

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

Case No. : 28/2022  
Date of Institution : 06.07.2020  
Date of Order : 24.06.2022

**In the matter of:**

1. Sh. Nagendra Kumar Biyani, R/O B-302, Indiabulls Centrum, Near Vaartha Office, Lower Tank-1, Hyderabad-500029.
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 Indiabulls Real Estate Ltd. (registered as M/s Airmid Real Estate Ltd.), Flat No. B-2, 301A, 3<sup>rd</sup> Floor, Dwarka Plaza, Dwarka Nagar Main Road, Visakhapatnam-530016.

**Respondent**

**Quorum:-**

1. Sh. Amand Shah, Technical Member & Chairman,
2. Sh. Pramod Kumar Singh, Technical Member,
3. Sh. Hitesh Shah, Technical Member.



**Present:-**

1. Sh. Nagendra Kumar Biyani, Applicant No. 1 in person.
2. Sh. Manoj kumar, Assistant Commissioner, for the DGAP.
3. Sh. Vivek Sharma, Advocate and Sh. Amit Shah, Representative for the Respondent.

## ORDER

1. The present Report dated 26.06.2020 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 present case are that an application was filed before the Standing Committee on Anti-profiteering, under Rule 128 of the CGST Rules, 2017 by the Applicant No. 1 alleging profiteering in respect of construction service supplied by the Respondent. The Applicant No. 1 had alleged that the Respondent had not passed on the benefit of input tax credit (ITC) to him by way of commensurate reduction in the price of the Flat No. C-402 purchased from the Respondent in the Respondent's project "Sierra-Vizag", situated at Vizag on introduction of GST w.e.f. 01.07.2017, in terms of Section 171 of the CGST Act, 2017.
2. The DGAP in his Report dated 28.02.2020, inter-alia stated that:-
  - i. The aforesaid application was examined by the Standing Committee on Anti-profiteering, in its meeting held on 05.07.2019, the minutes of which were received by the DGAP on 05.08.2019, whereby it was decided to forward the same to the DGAP to conduct a detailed investigation in the matter. Accordingly, investigation was initiated to collect evidence necessary to determine whether the benefit of input tax credit had been passed on by the Respondent to the Applicant No. 1 in respect of construction service supplied by the Respondent.
  - ii. On receipt of the reference from the Standing Committee on Anti-profiteering, a notice under Rule 129 of the Rules was issued by the DGAP on 14.08.2019, calling upon the Respondent to reply as to whether he admitted that the benefit of input tax credit had not been passed on to the Applicant No. 1 by way of commensurate reduction in price and if so, to suo moto determine the quantum thereof and indicated the same in his reply to the notice as well as furnish all supporting documents. Vide the said notice, the Respondent was also given an opportunity to inspect the non-confidential evidences/information furnished by the Applicant No. 1 during the period 19.08.2019 to 20.08.2019. However, the Respondent did not avail of this

opportunity. Vide e-mail dated 03.06.2020, the Applicant No. 1 was also afforded an opportunity to inspect the non-confidential documents/reply furnished by the Respondent on 08.06.2020 or 09.06.2020. However, the Applicant No. 1 did not avail of the said opportunity.

- iii. The period covered by the current investigation was from 01.07.2017 to 31.03.2019.
- iv. The time limit to complete the investigation was extended upto 04.05.2020 by this Authority, vide order dated 30.01.2020, in terms of Rule 129(6) of the Rules. However, in terms of Notification No. 35/2020-Central Tax dated 03.04.2020, it was provided that "where, any time limit for completion/furnishing of any report, has been specified in, or prescribed or notified under the Central Goods and Service Tax Act, 2017 which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended upto 30.06.2020". Accordingly, time limit to complete the investigation stood extended upto 30.06.2020.
- v. In response to the notice dated 14.08.2019, the Respondent submitted his replies vide letters and e-mails dated 11.10.2019, 29.10.2019, 17.12.2019, 27.01.2020, 10.02.2020 and 09.06.2020. N
  - a. Vide his submissions, the Respondent has stated that the modalities of the computation were explained to the customer considering the regular changes in rate of tax on materials/services relating to real estate sector. The Respondent also stated that his customers were also informed that the benefit of ITC/GST, if any, would be passed at the time of possession and based upon the above explanation, the Applicant No. 1 had withdrawn the complaint.
- vi. Vide the aforementioned letters, the Respondent had also submitted the following documents/information:
  - a. Copies of GSTR-1 Returns for the period July, 2017 to July, 2019.
  - b. Copies of GSTR-3B Returns for the period July, 2017 to July, 2019.

- c. Copy of Trans-1 filed by the Respondent.
  - d. Electronic Credit Ledger for the period July, 2017 to July,2017.
  - e. Copies of VAT returns (including all annexures)& ST-3 Returns for the period April, 2016 to June, 2017.
  - f. Copies of all demand letters issued and sale agreement made with the Applicant.
  - g. Copy of Balance Sheet for Financial Years 2016-17 & 2017-18.
  - h. Details of VAT, Service Tax, ITC of VAT, Cenvat credit for the period April, 2016 to June,2017 and output GST and ITC of GST for the period July, 2017 to July, 2019 .
  - i. Copy of Electronic Credit Ledger for the period 01.07.2017 to 31.07.2019.
  - j. Cenvat/Input Tax Credit Register for the Financial Years 2016-17, 2017-18, 2018-19 and for the period April, 2019 to July,2019 reconciled with VAT, ST-3 and GSTR-3B return.
  - k. Details of applicable tax rates, Pre-GST and Post-GST.
  - l. List of home buyers in the project "Sierra-Vizag".
  - m. Copy of RERA registration certificate and certificate from Architect and Engineer.
- vii. In the notice dated 14.08.2019, the Respondent was informed that if any information/documents were provided on confidential basis, in terms of Rule 130 of the above Rules, a non-confidential summary of such information/documents was required to be furnished. However, the Respondent informed vide e-mail dated 09.06.2020 that (a) ST-3 return submitted by the Respondent (b) details of customers who had booked flat in his project with the corresponding sales value, should be treated as confidential.
- viii. The subject application, various replies of the Respondent and the documents/evidences on record had been carefully examined. The main issues for determination were: -

- a. Whether there was benefit of reduction in rate of tax or input tax credit on the supply of construction service by the Respondent after implementation of GST w.e.f. 01.07.2017 and if so,
- b. Whether the Respondent had passed on such benefit to the recipients by way of commensurate reduction in price, in terms of Section 171 of the Central Goods and Services Tax Act, 2017.
- ix. Though the notice was issued to M/s Indiabulls Real Estate Ltd, Vishakhapatnam, the reply was received from M/s Airmid Real Estate Ltd. At the outset, it was observed from the website of the Respondent (<https://www.indiabullsrealestate.com/residential-projects/sierra-vizag/>), that there were Block-wise 5 RERA registrations for the project "INDIABULLS SIERRA", in the name of promoter M/s Airmid Real Estate Limited. The registration-wise details of the project have been furnished in Table-A below. The project was registered under the Brand Name "INDIABULLS" which had a pan-India presence.

**Table-'A'**

Block		RERA Registration No.	Remark
A	1	<u>P036tas280030013</u>	Registered on 26.06.2018.
B			
C	2	<u>P03280030014</u>	Registered on 26.06.2018.
D			
I			
G	3	<u>P03280030015</u>	Registered on 26.06.2018.
H			
E			
F1	4	<u>P03280030016</u>	Registered on 26.06.2018.
F2			
F3			
F4			
J	5	<u>P03280030531</u>	Registered on 21.10.2019.
K			

- x. The Respondent vide letter dated 17.12.2019 submitted a copy of demand letter issued to the Applicant No.1. The details of schedule of payment plan has been furnished in Table-B below:

**Table- 'B'**

Sr. No.	Particulars	Percentage(%) of Payment
1.	On Booking	10.00%
2.	Within 60 days from date of booking	10.00%
3.	On Commencement Work	10.00%
4.	On Commencement of Basement/Parking	10.00%
5.	On Commencement of 1 <sup>st</sup> Floor Slab	10.00%
6.	On Commencement of 3 <sup>rd</sup> Floor Slab	10.00%
7.	On Commencement of 6 <sup>th</sup> Floor Slab	10.00%
8.	On Commencement of 9 <sup>th</sup> Floor Slab	5.00%
9.	On Commencement of 12 <sup>th</sup> Floor Slab	5.00%
10.	On Commencement of 15 <sup>th</sup> Floor Slab	5.00%
11.	On Commencement of Finishing Work	10.00%
12.	On Possession + Other Charges + Stamp Duty +Registration charges	5.00%
	TOTAL	100.00%

- xi. Another relevant point in this regard was para 5 of Schedule-III of the Central Goods and Services Tax Act, 2017 (Activities or Transactions which shall be treated neither as a supply of goods nor a supply of services) which read as *"Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building"*. Further, clause (b) of Paragraph 5 of Schedule II of the Central Goods and Services Tax Act, 2017 read 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 had been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever was earlier"*. Thus, the input tax credit pertaining to the residential

units which were under construction but not sold was provisional input tax credit which might be required to be reversed by the Respondent, if such units remain unsold at the time of issue of the completion certificate, in terms of Section 17(2) & Section 17(3) of the Central Goods and Services Tax Act, 2017, which read as under:

*Section 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".*

*Section 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 input tax credit pertaining to the unsold units might not fall within the ambit 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 proportionate benefit of additional input tax credit available to him post-GST.

- xii. As regards the allegation of profiteering, it was 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 the input services (CENVAT credit of Central Excise Duty was not available) in respect of the flats for the project "Sierra-Vizag" sold by him. The Respondent was not eligible to avail input tax credit of VAT paid on the inputs, as he was availing **Composition Scheme**. Further, post-GST, the Respondent could avail input tax credit of GST paid on all the inputs and input services. From the data submitted by the Respondent covering the period April, 2016 to July, 2019, the details of the input tax credits availed by him, his turnover from the project "Sierra-Vizag", the ratios of input tax credits to turnovers, during the pre-GST (April, 2016 to June, 2017) and post-GST (July, 2017 to March, 2019) periods, have been furnished in Table-C below.

**Table-'C'**

(Amount in Rs.)

Sr.No	Particulars	Total (Pre-GST) April, 2016 to June, 2017	Total (Post-GST) July, 2017 to March, 2019
1	CENVAT of Service Tax Paid on Input Services used for flats (A)	2,63,75,303	-
2	Input Tax Credit of VAT Paid on Purchase of Inputs (B)		-
3	Total CENVAT/Input Tax Credit Available (C)= (A+B)	2,63,75,303	-
4	Input Tax Credit of GST Availed (D)	-	9,88,30,603
5	Turnover for Flats as per Home Buyers List (E)	54,54,89,453	70,51,84,975
6	Total Saleable Area (in SQF) (F)	8,43,855	8,43,855
7	Total Sold Area (in SQF) relevant to turnover (G)	6,21,980	7,07,175
8	Relevant ITC [(H)= (C)*(G)/(F) or (D)*(G)/(F)]	1,94,40,438	8,28,22,916
<b>Ratio of Input Tax Credit Post-GST [(I)=(H)/(E)]</b>		<b>3.56%</b>	<b>11.74%</b>

From the above Table-'C', it was clear that the input tax credit as a percentage of the turnover that was available to the Respondent during the pre-GST period (April, 2016 to June, 2017) was 3.56% and during the post-GST period (July, 2017 to March, 2019), it was 11.74% for Project "Sierra-Vizag". Though the investigation period was July, 2017 to July, 2019, the period upto March, 2019 instead of July, 2019 had been considered for computation of the profiteering because the Respondent opted for new scheme issued vide Notification No.03/2019-Central Tax (Rate) dated 29.03.2019. In terms of this Notification the Respondent was required to pay Tax/GST @ 5% without taking/availing the benefit of Input Tax Credit. Thus, the Respondent was not eligible to avail the input tax credit w.e.f. 01.04.2019. Since, there was no benefit of input tax credit to the Respondent w.e.f. 01.04.2019 profiteering on account of additional input tax credit benefit could not be attributed after 01.04.2019. This clearly confirmed that post-



GST, the Respondent had benefited from additional input tax credit to the tune of 8.18% [11.74% (-) 3.56%] of the turnover upto 31.03.2019 only.

- xiii. The DGAP has observed that the Central Government, on the recommendation of the GST Council, had levied 18% GST (effective rate was 12% in view of 1/3rd abatement for land value) on construction service, vide Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. The effective GST rate was 12% for flats. Accordingly, on the basis of the figures contained in Table- 'B' above, the comparative figures of the ratios of input tax credits availed/available to the turnovers in the pre-GST and post-GST periods as well as the turnovers, the recalibrated base price and the excess realization (profiteering) during the post-GST period, have been furnished in Table-D below.

**Table-D**

(Amt. in Rs.)

Sr. No.	Particulars		
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	11.74%
4	Increase in input tax credit availed post-GST (%)	D= 11.74% less 3.56%	8.18%
5	<b><u>Analysis of Increase in input tax credit:</u></b>		
6	Base Price raised during July, 2017 to March, 2019 (Rs.)	E	70,51,84,975
7	GST raised over Base Price (Rs.)	F= E*B	8,46,22,197
8	Total Demand raised	G=E+F	78,98,07,172
9	Recalibrated Base Price	H= E*(1-D) or 91.82% of E	64,75,00,844
10	GST @12%	I = H* B	7,77,00,101
11	Commensurate demand price	J = H+I	72,52,00,945

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12	Excess Collection of Demand or Profiteering Amount	K= G-J	6,46,06,227
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From Table-'D' above, it was clear that the additional input tax credit of 8.18% of the turnover should have resulted in the 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 such additional input tax credit was required to be passed on to the recipients.

- xiv. On the basis of the above calculation explained in Table-D on the basis of the aforesaid CENVAT/input tax credit availability pre and post-GST and the details of demand raised by the Respondent from the Applicant No. 1 and other home-buyers in respect of the units booked by the Respondent as on 31.03.2019, the benefit of input tax credit that needed to be passed on by the Respondent to the buyers of flats came to Rs. 6,46,06,227/- which included 12% GST on the base amount of Rs. 5,76,84,131/-. It was pertinent to mention here that the Respondent had submitted that he had total of 545 units in the whole project and demand was raised from 483 buyers including the Applicant No. 1 as on 31.03.2019. The homebuyers of the flats/unit no. wise break-up of this amount has been given in **Annex-13** of the Report dated 26.06.2020. This amount was inclusive of profiteered amount of Rs. 1,62,382/- (including GST) which was the profiteered amount in respect of Applicant No. 1 mentioned at serial no. 216 of **Annex-13** of the Report dated 26.06.2020.
- xv. On the basis of the details of outward supplies of the construction service submitted by the Respondent, it was observed that the service had been supplied in the State of Andhra Pradesh only.

3. Therefore, the DGAP has concluded that:-

- i. The benefit of additional input tax credit of 8.18% of the taxable turnover had accrued to the Respondent and the same was required to be passed on to the Applicant No. 1 and other recipients. It was also observed that the

provision of Section 171 of the Central Goods and Services Tax Act, 2017 had been contravened by the Respondent in as much as the additional benefit of input tax credit @8.18% of the base price received by the Respondent during the period 01.07.2017 to 31.03.2019, which needed to be passed on by the Respondent to the buyers of flats came to Rs. 6,46,06,227/- (Rupees Six Crore Forty Six Lakh Six Thousand Two Hundred and Twenty Seven only) which included 12% GST and such benefit had not been passed on to the Applicant No. 1 and other recipients. On this account, the Respondent had realized an additional amount to the tune of Rs. 1,62,382/- (including GST) from the Applicant No. 1 which included both the profiteered amount @8.18% of the taxable amount (base price) and GST on the said profiteered amount. Further, the investigation revealed that the Respondent had also realized an additional amount of Rs. 6,44,43,845/- as mentioned in Annex-13 of the Report dated 26.06.2020 which included both the profiteered amount @8.18% of the taxable amount (base price) and GST on the said profiteered amount from 482 other recipients (homebuyers) who were not Applicants in the present proceedings. These recipients were identifiable as per the documents on record as the Respondent had provided their names and addresses along with Unit no. allotted to them. Therefore, this additional amount of Rs. 6,44,43,844/- was also required to be returned to such eligible recipients (homebuyers).

- ii. As aforementioned, the present investigation covered the period from 01.07.2017 to 31.03.2019. Profiteering, if any, for the period post March, 2019, had not been examined as the Respondent opted for a new scheme issued vide Notification No. 03/2019-Central Tax (Rate) dated 29.03.2019. In terms of this Notification the Respondent was required to pay Tax/GST @ 5% without taking/availing the benefit of ITC. Thus, the Respondent was not eligible to avail the input tax credit w.e.f. 01.04.2019 and Section 171 of CGST Act, 2017 was not attracted.

4. The above Report was carefully considered by this Authority and it was decided to allow the Respondent to file his consolidated written submissions by 21.07.2020. A

notice dated 13.07.2020 was issued to the Respondent to explain why the Report dated 26.06.2020 furnished by the DGAP should not be accepted and his liability for profiteering in violation of the provisions of Section 171 should not be fixed.

5. The Respondent filed his written submissions vide e-mail dated 09.11.2020 in which he has submitted:-

**A. Section 171 of the CGST Act and Rule 126 of CGST Rules were violative of Article 14 and 19 of the Constitution**

- i. That the present proceedings had been initiated against the Respondent in terms of section 171 of the CGST Act read with Rule 126 of the CGST Rules, which lay down the anti-profiteering mechanism under GST Laws. The relevant provisions of the CGST Act and the CGST Rules read as follows:

***Anti-profiteering measure.***

*171. (1) 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.*

*(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.*

*(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.*

*(3A) Where the Authority referred to in sub-section (2) after holding examination as required under the said sub-section comes to the conclusion that any registered person has profited under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profited: Provided that no penalty shall be leviable if the profited amount is deposited within thirty days of the date of passing of the order by the Authority.*

*Explanation.- For the purposes of this section, the expression "profited" shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both.*

***126. Power to determine the methodology and procedure.-***

*The Authority may determine the methodology and procedure for determination as to whether the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit has been passed on by the registered person to the recipient by way of commensurate reduction in prices.*

- ii. That neither this Authority nor any other provision of GST Laws had

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prescribed any mechanism or methodology for determining anti-profiteering measure. In the absence of a determining mechanism, the entire investigation undertaken by the DGAP was unconstitutional and without authority of law.

- iii. That it was settled law that in the absence of a machinery provision for assessment of tax, the levy itself failed and was liable to be struck down as unconstitutional. Reliance was placed on the decision of Hon'ble Supreme Court in the case of **Commissioner, Central Excise & Customs, Kerala vs. Larsen & Toubro Limited 2016 (1) SCC 170** wherein it was held that in the absence of machinery provisions for computation of taxable value in case of composite works contract, levy of Service Tax would become non-existent.
- iv. That reliance was placed on the decision of Hon'ble Supreme Court in the case of **CIT vs. B.C. Srinivasa Setty 1981 (2) SCC 460** wherein the Hon'ble Apex Court observed as follows:

*10. ... Section 45 is a charging section. For the purpose of imposing the charge, Parliament has enacted detailed provisions in order to compute the profits or gains under that head. No existing principle or provision at variance with them can be applied for determining the chargeable profits and gains. All transactions encompassed by Section 45 must fall under the governance of its computation provisions. A transaction to which those provisions cannot be applied must be regarded as never intended by Section 45 to be the subject of the charge. This inference flows from the general arrangement of the provisions in the Income-tax Act, where under each head of income the charging provision is accompanied by a set of provisions for computing the income subject to that charge. The character of the computation provisions in each case bears a relationship to the nature of the charge. Thus the charging section and the computation provisions together constitute an integrated code. When there is a case to which the computation provisions cannot apply at all, it is evident that such a case was not intended to fall within the charging section. Otherwise one would be driven to conclude that while a certain income seems to fall within the charging section there is no scheme of computation for quantifying it. The legislative pattern discernible in the Act is against such a conclusion. It must be borne in mind that the legislative intent is presumed to run uniformly through the entire conspectus of provisions pertaining to each head of income. No doubt there is a qualitative difference between the charging provision and a computation provision. And ordinarily the operation of the charging provision cannot be affected by the construction of a particular computation provision. But the question here is whether it is possible to apply the computation provision at all if a certain interpretation is pressed on the charging provision. That pertains to the fundamental integrality of the statutory scheme provided for each head.*

Further reliance was placed on the decision of Hon'ble Apex Court in the case of **K. Damodarswamy Naidu & Bros and others vs. State of T.N. 2000 (1) SCC 521** and **Govind Saran Ganga Saran vs. CST 2985 (Supp.) SCC 205**.

- v. That the term commensurate reduction in price had neither been defined in the CGST Act nor the CGST Rules. That neither the CGST Act nor CGST Rules laid down any principles of determining anti-profiteering measure. This Authority had also not dealt with the anti-profiteering computation mechanism vide its National Anti-profiteering under Goods and Services Tax Methodology and Procedure, 2018. It was also relevant to note that the methodology prescribed under the said document was essentially a reiteration of what had already been provided in the CGST Rules (Rule 122 to 137).
- vi. That no methodology or procedure had been laid down for determining:
  - a) whether there was a benefit from reduction of price;
  - b) the quantum of benefit- whether the cost incurred by an assessee on account of raw material, transport, labour, withdrawal of government subsidies and any other cost incurred for passing on the benefit should be taken into account since it had a bearing on the price of the product;
  - c) the methodology of passing on the benefit in different scenarios;
  - d) the removal of difficulties in cases where passing of benefit in absolute terms was impossible to perform.
- vii. That in the absence of the above, the action taken by the Standing Committee on anti-profiteering and the DGAP was arbitrary and ought to be quashed. It was submitted that businesses operate in a dynamic and volatile environment and the DGAP had proceeded on the basis that apart from the benefit of increased input tax credit, other factors affecting price in the same period remained constant.
- viii. That in the absence of a determining mechanism, passing of benefit of input tax credit, if any, at the time of transfer of possession after considering

regular changes in tax rate on materials/ services relating to real estate sector, could not have been rejected by the DGAP. In fact, the DGAP had not given any reason whatsoever for rejecting this contention of the Respondent and had simply proceeded to compute the profiteering based on a self-devised methodology, which did not find mention anywhere in the GST Laws.

**B. Rule 126 of the CGST Rules was in violation of section 171 itself**

- i. That as per section 171(2) of the CGST Act, this Authority was formed to examine whether input tax credit availed by any registered person or reduction in tax rate had resulted in the commensurate reduction in the price of goods or service or both supplied by him. Thus, this Authority was a body to examine the profiteering. It had not been formed as a body for determining the methodology of profiteering.
- ii. That the above, Rule 126 of the CGST Rules giving the power to this Authority to determine the methodology and procedure for determination as to whether reduction in rate of tax on supply of goods or services or the benefit of input tax credit had been passed on by way of commensurate reduction in price was itself against section 171(2) of the CGST Act. Reliance was placed on the decision of Hon'ble Supreme Court in the case of **Indraprastha Gas Ltd. vs. Petroleum and Natural Gas Regulatory Board & Ors. 2015 (9) SCC 209** wherein it has been held that a delegated authority cannot frame a regulation that was not in accordance with parent statute.
- iii. That the Frequently Asked Questions annexed to Notification C. No. IV/16/36/2018-Anti-Profiteering itself stated that this Authority was the Apex body set up to undertake adjudication of cases of Ld. National Anti-Profiteering. Hence, the same authority could not had been entrusted with the power to determine the methodology.

**C. The investigation proceedings being pre-mature, were required to be dropped.**

- i. That the present proceedings had been initiated with respect to a residential project in the name of "Indiabulls Sierra Vizag", which was in the process of development and the construction work at the project had not been finished yet. Given this, benefit of input tax credit, if any, accruing as a result of this project could not be determined at this stage. Consequently, the present investigation proceedings were premature in nature and required to be set aside on this ground alone.
- ii. That as entire project took number of months to complete, the impact of GST could be ascertained only upon completion of the project. Thus, it would be premature to reach a conclusion on input tax credit benefit to be passed on.
- iii. That any computation of benefit of input tax credit before the project reaches completion, could only be based on assumptions and surmises. It was settled law that demand raised on assumptions and surmises could not be sustained and was required to be dropped.
- iv. That on account of change in the GST rate of various products consumed in the process of construction, input tax credit would also be reduced and hence accurate computation of benefit would be possible only when the projects were completed. Moreover, in the absence of any guidelines on the methodology for computation of profit, under the GST law, it was difficult to compute and pass on the benefit during the construction phase.
- v. That real-estate projects were market-driven and pricing was dependent upon various parameters. Further, the consideration paid by a buyer was not just for the construction of a particular unit/flat but also for various other amenities that come with the flat. Hence, computation of input tax credit benefit, before completion of project would not reflect the true picture.
- vi. That input tax credit facility itself stood withdrawn in certain cases, with effect from 01.04.2019. The Respondent had also opted for the new scheme issued vide Notification No. 3/2019-CT (Rate) dated 29.03.2019. In terms of this Notification, the Respondent was required to pay GST at the effective rate of 5% and was not entitled to avail input tax credit with effect



from 01.04.2019. Hence, it was evident that the tax rates and credit facility under GST laws were dynamic. Consequently, the correct computation of benefit, if any, could only be done once the project was complete.

**D. Computation methodology followed by the DGAP did not reflect the true result**

- i. That the DGAP had computed the profiteered amount by comparing the input tax credit ratio to the taxable turnover ratio during pre-GST and post-GST periods. It was submitted that the computation methodology adopted by the DGAP did not reflect the correct picture and hence could not give accurate results.
- ii. That the cost/pricing of flat was dependent upon various parameters such as inflation, pattern of procurement of goods, stage of completion, surrounding developments, facilities available like hospitals, schools, public transport, accessibility to railway station, airport, pricing of competitors, etc. Accordingly, all these factors need to be taken into account to determine the benefit, if any, accruing to the Respondent on account of input tax credit. Furthermore, the fact that input tax credit would not be available and had to be reversed on any flat sold after obtaining the occupancy certificate had to be kept in mind while computing the exact profiteering amount.
- iii. That the infrastructure/real estate-sector was unique and should not be put at par with other goods and services industry due to the long gestation period. Hence, the simple mathematical exercise done by comparing the input tax credit ratio before and after GST could not be made applicable in the instant case. The Respondent had duly cooperated with the DGAP during the investigation proceedings and had provided all the documents requested by the DGAP. Despite this, the DGAP has proceeded to determine profiteering by applying a simple mathematical formula, in complete disregard of the factors affecting the pricing of flats. Consequently, the profiteering amount determined by the DGAP was incorrect and was required to be recomputed.
- iv. That increase in input tax credit could be due to various factors other than

benefit granted by the Government such as increase in rate of tax on input supplies and services, increase in cost of inputs due to higher prices etc. The increase in input tax credit due to such factors could not be considered as "benefit of input tax credit" for the purpose of Section 171. In this regard, it was relevant to note that input services in the pre-GST regime were taxable at the rate of 15% but under the post-GST regime, most input services were taxable at 18%. This itself would lead to an automatic increase of 3% in ITC in the post-GST regime even though it could not be called a benefit. The computation done by DGAP was grossly incorrect for this reason alone.

- v. That increase in cost of raw materials such as ready-mix concrete, steel, granite and marble etc. in post-GST period would also result in an increase in the input tax credit claimed by the Respondent. This was evident from a simple comparison between rate of inputs prior to and after introduction of GST. Sample copy of invoices reflecting increase in cost of raw-materials/ inputs was enclosed.
- vi. that the DGAP had treated it was a mere arithmetical calculation and had simply compared the ratio of input tax credit to turnover, in complete disregard of various other factors which affect the credit availability and pricing of real estate projects. Hence, the methodology adopted by the DGAP was not in coherence with the term 'commensurate reduction' and was required to be set aside on this ground alone. Given this, the amount profited, if at all, was required to be recomputed after considering the factors discussed above.

**E. Concept of GST being an Indirect Tax was an economic concept. A supplier could not be mandated/ dictated through a taxing Statute to reduce price to the same extent as benefit of input tax credit.**

- i. That the entire concept of passing on the benefit/ burden of tax to the customer was not envisaged through a tax law. The levy of tax under GST was on the supplier and he might choose to pass it on to the customer or bear the burden himself. Passing of burden of tax was not determinative of

the nature of tax. Reliance was placed on the decision of the Hon'ble Supreme Court in the case of **Laghu Udyog Bharati vs. UOI 1999 (112)**

**ELT 365 (SC)** relating to Service Tax wherein it was held as follows:

9. ... *The service tax is levied by reason of the services which are offered. The imposition is on the person rendering the service. Of course, it may be an indirect tax, it may be possible that the same is passed on to the customer but as far as the levy and assessment is concerned it is the person rendering the service who alone can be regarded as an assessee and not the customer. This is the only way in which the provisions can be read harmoniously.*

Reliance is also placed on the decision of Hon'ble Supreme Court in the case of **British India Corporation Ltd. CCE 1978 (2) ELT J307 (SC)**:

8. *The contention that this duty does not amount to a duty of excise because it cannot be passed on by the petitioner to the consumer was not raised before us. It was mentioned in the petition. An Excise Duty is a duty on production and though according to the economists, it is an indirect tax capable of being passed on to the consumer as part of the price yet the mere passing on of the duty is not its essential characteristic. Even if borne by producer or manufacturer it does not cease to be a duty of excise. The nature of such a duty was explained in the very first case of the Federal Court and subsequently in others of the Federal Court, the Privy Council and this Court, but this ground continues to be taken and we are surprised that it was raised again.*

Similar ratio was laid down under Sales tax Laws. Reliance in this regard was placed on the decision of the Hon'ble Supreme Court in the case of **S.**

**Kodar vs. State of Kerala 1974 (4) SCC 422** wherein it was held as follows:

2. *The legal incidence of tax on sale of goods under the Tamil Nadu General Sales Tax, 1959 falls squarely on the dealer. It may be that he can add the tax to the price of the goods sold and thus pass it on to the purchaser. But it is not necessary that the dealer should be enabled to pass on the incidence of the tax on sale to the purchaser in order that it might be a tax on sales of goods.*

- ii. That the DGAP vide Report dated 26.06.2020 sought to make it imperative and mandatory that exact calculation of the reduction in rate of tax was required to be passed-on to the consumer. This finding and interpretation by the DGAP to the Anti-Profiteering provision was unconstitutional and against the basic tenet of taxation itself.
- iii. That if the exercise was only a mathematical calculation then the legislature was required to state as such. There was also no requirement for the legislature to prescribe Rule 126 of the CGST Rules. It was settled law that

the legislation was required to be read in entirety and no part of it could be made otiose or redundant. Reliance was placed on the decision of Hon'ble Supreme Court in the case of **Voltas Limited vs. State of Gujarat 2015 VIL 23 (SC)**. Thus, the methodology followed by the DGAP was required to be set aside being in violation of the legislative framework and matter was required to be remanded to the DGAP for fresh consideration in accordance with law.

- iv. That in addition to the above, neither the CGST Act nor the CGST Rules provide any time frame within which commensurate reduction in prices was to be passed-on. In the absence of the same, a reasonable time period was required to be given to any registered person to bring about the necessary reduction in prices given the benefit of input tax credit. Thus, the GST Laws were required to factor various other laws that need to be complied with by any registered person. It was settled that law could not dictate a person to do anything that was impossible. The same was enshrined in the legal maxim '*Lex Non Cogit Ad Impossibilia*'.

**F. The investigation was void-ab-initio and consequently the present proceedings were incorrect in law.**

- i. That in the present case, the complaint was filed by the Applicant No. 1 on 20.09.2018 (as per mail from customer) alleging profiteering in respect of construction service supplied by the Respondent. It was alleged that the Respondent had not passed on the benefit of input tax credit by way of commensurate reduction in price of Flat No. C-402 purchased from the Respondent in Respondent's project "Sierra-Vizag" situated at Vizag. However, the complaint came to be withdrawn by the Applicant No. 1 himself on 21.10.2019 upon being explained the modalities of computation and being assured that the benefit, if any, would be passed on at the time of possession.

Consequent to the above, when the complaint itself stood withdrawn, initiation of investigation was not warranted at all. That Rule 128 laid down the procedure for initiation of proceedings with respect to anti-profiteering

mechanism. Relevant part of the rule was extracted hereunder for ready reference:

*128. Examination of application by the Standing Committee and Screening Committee.-(1) The Standing Committee shall, within a period of two months from the date of the receipt of a written application or within such extended period not exceeding a further period of one month for reasons to be recorded in writing as may be allowed by the Authority in such form and manner as may be specified by it, from an interested party or from a Commissioner or any other person, examine the accuracy and adequacy of the evidence provided in the application to determine whether there is prima-facie evidence to support the claim of the applicant that the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has not been passed on to the recipient by way of commensurate reduction in prices.*

*(2) All applications from interested parties on issues of local nature or those forwarded by the Standing Committee shall first be examined by the State level Screening Committee and the Screening Committee shall, within two months from the date of receipt of a written application, or within such extended period not exceeding a further period of one month for reasons to be recorded in writing as may be allowed by the Authority, upon being satisfied that the supplier has contravened the provisions of section 171, forward the application with its recommendations to the Standing Committee for further action.*

A bare perusal of the above extracted rule reflected that for initiation of anti-profiteering proceedings, the first step was examination of application made by an interested party. Hence, the entire proceedings were based on the complaint and evidence supporting the complaint. When the complaint itself stood withdrawn, there was no question of initiation of proceedings against the Respondent.

- ii. That it was only when there was prima facie evidence to support the claim of the Applicant/Complainant, that the Standing Committee referred the matter to the DGAP for detailed investigation. Relevant Rule 129 was extracted as under:

*129. Initiation and conduct of proceedings.-*

*(1) Where the Standing Committee is satisfied that there is a prima-facie evidence to show that the supplier has not passed on the benefit of reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, it shall refer the matter to the Director General of Anti-profiteering for a detailed investigation.*

*(2) The Director General of Anti-profiteering shall conduct investigation and collect evidence necessary to determine whether the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices.*

(3) The Director General of Anti-profiteering shall, before initiation of the investigation, issue a notice to the interested parties containing, inter alia, information on the following, namely:-

(a) the description of the goods or services in respect of which the proceedings have been initiated;

(b) summary of the statement of facts on which the allegations are based; and

(c) the time limit allowed to the interested parties and other persons who may have information related to the proceedings for furnishing their reply.

(4) The Director General of Anti-profiteering may also issue notices to such other persons as deemed fit for a fair enquiry into the matter.

(5) The Director General of Anti-profiteering shall make available the evidence presented to it by one interested party to the other interested parties, participating in the proceedings.

(6) The Director General of Anti-profiteering shall complete the investigation within a period of six months of the receipt of the reference from the Standing Committee or within such extended period not exceeding a further period of three months for reasons to be recorded in writing as may be allowed by the Authority and, upon completion of the investigation, furnish to the Authority, a report of its findings along with the relevant records.

Hence, the initiation and conduct of proceedings was completely based on examination of the application/complaint filed by the Applicant No. 1. Reliance in this regard was placed on the decision of Hon'ble Gujarat High Court in the case of **Gujarat Paraffins Pvt. Ltd. vs. UOI 2012 (282) ELT 33** wherein it was held that if the foundation is removed, the superstructure falls meaning thereby that if the initial action was not in consonance with law, the subsequent proceedings would not validate it. Given this, no proceedings could lie when the basis on which they had been launched did not exist. ✓

- iii. That section 171 of the CGST Act is qua a recipient of goods/ services (the Complainant in the present case). When the recipient himself has withdrawn his complaint, the entire investigation becomes void-ab-initio. Consequent to the above, the present proceedings are required to be set aside on this ground itself.

#### **G. Report issued by the DGAP not in accordance with law**

- i. That the report issued by the DGAP was incorrect in law as it has failed to consider the fact that the complaint/ application itself stood withdrawn. It was submitted that the Respondent duly informed the DGAP at the first

instance itself that the Applicant No. 1 had withdrawn the complaint. That the Respondent vide letter dated 29.10.2019 had duly informed that the Applicant No. 1 had been explained the modalities of computation and considering the regular changes in tax rates in real estate sector, the benefit of ITC could only be computed at the time of possession and accordingly the applicant had withdrawn the complaint. Despite this, the DGAP failed to discuss its implications on the instant proceedings.

- ii. That the report had merely recorded the submissions made in Respondent's letter dated 29.10.2019 and proceeded to compute profiteering without any reference to the fact that the complaint itself stood withdrawn.
- iii. That rule 129(3) CGST Act required the DGAP to issue of Notice to interested parties before initiation of investigation, containing details, interalia, of the facts on the basis of which allegation was made. It was submitted that the DGAP had failed to inform interested parties about the withdrawal of complaint in the Notice required to be issued to interested parties before initiation of investigation.

**H. The profiteered amount had been incorrectly computed in the Report.**

- i. That without prejudice to the above submissions, even if it was assumed for the sake of argument that the Respondent had gained undue profit on the transaction by not passing on the benefit of input tax credit, even then the computation of undue profit was incorrect. The DGAP had computed the profiteered amount by comparing the input tax credit ratio to turnover of pre-GST and post-GST period. Applying this method, the DGAP had alleged profiteering of Rs. 6,46,06,227/- against the Respondent. It was submitted that the DGAP had incorrectly computed the profiteered amount and the Report was liable to be set aside to this extent.
6. Copy of the above submissions dated 09.11.2020 filed by the Respondent was supplied to the DGAP for clarifications under Rule 133(2A) of the CGST Rules, 2017. The DGAP filed his clarifications dated 01.12.2020 vide which the DGAP has clarified:-

**A. Section 171 of the CGST Act and Rule 126 of CGST Rules were violative of Article 14 and 19 of the Constitution.**

That Section 171 of the CGST Act, 2017 nowhere infringes upon the fundamental right to carry business. The mandate of Section 171 was limited to the extent of protecting the interest of consumers by ensuring that both the benefits of tax reduction and ITC which were sacrificed by the Central and the State Governments from precious tax revenue, need to be passed on to the end consumers who bear the burden of tax. Everybody was absolutely free to exercise his right to practice any profession, or to carry on any occupation trade or business, as per the provisions of **Article 19** of the Constitution. He could also fix his prices and profit margins in respect of the supplies made by him. The intent of the Section 171 was the welfare of the consumers who were voiceless, unorganized and vulnerable.

It was also submitted that there was no violation of **Article 14** of the Indian Constitution as alleged by the Respondent as to remove any arbitrariness, this Authority in exercise of power delegated to it under the Rule 126 had notified the Methodology and Procedure vide Notification dated 28.03.2018 which was also available on its website for necessary guidance of the trade.

**B. Rule 126 of the CGST Rules was in violation of Section 171 itself.**

That the "Methodology and Procedure" had been prescribed under Section 171 (1) itself. The word "commensurate" mentioned in the above Section gave the extent of benefit to be passed on by way of reduction in the prices which had 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. The computation of commensurate reduction in prices was purely a mathematical exercise which was based upon the above parameters and hence it would vary from product to product and hence no fixed mathematical methodology could be prescribed to determine the amount of benefit which a supplier was required to pass on to a recipient or the profiteered amount. However, to give further clarifications and to elaborate upon this legislative intent behind the law, the Authority had been



empowered to determine/expand the Procedure and Methodology in detail as per Rule 126 of the CGST Rules, 2017 which it had notified on 28.03.2018.

**C. The investigation proceedings being pre mature, were required to be dropped.**

That the Respondent's claim was not supported by law and in above para No. 5 (C-vi) he himself contradicted his claim made from para 5 (C-i to C-v). The profiteering had been worked out only up to 31.03.2019 as after that the Respondent was availing composition scheme. In para 15 of the Report, it was clearly mentioned that though the investigation period was from July, 2017 to July, 2019, the period up to March, 2019 instead of July, 2019 had been considered for computation of the profiteering because the Respondent opted for new scheme issued vide Notification No. 03/2019- central Tax (rate) dated 29.03.2019, when the Respondent stopped availing ITC from 01.04.2019 profiteering on account of additional ITC cannot be attributed after above date. Therefore, Respondent's claim that accurate benefit could be arrived after completion of project was not sustainable in this case of Respondent.

**D. Computation methodology followed by DGAP did not reflect the true result.**

That the "Methodology and Procedure" had been enshrined under Section 171 (1) itself. The Authority had notified the same vide its Notification dated 28.03.2018 under Rule 126 of the CGST Rules, 2017. The DGAP did not have its own methodology and functions according to the applicable methodology. Methodology adopted in the Report was in accordance with the supplies of real-estate services and this Authority had accepted the same in similar cases previously.

**E. Concept of GST being an Indirect Tax was an economic concept. A supplier could not be mandated/ dictated through a taxing Statute to reduce price to the same extent as benefit of input tax credit.**

That in Section 171, it was clearly mentioned that any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit should be passed on to the recipient by way of commensurate reduction in prices.

Therefore, whole exercise of investigation was undertaken in compliance to the above Act.

The case laws quoted by the Respondent did not pertain to Anti-profiteering and clearly not applicable in the present matter.

**F. The investigation was void-ab-initio and consequently the present proceedings were incorrect in law.**

That Section 171 of the Act, which governed the Authority, nowhere said that the cause of action lay only in case of a written complaint. This Authority had been given ample powers under Sub Section 2 of section 171 to independently examine whether the benefits had been passed on by the supplier or not. There was no provision of withdrawal of an application in the Act. All the applications received were required to be examined by the Standing Committee/Screening Committee to find out the corrections. Thus, if the Standing Committee was convinced that prima facie evidence of profiteering had been received then its task was to recommend further investigation. The word "complaint" was not even mentioned in this sub-section. Therefore, withdrawal of complaint had no consequences on the profiteering. The case law quoted by the Respondent had no relevance in the present matter.

**G. Report issued by the DGAP was not accordance with law.**

That Section 171 of the CGST Act, 2017 did not refer to any particular recipient. The section encapsulated all the supplies made by a registered person to all his recipients wherein the benefit of ITC/rate reduction need to be extended. Therefore, all the supplies were required to be investigated because there was a single GST return for all the supplies made by a particular registered person and there was also a single credit entry in the ITC ledger of the registered person.

**H. The profited amount had been incorrectly computed in the Report.**

That the Respondent had not pointed out any mistake in facts and figures.

7. The Applicant No. 1 by e-mail dated 24.12.2020 has filed his submissions vide which he stated:-

- A. That the Respondent had collected 85% of the agreed value of the flat and collected Service Tax and GST at the prevailing rates of 18% at that time of each Instalment. Total Rs. 2,71,785/- were collected in his case.
- B. That the tax quantum jumped from Rs. 17,724/- to Rs. 47,257/- per instalment after introduction of GST. He paid total Rs. 2,12,703/- as GST itself in 6 instalments up to October, 2018.
- C. That even after lapse of 2 years, the Respondent had not informed the calculation of Input Tax Credits nor refunded or adjusted any Input Tax Credits till date and were just avoiding the same with standard reply that the process of calculation at his end was still in process.
- D. That the Respondent's assurance that it would be settled at the time of possession was not fair and tenable nor reliable. The Input tax regime had also changed now. The period of settlement belongs to 2017-18. The Respondent was buying time to avoid the same.
- E. That on the other hand from the orders of the DGAP, the Respondent's defense seemed to be submitting the calculation in a way to avoid tax credits and assuring him to buy time to settle the matter in his favor.
- F. That the following points of the DGAP might be noted-
- a. The Authority had been empowered to determine/expand the procedure and methodology in detail as per Rule 126 of CGST law with view to uphold the Legislative intent.
  - b. The Respondent's claim that accurate benefit could be arrived after completion of the project was not sustainable since the period of dispute was old.
  - c. Interests of the consumers should be protected by ensuring that both the benefits of tax reduction and ITC which were sacrificed by Government need to be passed on to the end consumer.
  - d. Profiteering should be investigated irrespective of any complaint or not complaint.
  - e. The law encapsulated all the supplies made by the registered person to all his recipients wherein benefit of ITC need to be extended.

- G. That he requested this Authority to investigate the returns of the Respondent as far as GST was concerned and ITC availed so that both Government and end consumers did not suffer loss while Companies profited.
- H. The Respondent had applied all Laws/Acts/provisions for extracting money from customers but failed to adhere to the same when discharging his obligations towards customers. The Real Estate companies were abusing and violating all the laws when it came to customers benefits.
- I. The Respondent's intent seemed to be not fair and he was exploring the chances to pocket the additional sums received under GST Law manipulating the calculations in his favor and this would lead to loss for both Government and end consumer. The same should not be permitted.
- J. The Regulatory authorities should take strong, time bound and enforceable decisions so as to protect the interests of the customers.
8. Further, the DGAP's clarification dated 01.12.2020 were supplied to the Respondent and the Applicant No. 1 to file their rejoinder. Vide email dated 04.02.2021, the Respondent has submitted his rejoinder against DGAP's clarifications wherein he has reiterated his earlier submissions dated 09.11.2020.
9. Personal hearing via video conferencing in the matter was held on 05.02.2021. Same was attended by Shri Nagendra Kumar Biyani, Applicant No. 1 in person and Shri Vivek Sharma, Advocate and Shri Amit Shah, Representative for the Respondent. During the personal hearing the Respondent reiterated his arguments based on his written submissions dated 09.11.2020 and 04.02.2021.
10. Vide Order dated 05.02.2021, the Respondent was directed by the Authority to supply the proof of his claim that his project "Sierra-Vizag" consisted of 620 units and to file his additional submissions. The Respondent by his email dated 09.02.2021 and 15.02.2021 has submitted his additional/supplementary written submissions vide which he has stated:-
- A. That the project comprises of 620 flats. The reason for mentioning 545 flats before the DGAP was that these were the flats which stood booked/sold till September 2020. The DGAP vide letter dated 15.01.2020 had asked for

customer-wise details. The details were provided vide Respondent's letter dated 10.02.2020. However, the total flats in the project are 620.

- B. That the Respondent opted to switch to 5% GST scheme from 12% GST rate on its own, given the market condition in the real estate sector.
- C. That the Respondent had not passed any benefit to the customers under section 171 CGST Act till date, since the project was not completed and the final computations had not been derived.
- D. That the Applicant No. 1 withdrew his complaint in relation to profiteering. During the course of the hearing on 05.02.2021, the Applicant No. 1 could not have agitated the matter again. The Applicant No. 1 could not be permitted to blow hot and cold as deemed fit at his end. Further, the contentions put forth by the Applicant No. 1 related to consumer concerns. The redressal forum of consumer concerns was RERA or some other forum. That the Applicant No. 1 did not argue on any point related to profiteering. Therefore, submissions of the Applicant No. 1, during the course of the hearing before this Authority, were non-est in law.
- E. That the matter was required to be remanded back to the DGAP as the computation arrived by the DGAP was erroneous and based on incorrect assumptions and presumptions, for the following reasons:
  - i. The methodology adopted by the DGAP for determining the profiteering amount as "difference in ratio of ITC/turnover in pre GST regime and post GST regime" was devoid of any logic. DGAP should compute the excess tax benefit accrued on basis of the "Cost" and not on the basis of the "revenue" of the builder/developers.
  - ii. There was change in cost of materials which resulted in change in actual cost of the project vis-à-vis budgeted cost of the project. The benefit which the customer was entitled to was on the basis of the cost budgeted at the time of booking/sale to customer. The customer was not entitled to any benefit on cost over-run/cost exceeding the budgeted cost. The above ratio mechanism did not include these aspects.

- iii. There is change in rate of tax in GST regime vis-à-vis earlier regime. The average rate of tax under old regime was 15% whereas under GST it is 18%. The above ratio mechanism does not include these aspects.
- iv. The DGAP had computed the liability considering there would not be any change in tax regime in future (i.e. till completion of project). It is to be appreciated that, in 2015 at the time of launch of project, the tax regime of VAT & Service Tax was in force. The GST regime became effective from 01.07.2017 which allowed credit of GST paid on materials and services till March-19. However, effective 1<sup>st</sup> April-19, businesses were given option to continue with earlier regime of 12% GST, but, the rate of 5% was available without tax benefits. The market dynamics for selling the flats also changed with rate of GST as the difference was fairly substantial for developers/customers.
- v. The Respondent had explained to the customers the modalities involved in computing the profiteering amount and would pass the benefit, if any on completion of the Project. Only 1 customer had filed complaint before the Authorities, which was also withdrawn. The DGAP should consider above facts and permit the Respondent to compute the liability on completion of project.

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F. That the Respondent did not have the entire costing data for the purpose of computing profiteering (if at all) under GST laws. The position of the Respondent had always remained that the investigation was pre-mature since the Project itself was not complete. That only after the Project got completed, the real costing data would come to light. Thereafter, one could get into the actual computation to derive whether any profiteering under GST law arose in the case at hand. Until then, the entire exercise of computation would remain a notional exercise. The GST laws did not permit any notional computation to arrive at profiteering. Hence, as on date, the Respondent was not in a position to compute any profiteering (if at all) on the issue at hand.

- 11. Further, the Applicant No. 1 has submitted his additional submissions in which he reiterated his earlier submissions dated 24.12.2020.


12. Copy of the submissions dated 09.02.2021 and 15.02.2021 filed by the Respondent were supplied to the DGAP for supplementary Report under Rule 133(2A) of the CGST Rules, 2017. The DGAP filed his clarifications dated 25.02.2021 as under:-

a. That the Respondent challenged computation of profiteering done by the DGAP and alleged that it was erroneous and based on incorrect assumptions and presumptions. The DGAP refuted the allegations of the Respondent on the following grounds:

- i. The Respondent challenged methodology adopted by the DGAP for determining the profiteering amount, which was not tenable. The Respondent suggested that the DGAP should compute the excess tax benefit accrued on the basis of the "cost" and not on the basis of the 'revenue' of the builder/developer. In this regard it was submitted that the DGAP had computed the profiteering amount by adopting methodology prescribed by this Authority. The same methodology had been adopted in all similar matters and this Authority uphold the same in all its Orders. Therefore, the Respondent claim was not sustainable. NY
- ii. The Respondent had stated that cost of materials should be considered for computation of profiteering which was not acceptable as the cost of materials and all other market factors were considered by the Respondent at the time of builder buyer agreement. In order to quantify the benefit of enhanced input tax credit, it was necessary to quantify the credits available to the Respondent in the pre-GST regime and also the credits available in the GST regime. To compare the benefit of input tax credit, it was necessary to determine the prevailing ITC available to the Respondent as well as credit on inputs available to the Respondent in the pre-GST regime. This amount of the additional benefit of ITC required to be passed on, was with respect to the amount paid by the customers or flat buyers to the Respondent & GST charged from the customers. This had nothing to do with cost of materials and other market factors.
- iii. The Respondent had raised issue of output tax rate change in pre and post GST, which was not sustainable as calculation of profiteering had nothing to

do with output tax. Whether output tax rate was 15% or 18% the Respondent would have charged the same from his customers and would have deposited the same with the Government exchequer.

iv. The Respondent had availed composition scheme w.e.f. 01.04.2019. Therefore, the period of profiteering had been covered upto 31.03.2019 in the Report of DGAP dated 26.06.2020. Hence, the contention of the Respondent with respect to change in tax rate did not hold good.

v. The contention of the Respondent made in relation to the scope of investigation was not correct and it was submitted that Section 171 (2) of the CGST Act, 2017 stated that *"The Central Government may on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him."* Therefore, the above Section had already given powers to the Authority to expand the scope of the investigation to all the supplies made by a registered person. 

vi. Section 171 empowered the Authority to examine if the benefit of the input tax credits and reduced tax rates had been passed by him or not. Since, the Section doesn't mention about any particular recipient it implied that all the supplies made by a registered person to all his recipients need to be examined from the perspective of passing on the benefits to each buyer. Therefore, all the supplies were required to be investigated because there is a single GST return for all the supplies made by a particular registered person, and there was also a single credit entry in the ITC ledger of the registered person. It was not possible to earmark a portion of the total ITC to a particular product/ SKU being supplied by a registered person, which could be done only after all the supplies were investigated.

13. Copy of the submissions dated 24.12.2020 filed by the Applicant No. 1 was supplied to the DGAP for supplementary Report under Rule 133(2A) of the CGST Rules,



2017. The DGAP filed his clarifications dated 11.03.2021 on the Applicant No. 1's submissions wherein the DGAP has clarified:-

- a. That the Applicant No. 1 in the paras 7 (A-E) above, had informed that the Respondent had not given him the benefit of ITC despite delay of 2 years and the Respondent was also trying to avoid the payment of benefit. It was submitted that the Investigation Report in this regard had already been submitted by the DGAP.
  - b. That in respect of the para 7 (G) above, reference may be made to Table-C and subsequent para of the Report of DGAP dated 26.06.2020 where it was clearly mentioned that the Respondent had availed ITC of Rs. 9,88,30,603/-. The DGAP had submitted the above Report after considering all facts and the submissions of the Respondent.
14. The proceedings in the matter could not be completed by the Authority due to lack of required quorum of Members in the Authority during the period 29.04.2021 till 23.02.2022 and the minimum quorum was restored only w.e.f. 23.02.2022 and hence the matter was taken up for further proceedings vide Order dated 24.02.2022 and the Respondent and the Applicant No. 1 were given opportunity for personal hearing in the matter on 01.04.2022. The hearing, held on 01.04.2022 via video conferencing, was attended by Sh. Nagendra Kumar Biyani, Applicant No. 1 in person, Sh. Manoj Kumar, Assistant Commissioner represented the Applicant No. 2 and Sh. Vivek Sharma, Advocate and Sh. Amit Shah, Representative, appeared for the Respondent. During the hearing, the Respondent was directed to file his additional submissions, if any, and the explanation on the escalation clause in his sale agreement and the details of sale agreements signed by 483 homebuyers out of 545 homebuyers against whom profiteering has been established in the DGAP's Report dated 26.06.2020. Accordingly, the Respondent has filed his submissions on 07.04.2022 vide which he inter-alia stated that:-
- a. Was there an escalation cost agreed with home buyers in the agreement to sell/contract?


Reply: There was no escalation cost agreed with home buyers in the Agreement for Sale However Clause 3 (e) to the Agreement for Sale clearly provided as follows:

3. *Purchasers Covenants*

*The Purchaser hereby declares, agrees and undertakes:*

...

*(e) That the Total Sale Price of the said Apartment as agreed by the Purchaser does not include Sales Tax or Service Tax and the same if determined by the concerned authorities to be payable on this transaction at any later date, the same shall become payable by the Purchaser along with other Purchasers on demand at any time. Similarly, any additional statutory levies imposed by the Government, which may affect this deal shall also be fully recovered by the Promoter from the Purchaser.*

Thus, price of the apartment was exclusive of Indirect Taxes. The Indirect taxes or any other Statutory levies are to be fully recovered by the Respondent from the Purchasers/Buyers. The project was still continuing (i.e. the service was still being provided by the Respondent), payment terms were mile-stone in nature and input tax credit benefit (if at all) could only be determined at the end of the project. It is for this reason that the Respondent has been taking a consistent stand that if there was any benefit due to input tax credit then the same could only be computed and passed-on to the Purchasers at the end of the Project (i.e. at the time of culmination of the service). Hence, the present proceedings were pre-mature. 

- b. When was the agreement to sell signed with 545 home buyers? Provide details of entering into the agreement to sell with each of the home buyers?

Reply: The Agreement for Sale' was signed by 449 home buyers on different dates. Further, bookings were made on different dates with 96 home buyers wherein Agreement for Sale is pending execution. In this manner, bookings/sales were made with 545 home buyers (449+96). Details of the name of the buyer and date of entering into the Agreement for Sale/bookings with the given home buyers were annexed in his submissions dated 07.04.2022.

- c. Provide details of 483 buyers on whom demand was raised upto 31 March 2019 (refer para 18 of DGAP report dated 26 June 2020).

Reply: It was clarified that the project comprises of 620 flats. There were 545 flats which have been booked/sold till September 2020. There were 483 flats where demand for payments has been raised during the period July, 2017 to March, 2019. Details of 483 home buyers on whom demand has been raised during the period July, 2017 to March, 2019 were annexed in his submissions dated 07.04.2022.

15. This Authority has carefully considered the Report furnished by the DGAP, all the submissions and the other material placed on record, and the arguments advanced by the Respondent. On examining the various submissions we find that the following issues need to be addressed:-

a) Whether there was any violation of the provisions of Section 171 (1) of the CGST Act, 2017 in this case?

b) If yes what was the additional benefit that has to be passed on to the recipients?

16. The Respondent has contended that Section 171 of the CGST Act and Rule 126 of the CGST Rules are violative of Article 14 and Article 19 of the Constitution of India. In this connection, this Authority holds that the Authority has not acted in any way as price controller or regulator as it doesn't have the mandate to regulate the same. The Respondent is absolutely free to exercise his right to practise any profession, or to carry on any occupation, trade or business, as per the provisions of Article 14 and 19 (1) (g) of the Constitution. He can also fix his prices and profit margins in respect of the supplies made by him. Under Section 171 this Authority has only been mandated to ensure that both the benefits of tax reduction and ITC which are the sacrifices of precious tax revenue made from the kitty of the Central and the State Governments are passed on to the end consumers who bear the burden of tax. The intent of this provision is the welfare of the consumers who are voiceless, unorganised and vulnerable. This Authority is charged with the responsibility of ensuring that the both the above benefits are passed on to the general public as per the provisions of Section 171 read with Rule 127 and 133 of the CGST Rules, 2017. The anti-profiteering related Rules and Section 171 of the Act have express approval of the Parliament, all the State Legislatures, the Central and all the State

Governments and the GST Council and therefore, Section 171 and the Rules are constitutional and are not violative of Article 14 and 19 (1) (g) of the Constitution. This Authority has nowhere interfered with the business decisions of the Respondent and therefore, there is no violation of Article 14 and 19 (1) (g) of the Constitution.

