

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

Case No. : 84/2020  
Date of Institution : 11.06.2019  
Date of Order : 10.12.2020

In the matter of:

1. Mr. Gopinath Dombla, Navkar Darshan (Darshan Apartment), Sridhar Nagar, Near Datta Mandir, Chinchwad Gaon, Pune-411033.
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 Navkar Associates, 594, Navkar Commerce Centre, Link Road, Near Bank of Baroda, Chinchwad Gaon, Pune-411033.

Quorum:-

Respondent

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. Sh. Santosh Dhoka, Partner, 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 07.06.2019, 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 who had purchased Flat in his Project "Navkar Darshan", 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 above Applicant and other buyers amounting to Rs. 5,83,593/-, 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 07.06.2019 had issued notice dated 12.06.2019 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. 61/2019 dated 26.11.2019 had determined the profiteered amount as Rs. 5,83,593/- 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 also held the Respondent in violation of the provisions of Section 171 (1).

3. It was also held that the Respondent had not passed on the benefit of ITC to the homebuyers and had profiteered the above amount between the period from 01.07.2017 to 31.12.2018 and therefore, he had apparently committed an offence under Section 171 (3A) of the CGST Act, 2017 and hence, he was liable for imposition of penalty under the provisions of the above Section.
4. The Respondent was issued notice dated 15.01.2020 asking him to explain why the penalty mentioned in Section 171 (3A) read with Rule 133 (3) (d) should not be imposed on him.
5. The Respondent vide his submissions dated 17.08.2020 has stated that he had returned the amount with interest to all the concerned customers as per Para No. 18 of the order and that he had submitted all the bank statements and confirmation letters from the concerned customers. Further the Respondent stated that it was his first project under the GST and he had very less knowledge about the GST and he has requested to waive off the penalty amount.
6. The above claim of the Respondent has also been verified by the DGAP vide his verification report dated 23.06.2020 in which he has submitted that Shri Rajeev Ranjan, Assistant General Manager, Bank of Baroda, Head office, Baroda vide email dated 15.06.2020 has confirmed deposit of Rs. 54,012/- (GST Rs. 39,715/- and Interest Rs. 14,297/-) by the Respondent in favour of Shri Gopinath Dombla, the Applicant No. 1 vide cheque no. 002964. The DGAP has also



referred to another email of Shri Sanjeev Kumar, Chief Manager, PNB BO Pimpri, Pune wherein he has confirmed the deposit of Rs. 6,00,140/-, Rs. 90,000/- and Rs. 49,512/- by the Respondent in favour of Smt. Renuka Pande, Shri Gokhale Shailendra and Shri Vinit Date vide cheque nos. 507865, 507864, 507861 respectively, who are the other beneficiaries of the benefit of ITC.

7. 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 above Applicant No. 1 as well as other homebuyers who had purchased them in his Project "Navkar Darshan" for 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.
8. It is also revealed from the perusal of the CGST Act and the Rules framed under it that the Central Government vide Notification No. 01/2020-Central Tax dated 01.01.2020 has implemented the provisions of the Finance (No. 2) Act, 2019 from 01.01.2020 vide which sub-section 171 (3A) was added in Section 171 of the CGST Act, 2017 and penalty was proposed to be imposed in the case of violation of Section 171 (1) of the CGST Act, 2017.
9. 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 15.01.2020 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.

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

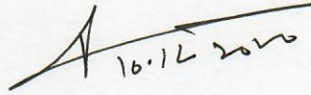
Sd/-  
(J. C. Chauhan)  
Technical Member



Sd/-  
(Dr. B. N. Sharma)  
Chairman

Sd/-  
(Amand Shah)  
Technical Member

Certified Copy

  
(A.K Goel)  
NAA, Secretary

File No. 22011/ NAA/124/Navkar(P)/2020

Dated: 10.12.2020

Copy To:-

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1. M/s Navkar Associates, 594, Navkar Commerce Centre, Link Road, Near Bank of Baroda, Chinchwad Gaon, Pune-411033.
2. Sh. Gopinath Dombala, Navkar Darshan (Darshan Apartment), Sridhar Nagar, Near Datta Mandir, Chinchwad Gaon, Pune-411033.
3. 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.
4. Guard File.



A. K. GOEL  
SECRETARY, NAA