

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

Case No. : 12/2018

Date of Institution : 02.08.2018

Date of Order : 29.10.2018

**In the matter of:**

1. An unnamed applicant through Email id :-

[rss342786@tatamotors.com](mailto:rss342786@tatamotors.com) and [kakesonu98@gmail.com](mailto:kakesonu98@gmail.com)

2. Director General Anti-Profitteering, 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

1. M/s Amway India Enterprises Private Limited, Corp. Office- Plot No.

84, Sector – 32, Gurugram – 122001, Haryana, India, Email Id:

[care@amway.com](mailto:care@amway.com)

Respondent

Quorum:-

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

Present:-

1. None for the Applicant No. 1.
2. Sh. Anwar Ali, Additional Commissioner for the Applicant No. 2.
3. Sh. K. V. Hariharan, CFO, Sh. Abraham Ninan, Sr. Manager (Taxation) and Sh. Sudhir Mishra, Assistant Manager (Taxation) for the Respondent.

**ORDER**

1. This report dated 30.07.2018, has been received from the Applicant No. 2 i.e. Director General of Safeguards (DGSG) now re-designated as Director General Anti-Profitteering (DGAP), under Rule 129 (6) of the Central Goods & Services Tax (CGST) Rules, 2017. The brief facts of the present case are that the Applicant No. 1 through his email ([rss342786@tatamotors.com](mailto:rss342786@tatamotors.com)) dated 22.11.17 mentioning neither his name nor the contact address had alleged profiteering against the above Respondent. The above Applicant in his initial complaint had informed that the Respondent had not passed on the benefit of

reduction in the GST rates from 28% to 18% on selected items to its customers or Amway Business Owners (ABOs).

2. The Applicant No.2 in his Report has stated that vide emails dated 09.05.2018, 21.05.2018 and 09.07.2018, the Applicant No. 1 at the available Email Id, was requested to provide the name and address of the supplier against whom the complaint was made, and to provide the pre-GST and post-GST amount charged by the supplier and the invoices evidencing the same, however no reply was received from the Applicant No. 1. He has also stated that the above Applicant was also contacted on the phone number available in his application and he had provided a new email id, on which he was again requested to send the details however, no reply was received from him. The Applicant No. 2 has further stated that the Respondent was a direct selling Company with more than 5,50,000 ABOs and was selling about 140 products covering five categories and had nationwide presence with over 130 sale offices, 4 regional mother warehouses, 3 regional hubs and 34 city warehouses. The Applicant No. 1 in his report has held that the Applicant No.1 had neither provided the description of the items nor provided any of the details of the supplier or any evidence that the Respondent had indulged in profiteering and therefore, in the absence of the description of any product, the name of any supplier and any specific evidence of profiteering by the above Respondent, no further investigation could be conducted.

3. After considering the above Report filed by the Applicant No. 2 both the interested parties were issued notices to attend the hearing before this Authority; however, the Applicant No. 1 did not appear. The Applicant

No. 2 was represented by Sh. Anwar Ali, Additional Commissioner and the Respondent was represented by Sh. K. V. Hariharan, CFO, Sh. Abraham Ninan, Sr. Manager (Taxation) and Sh. Sudhir Mishra, Assistant Manager (Taxation).

4. The Respondent vide his written submission dated 26.09.2018 has inter-alia stated that the Applicant No. 2 in his report dated 30.07.2018 had not recommended initiation of proceedings against him under section 171 of the CGST Act, 2017 as there was no specific evidence of profiteering against him. Amongst other things, he has also stated that the above Applicant had also recommended that no meaningful investigation could be conducted against him. He has further stated that in view of the report submitted by the Applicant No. 2, the allegation of profiteering had not been proved against him and therefore the present proceeding should be dropped.

5. We have carefully considered the Report filed by the Applicant No. 2 as well as the submissions made by the Respondent and it is revealed from the facts stated above that the Applicant No. 1 had not supplied details of the products or the invoices vide which he had bought them from the Respondent inspite of repeated requests made by the Applicant No. 2 and therefore, the investigation conducted in the allegation levelled by the Applicant No. 2 against the Respondent could not establish profiteering for want of cogent and reliable evidence and hence no violation of the provisions of Section 171 of the CGST Act 2017 has been found in this case. Accordingly, the application filed by the Applicant requesting for action against the Respondent for alleged violation of the provisions of the above Section is not maintainable and

hence the same is dismissed. A copy of this order shall be sent to both the Applicants and the Respondent free of cost. File of the case be consigned after completion.

-Sd-  
(B. N. Sharma)  
Chairman

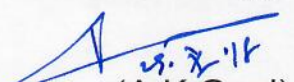
-Sd-  
(J. C. Chauhan)  
Technical Member

-Sd-  
(R. Bhagyadevi)  
Technical Member

-Sd-  
Amand Shah)  
Technical Member



Certified copy

  
(A.K. Goel)  
Secretary NAA

F.No.22011/NAA/62/2018

Dated: 29.10.2018

Copy to:-

1. [rss342786@tatamotors.com](mailto:rss342786@tatamotors.com) and [kakesonu98@gmail.com](mailto:kakesonu98@gmail.com)
2. M/s Amway India Enterprises Private Limited, Corp. Office- Plot No. 84, Sector - 32, Gurugram - 122001, Haryana, India, Email Id: [care@amway.com](mailto:care@amway.com)
3. Director General Anti-Profitteering, Indirect Taxes & Customs, 2<sup>nd</sup> Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001
4. NAA website.