

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

Case No. : 64/2020  
Date of Institution : 14.06.2019  
Date of Order : 08.10.2020

In the matter of:

1. Shri Abhishek, House No. 62, Ward No. 9, Behind Post Office, Julana, Jind, Haryana-126101.
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 Signature Builders Pvt. Ltd., Unit No. 1309, 13<sup>th</sup> Floor, Dr. Gopal Das Bhawan, 28, Barakhamba Road, Connaught Place, New Delhi-110001.

Respondent

Quorum:-

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



Present:-

1. None for the Applicants.
2. None for the Respondent.

ORDER

1. The brief facts of the present case are that the Applicant No. 2 (here-in-after referred to as the DGAP) vide his Report dated 12.06.2019, furnished to this Authority under Rule 129 (6) of the Central Goods & Services Tax (CGST) Rules, 2017, had submitted that he had conducted an investigation on the complaint of the Applicant No. 1 and found that the Respondent had not passed on the benefit of additional Input tax Credit (ITC) to the above Applicant as well as other home buyers who had purchased flats in his Project "Orchard Avenue-93", as per the provisions of Section 171 (1) of the CGST Act, 2017. Vide his above Report the DGAP had also submitted that the Respondent had denied the benefit of ITC to the Applicant No. 1 and other buyers amounting to Rs. 2,58,80,927/-, pertaining to the period w.e.f. 01.07.2017 to 31.12.2018 and had thus indulged in profiteering and violation of the provisions of Section 171 (1) of the above Act.
2. This Authority after careful consideration of the Report dated 12.06.2019 had issued notice dated 19.06.2019 to the Respondent to show cause why the Report furnished by the DGAP should not be accepted and his liability for violation of the provisions of Section 171 (1) should not be fixed. After hearing both the parties at length this Authority vide its Order No. 72/2019 dated 13.12.2019 had

determined the profiteered amount as Rs. 2,58,80,927/- as per the provisions of Section 171 (2) of the above Act read with Rule 133 (1) of the CGST Rules, 2017 pertaining to the period from 01.07.2017 to 31.12.2018 and had also held the Respondent in violation of the provisions of Section 171 (1) of the CGST Act, 2017.

3. The Respondent was issued notice dated 21.01.2020 asking him to explain why the penalty mentioned in Section 171 (3A) of the CGST Act, 2017 read with Rule 133 (3) (d) of the CGST Rules, 2017 should not be imposed on him for violation of the provisions of Section 171(1) of the CGST Act, 2017.
4. The Respondent vide his submissions dated 18.02.2020 has stated that in compliance of the order of this Authority, he was in the process of transferring the benefit of ITC to the buyers of the project. However, no evidence regarding passing on the benefit of the additional ITC to the customers has been received till date.
5. We have carefully considered the submissions of the Respondent and all the material placed before us and it has been revealed that the Respondent had not passed on the benefit of additional Input tax Credit (ITC) to the Applicant No. 1 as well as other homebuyers who had purchased flats in his Project "Orchard Avenue-93" during the period from 01.07.2017 to 31.12.2018 and hence, the Respondent has violated the provisions of Section 171 (1) of the CGST Act, 2017.
6. It is also revealed that vide Section 112 of the Finance Act, 2019 specific penalty provisions have been added for violation of the provisions of Section 171 (1) of the CGST Act, 2017 which have come in to force w.e.f. 01.01.2020 vide Notification No. 01/2020-

Central Tax dated 01.01.2020, by inserting Section 171 (3A) in the CGST Act, 2017. Since, no penalty provisions were in existence between the period w.e.f. 01.07.2017 to 31.12.2018 when the Respondent had violated the provisions of Section 171 (1), the penalty prescribed under Section 171 (3A) cannot be imposed on the Respondent retrospectively. Accordingly, the notice dated 21.01.2020 issued to the Respondent for imposition of penalty under Section 177 (3A) is hereby withdrawn and the present penalty proceedings launched against him are accordingly dropped.

7. Copy of this order be supplied to both the parties. File be consigned after completion.

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



Sd/-  
(Amand Shah)  
Member (Technical)

Sd/-  
(B. N. Sharma)  
Chairman

Certified Copy

o/c  
  
(A.K. Goel)  
Secretary, NAA

File No. 22011/ NAA/48/SignOrchard/2019 | 5381-5384 Dated: 08.10.2020  
Copy To:-

1. M/s Signature Global Developers Pvt. Ltd., 1308, 13<sup>th</sup> Floor, Dr. Gopal Das Bhawan, 28 Barakhamba Road, Connaught Place, New Delhi-110001.
2. Shri. Abhishek, House No. 62, Ward No. 9, Behind Post Office, Julana, Jind, Haryana-126101.
3. Director General 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.
4. Guard File.

  
A. K. GOEL  
SECRETARY, NAA