The Respondent has also cited the judgement of the Hon'ble Supreme Court passed in case of **Commissioner, Central Excise & Customs, Kerala vs. Larsen & Toubro Limited** 2016 (1) SCC 170, **CIT vs. B.C. Srinivasa Setty** 1981 (2) SCC 460, **K. Damodarswamy Naidu & Bros and others vs. State of T.N.** 2000 (1) SCC 521 and **Govind Saran Ganga Saran vs. CST** 2985 (Supp.) SCC 205 and stated that in the absence of a machinery provision for assessment of tax, the levy itself failed and is liable to be struck down as unconstitutional. On this aspect it is to be noted that no tax has been imposed under the above measures and hence the law settled in the above cases is not applicable. However, it would be relevant to mention here that Section 171 (2) of the CGST Act, 2017 and Rule 122, 123, 129 and 136 of the CGST Rules, 2017 have provided an elaborate machinery in the form of this Authority, the Standing and Screening Committees, the DGAP and a large number of field officers of the Central and the State Taxes to implement the anti-profiteering provisions. Therefore, the Respondent cannot allege that no machinery has been provided to implement the above measures. R

17. The Respondent has submitted that Rule 126 of the CGST Rules is in violation of Section 171 itself. In this regard, the Authority finds that, as per Rule 126 of the CGST Rules, the Authority has been empowered to determine the methodology and procedure for determination as to whether the reduction in the rate of tax or the benefit of input tax credit has been passed on by the registered person to the recipients by way of commensurate reduction in prices or not. Rule 126 of the CGST Rules is reproduced below for ready reference: -

*"126. The authority may determine the methodology and procedure for determination as to whether the reduction in the rate of tax on supply of goods or services or the benefit of input tax credit has been passed on by the registered person to the recipient by way of commensurate reduction in price."*

Rule 126 of the CGST Rules nowhere stipulates that the Authority must prescribe methodology and procedure to quantify the amount of profiteering. However, the Methodology & Procedure for passing on both the above benefits and for computation of the profiteered amount has been duly prescribed under Section 171 itself and hence, it is not required to be prescribed separately. It is also submitted that no uniform methodology can be prescribed for determination of the quantum of benefit. The extent of profiteering has to be arrived at on a case to case basis, by adopting suitable method based on the nature and facts of each case. Rule 126 of CGST rules uses the word 'determine' and not the word 'prescribe' which means the Authority is endowed with the power to determine the methodology to oversee transfer of benefit of reduction in tax rate and benefit of Input Tax Credit to the Recipients. It is noteworthy that the Authority in exercise of the powers conferred under Rule 126 of the CGST Rules, 2017 has notified the methodology and procedure for determination as to whether the reduction in the rate of tax on supply of goods or services or the benefit of input tax credit has been passed on by the registered person to the recipient by way of commensurate reduction in prices. Under the provisions of Section 171 of the Act, *ibid*, this Authority has only been authorized to ensure that the benefit of tax reduction which is nothing but sacrifice of tax revenue made by the Government is passed on to the consumers who actually bear the impact of the tax and not pocketed by the Respondent. The intent of this provision is the welfare of the consumers who are voiceless, unorganized and vulnerable. This Authority is charged with the responsibility of ensuring that the benefit is passed on to consumers in line with the provisions of Section 171 read with Rule 127 and 133 of the CGST Rules, 2017. This Authority has in no manner interfered with the business choices made by the Respondent. Hence, the judgment of the Hon'ble Supreme Court passed in the case of **Indraprastha Gas Ltd. vs. Petroleum and Natural Gas Regulatory Board & Ors. 2015 (9) SCC 209** relied upon by the Respondent is of no help to him. Hence, the contention of the Respondent is not correct and can not be accepted.

18. The Respondent has submitted that the investigation being pre mature, the proceedings are required to be dropped. The Respondent has submitted that the

present proceedings have been initiated with respect to the residential project in the name of "Indiabulls Sierra Vizag", which is in the process of development and the construction work of the project has not been finished yet. Given this, benefit of input tax credit, if any, accruing as a result of this project cannot be determined at this stage. Consequently, the present investigation is premature in nature and is required to be set aside on this ground alone. In this regard, the Authority finds that in his Report the DGAP has mentioned that though the investigation period was from July, 2017 to July, 2019, for computation of the profiteering the period up to March, 2019 has been considered instead of July, 2019 because the Respondent has opted for new scheme issued vide Notification No. 03/2019-C.T.(Rate) dated 29.03.2019, when the Respondent has stopped availing ITC from 01.04.2019. Hence, profiteering on account of additional ITC cannot be attributed after the above date. Therefore, the DGAP has correctly worked out the profiteering only up to 31.03.2019 as after that the Respondent has opted for the composition scheme. Hence, the Authority finds that the above submissions of the Respondent are not tenable.

19. The Respondent has argued that computation methodology followed by the DGAP does not reflect the true result. The DGAP has computed the profiteered amount by comparing the ITC ratio to the taxable turnover ratios during pre-GST and post-GST periods. The Respondent has submitted that the computation methodology adopted by the DGAP did not reflect the correct picture and hence could not give accurate results. The Authority finds that, the benefit of additional ITC would depend on the comparison of the ITC/CENVAT credit which was available to a builder in the pre-GST period with the ITC available to him in the post GST period w.e.f. 01.07.2017. Without comparing the pre and post GST ratios of CENVAT/ITC to turnovers, the exact quantum of profiteering amount cannot be determined. The Authority holds that the DGAP has computed the profiteered amount by taking ITCs to turnovers ratios in the pre-GST & post-GST periods into account which is correct, reasonable and logical and in accordance with the mandate of Section 171 of the Act. The Respondent has also averred that in the pre-GST regime, input services were subject to Service Tax @15%; however, the most input services were taxable

@18% in the post-GST regime. Therefore, there was an increase of 3% in ITC available to the Respondent which was not due to any additional benefit due to increase in the rate of tax. This credit was available to the Respondent even before GST and hence, the Respondent could not be asked to transfer this additional credit to the customers. In this context, it is to state that the change in rate of tax in Service Tax from 15% to 18% is an additional benefit which has accrued to the Respondent in the post-GST period which is required to be passed on to the flat buyers. The Respondent cannot be allowed to appropriate it illegally as it has been given from the public exchequer. The Respondent has not paid even a single penny from his account and therefore, he cannot claim not passing on the benefit of additional ITC to the buyers as he has used the same in discharging his output tax liability. Therefore, the Authority finds that the above contention of the Respondent cannot be accepted.

20. The Respondent has submitted that concept of GST being an indirect tax is an economic concept. A supplier cannot be mandated/ dictated through a taxing Statute to reduce price to the same extent as benefit of ITC. In respect of the above contention of the Respondent, the Authority finds that Section 171 (1) of the CGST Act, 2017 provides 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 a plain reading of the above provision that it mentions "reduction in the rate of tax or benefit of ITC" which means that if any reduction in the rate of tax is effected by the Central or the State Governments or if a registered supplier avails the benefit of additional ITC the same have to be passed on by him to his recipients since both the above benefits are being given by the above Governments out of their tax revenue. Under Section 171 this Authority has only been mandated to ensure that both the benefits of tax reduction and ITC which are the sacrifices of precious tax revenue made from the kitty of the Central and the State Governments are passed on to the end consumers who bear the burden of tax. The intent of this provision is the welfare of the consumers who are voiceless, unorganised and vulnerable. This Authority is charged with the responsibility of ensuring that the both the above benefits are

passed on to the general public as per the provisions of Section 171 read with Rule 127 and 133 of the CGST Rules, 2017. Hence, the contention of the Respondent is not tenable. Therefore, the cases of **Voltas Limited vs. State of Gujarat 2015 VIL 23 (SC)**, **S. Kodar vs. State of Kerala 1974 (4) SCC 422**, **British India Corporation Ltd. CCE 1978 (2) ELT J307 (SC)** and **Laghu Udyog Bharati vs. UOI 1999 (112) ELT 365 (SC)** relied upon by the Respondent do not pertain to the anti-profiteering and clearly not applicable in the present matter. Hence, the contention of the Respondent is not correct and may not be accepted.

21. This Authority finds that the Respondent has further contended that the investigation is void-ab-initio and consequently the present proceedings are incorrect in law. Rule 128 of the CGST rules, 2017 reflects that for initiation of anti-profiteering proceedings, the first step is the examination of application made by an interested party. Hence, the entire proceedings are based on the complaint and evidence supporting the complaint. It is claimed by the Respondent that when the complaint itself stood withdrawn, there is no question of initiation of proceedings against him. It is also claimed by the Respondent that the DGAP has failed to inform interested parties about the withdrawal of complaint in the Notice required to be issued to interested parties before initiation of investigation. Thus, the Report issued by the DGAP is not in accordance with the due process of law. In this regard, the Authority finds that there is no provision envisaged under the CGST Act, 2017 or the Rules there under to drop verification/Investigation of profiteering once the Complainant/Applicant withdraws his complaint. Section 171 of the Act, which governs this Authority, nowhere says that the cause of action lies only in case of a written complaint. This Authority has been given ample powers under sub section 2 of section 171 to independently examine whether the benefits have been passed on by the supplier or not. The word "complaint" is not even mentioned in this sub-section. The same analogy was being followed by the DGAP in all the cases and accordingly the investigation was continued once the recommendations of the State Screening Committee and Standing Committee were received. Hence, despite the withdrawal of complaint by the Applicant, the investigation was carried out by the DGAP in the best interest of upholding the spirit of the provisions of Section 171 of



the CGST Act, 2017. Therefore, the case of **Gujarat Paraffins Pvt. Ltd. vs. UOI 2012 (282) ELT 33** relied upon by the Respondent has no relevance in this matter. Hence, this Authority finds that the present investigation has been done correctly and has been legally undertaken.

22. Further, the Applicant No. 1 vide his submissions has requested to investigate the Returns of the Respondent as far as GST was concerned and ITC availed by him. In this regard, this Authority finds that the DGAP has considered all facts in his Report. After considering all facts and the submissions of the Respondent, the DGAP has concluded that during the period 01.07.2017 to 31.03.2018, the Respondent has realized an additional amount of Rs. 6,46,06,227/- which includes both the profiteered amount @8.18% of the taxable amount (base price) and GST on the said profiteered amount from the Applicant No. 1 and 482 other homebuyers. This amount is inclusive of profiteered amount of Rs. 1,62,382/- (including GST) which is profiteered from the Applicant No. 1.
23. It is clear from the plain reading of Section 171 (1) that it deals with two situations one relating to the passing on the benefit of reduction in the rate of tax and the second pertaining to the passing on the benefit of the ITC. On the issue of reduction in the tax rate, it is apparent from the DGAP's Report that there has been no reduction in the rate of tax in the post GST period; hence the only issue to be examined is as to whether there was any net benefit of ITC with the introduction of GST. On this issue it has been revealed from the DGAP's Report that the ITC as a percentage of the turnover that was available to the Respondent during the pre-GST period (April-2016 to June-2017) was 3.56% and during the post-GST period (July-2017 to March-2019), it was 11.74% for the project "Sierra-Vizag". This confirms that, post-GST, the Respondent has been benefited from additional ITC to the tune of 8.18% [11.74% (-) 3.56%] of his turnover for the said project and the same was required to be passed on to the customers/flat buyers/recipients. The DGAP has calculated the amount of ITC benefit to be passed on to all the flat buyers as Rs. 6,46,06,227/- for the project "Sierra-Vizag", the details of which are mentioned in Table- D.
24. In view of the above discussions, the Authority finds that the Respondent has

profiteered by an amount of Rs. 6,46,06,227/- for the Project "Sierra-Vizag" during the period of investigation i.e. 01.07.2017 to 31.03.2019. The above amount that has been profiteered by the Respondent from his home buyers in the above said Project shall be refunded by him, along with interest @18% thereon, from the date when the above amount was profiteered by him till the date of such payment, in accordance with the provisions of Rule 133 (3) (b) of the CGST Rules, 2017.

25. The Authority finds no reason to differ from the above-detailed computation of profiteering in the DGAP's Report or the methodology adopted and hence, the Authority determines the profiteered amount for the period from 01.07.2017 to 31.03.2019, in the instant case, as Rs. 6,46,06,227/- for the Project "Sierra-Vizag". 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.
26. The Respondent is also liable to pay interest as applicable on the entire amount profiteered, i.e. Rs. 6,46,06,227/- for the project "Sierra-Vizag". Hence the Respondent is directed to also pass on interest @18% to the customers/ flat buyers/ recipients on the entire amount profiteered, starting from the date from which the above amount was profiteered till the date of passing on/ payment, as per the provisions of Rule 133 (3) (b) of the CGST Rules, 2017.
27. The complete list of homebuyers has been attached as Annexure - 'A' with this Order, containing the details of the amount of benefit of ITC to be passed on in respect of the project "Sierra-Vizag" of the Respondent. ✓
28. This Authority also orders that the profiteering amount of Rs. 6,46,06,227/- for the project "Sierra-Vizag" along with the interest @ 18% from the date of receiving of advance from the homebuyer till the date of passing the benefit of ITC shall be paid/passed on by the Respondent within a period of 3 months from the date of this Order failing which it shall be recovered as per the provisions of the CGST Act, 2017.
29. It is further revealed that vide Section 112 of the Finance Act, 2019 specific penalty provisions have been enacted for violation of the provisions of Section 171 (1). Such provisions have come in to force w.e.f. 01.01.2020, by inserting Section 171

(3A). Since, no penalty provisions were in existence between the period from **01.07.2017 to 31.03.2019** when the Respondent had violated the provisions of Section 171 (1), the Authority holds that the penalty prescribed under Section 171 (3A) cannot be imposed on the Respondent retrospectively.

30. The concerned jurisdictional CGST/SGST Commissioner is directed to ensure compliance of this Order. It may be ensured that the benefit of ITC is passed on to each homebuyer as per Annexure- 'A' attached with this Order along with interest @18% as prescribed, if not paid already. In this regard an advertisement of appropriate size to be visible to the public may also be published in minimum of two local Newspapers/vernacular press in Hindi/English/local language with the details i.e. Name of builder (Respondent) – M/s India bulls Real Estate Ltd. (registered as M/s Airmid Real Estate Ltd.), Project- "Sierra-Vizag", Location- Vizag, Andhra Pradesh and amount of profiteering i.e. Rs. 6,46,06,227/- so that the concerned homebuyers can claim the benefit of ITC if not passed on. Homebuyers may also be informed that the detailed NAA Order is available on Authority's website [www.naa.gov.in](http://www.naa.gov.in). Contact details of concerned Jurisdictional CGST/SGST Commissioner may also be advertised through the said advertisement.

31. The concerned jurisdictional CGST/SGST Commissioner shall also submit a Report regarding compliance of this Order to this Authority and the DGAP within a period of 4 months from the date of receipt of this Order. ✓

32. Further, the Hon'ble Supreme Court, vide its Order dated 23.03.2020 in Suo Moto Writ Petition (C) no. 3/2020, while taking suo-moto cognizance of the situation arising on account of Covid-19 pandemic, has extended the period of limitation prescribed under general law of limitation or any other special laws (both Central and State) including those prescribed under Rule 133(1) of the CGST Rules, 2017, as is clear from the said Order which states as follows:-

*"A period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings."*

Further, the Hon'ble Supreme Court, vide its subsequent Order dated 10.01.2022 has extended the period(s) of limitation till 28.02.2022 and the relevant portion of the said Order is as follows:-

*"The Order dated 23.03.2020 is restored and in continuation of the subsequent Orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings."*

Accordingly this Order having been passed today falls within the limitation prescribed under Rule 133(1) of the CGST Rules, 2017.

33. A copy of this order be sent, free of cost, to the Applicant, the DGAP, the Respondent, Commissioners CGST/SGST Andhra Pradesh, the Principal Secretary (Town and Country Planning), Government of Andhra Pradesh for necessary action.

Encl:- Annexure- A (Pages 1 to 11).

Sd/-  
(Amand Shah)  
Technical Member &  
Chairman



Sd/-  
(Pramod Kumar Singh)  
Technical Member

Sd/-  
(Hitesh Shah)  
Technical Member

Certified Copy

  
(Dinesh Meena)  
Secretary, NAA

File No. 22011/NAA/167/Indiabulls/2020/6032-6038

Dated: 24.06.2022

Copy To:-

1. M/s Indiabulls Real Estate Ltd., (registered as M/s Airmid Real Estate Ltd.), Flat No. B-2, 301 A, 3rd Floor, Dwarka Plaza, Dwarka Nagar Main Road, Visakhapatnam- 530016.
2. Sh. Nagendra Kumar Biyani, R/o B-302 Indiabulls Centrum, Near Vaartha Office, Lower Tank-1, Hyderabad -500029.
3. Directorate Of Town & Country Planning, MGM Capital, Ground Floor, Beside little Village Restaurant, Chinakakani, Mangalagiri, Guntur, Andhra Pradesh - 522508.
4. Office Of The Chief Commissioner Of Customs & Central Tax Visakhapatnam Zone, GST Bhavan, Port Area, Visakhapatnam- 530035.
5. Chief Commissioner of State Tax , DNo.5-59, R. K. Spring Valley Apartments, Bandar Road, Eedupugallu Village, Kankipadu Mandal, Vijayawada, Krishna District, Pin-521151.
6. 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.
7. Guard File.

**ANNEXURE-A**

**LIST OF HOME BUYERS OF THE PROJECT 'Indiabulls Sierra-Vizag'**

S. No.	Customer Name	Unit Number	Amount of ITC to be passed on (in Rs.)
1	Ms. Shrutilaya Ayyagari	A401	93010
2	Mr. Subba Rao Yamana	K1101	22182
3	Mr. S Kamalesh Sreeram Sanjeev	A603	95829
4	Mr. Katragadda Bhanu Prasad	K601	20700
5	Mr. Navin Kumar Nadimpalli	K501	20285
6	Mr. E Satish Arjun	K801	21855
7	Mrs. Mallavarapu Veera Lakshmi	K403	20804
8	Mr. Prasad ADV	A501	93847
9	Mr. Karan P Lalwani	K701	21441
10	Mr. Ganti Lakshmi Narayana Sarma	K401	21114
11	Mr. Madhusudhan Boyina	A1201	101689
12	Mr. Venkata Narasimha Murthy Akella	A601	94684
13	Mrs. Ratna Vankayalapati	K302	*
14	Dr. I Krishna Murthy Raju	A1101	98033
15	Mr. Ashish Mulani	A702	86293
16	Mr. Hemant Pardesi	A402	*
17	Mr. Ashutosh Kumar Akhoury	A803	97535
18	Mr. P R L Kumar	A901	100015
19	Mr. Chitturi Eswar Chendra	K101	*
20	Mr. Kolli Rajasekhara Reddy	A1203	99178
21	Mr. Kaniti Bhuvaneshwara Rao	B501	82435
22	Mr. Yadavalli Rajgopal	K1201	22182
23	Mrs. N Vijaya Kumari	A302	85219
24	Mrs. Anitha Gogineni	K702	21299
25	Mr. Venugopal Kanakamedala	J1201	*
26	Mr. Velamala Ramana Murthy	B1003	100047
27	Ms. Kilaru Sahiti	K1102	22410
28	Mrs. Ogirala Usha Priyadarshini	A503	94992
29	Mr. Arun Chandra Kalluri	B603	95829
30	Mr. Kiran Chandra kalluri	B703	96667
31	Mr. Srinivasa Rao Ruthala	A201	92481
32	Mr. Potla Venkateswara Rao	K1202	22040
33	Mr. Surla Prathap Kumar	A202	82260
34	Mrs. Seshasri Vedula	I1002	159962
35	Mrs. N Venkata Madhvi	K1103	21319
36	Mr. G R Sridhar	K1203	21505
37	Mrs. Kolli Sessa Sai Jyothi	K802	21484
38	Mrs. Kolli Sessa Sai Jyothi	J1002	21855
39	Mrs. Valluru Sailaja	K201	20929
40	Mrs. Banya Sur Chaudhary	B403	94186
41	Dr. