GST from the buyers is also required to be verified. Therefore, the benefit of ITC which has been computed by the DGAP vide his Report dated 30.08.2019 w.e.f. 01.07.2017 to 31.03.2019 has to be passed on to the eligible house buyers without further delay. Any excess benefit passed on the basis of the above Report can be adjusted by the Respondent in the subsequent entitlement of the buyers as the project is still under execution. Hence, there are no grounds to remand this case to the DGAP under Rule 133 (4) of the CGST Rules, 2017 at this stage as has been suggested by him.

47. It is established from the perusal of the above facts that the Respondent has benefited from the additional ITC to the extent of 4.04% of the turnover during the period from 01.07.2017 to 31.03.2019 and hence the provisions of Section 171 of the CGST Act, 2017 have been contravened by the Respondent as he has not passed on the above benefit to his customers by commensurate reduction in the prices of the flats. Accordingly, the profiteered amount is determined as Rs. 22,59,91,979/- inclusive of GST @ 12% on the base profiteered amount of Rs. 20,17,78,553/- in terms of Rule 133 (1) of the CGST Rules, 2017. Further, the Respondent has realized an additional amount of Rs. 4,74,865/- which includes both the profiteered amount @ 4.04% of the taxable amount (base price) and 12% GST on the said profiteered amount from the Applicant No. 1. He has further realized an additional amount of Rs. 22,55,17,114/- which includes both the profiteered amount @ 4.04% of the taxable amount (base price) and 12% GST on the said profiteered amount from the flat buyers other than the Applicant No. 1 as has been mentioned in Annexure-18 of the DGAP's Report dated 30.08.2019. These buyers are identifiable as per the documents placed on record and therefore, the Respondent is directed to pass on this amount of Rs. 22,55,17,114/- and the amount of Rs. 4,74,865/- to the other flat buyers and the Applicant No. 1 respectively along with the interest @ 18% per annum from the dates from which the above amount was collected by him from them till the payment is made, within a period of 3 months, from the date of passing of this order, as per the details mentioned in Annexure-18 attached with the DGAP's Report dated 30.08.2019.

48. In view of the above facts this Authority under Rule 133 (3) (a) of the CGST Rules, 2017 orders that the Respondent shall reduce the prices to be realized from the buyers of the flats commensurate with the benefit of ITC received by him as has been detailed above. Since the present investigation is only up to 31.03.2019 any benefit of ITC which accrues subsequently shall also be passed on to the buyers by the Respondent. The concerned Commissioner CGST/SGST shall ensure that the above benefit is passed on to the eligible flat buyers. In case the above benefit is not passed on by the Respondent the Applicant No. 1 or any other buyer shall be at liberty to approach the Telangana State Screening Committee to initiate fresh proceedings against the Respondent as per the provisions of Section 171 of the CGST Act, 2017.

49. It is also evident from the above narration of the facts that the Respondent has denied benefit of ITC to the buyers of the flats being constructed by him in his above project in contravention of the provisions of Section 171 (1) of the CGST Act, 2017 and has thus resorted to profiteering. Hence, he has committed an offence under Section 171 (3A) of the CGST Act, 2017 and therefore, he is apparently liable for imposition of penalty under the provisions of the above Section. Accordingly, a Show Cause Notice be issued to him directing him to explain why the penalty prescribed under Section 171 (3A) of the above Act read with Rule 133 (3) (d) of the CGST Rules, 2017 should not be imposed on him.

50. The Authority as per Rule 136 of the CGST Rules 2017 directs the Commissioner of CGST/SGST Telangana to monitor this order under

the supervision of the DGAP by ensuring that the amount profiteered by the Respondent as ordered by the Authority is passed on to all the eligible buyers. A report in compliance of this order shall be submitted to this Authority by the concerned Commissioner CGST /SGST within a period of 4 months from the date of receipt of this order.

51. A copy each of this order be supplied to both the Applicants, the Respondent and the Commissioners CGST/SGST, Telangana for necessary action. File be consigned after completion.

Sd/-

(B. N. Sharma)

Chairman



Certified Copy

Sd/-


(J. C. Chauhan)

Member(Technical)

Sd/-

(Amand Shah)

Member(Technical)


4.3.2020
(A. K. Goel)
Secretary, NAA

F. No. 22011/NAA/72/Aparna/2019 /1334-39
Copy To:-

Date: 04.03.2020

1. M/s Aparna Constructions and Estates Pvt. Ltd., 802, Astral Heights, 6-3-352/2&3, Rd. #1. Banjara Hills, Hyderabad-500034.
2. Sh. Abhishek Singh, Flat No. 106, Acropolis Apartment, Cyberhills, Guttala begumpet, Madhapur, Hyderabad-500081.
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. Chief Commissioner, CGST, Hyderabad Zone, GST Bhavan, L.B. Stadium Road, Basheer Bagh, Hyderabad – 500004
5. Commissioner of ommercial Taxes, O/o the Commissioner of State Tax, CT Complex, Nampally Station Road, Hyderabad - 500 001.
6. Guard File / NAA Website.


4.3.2020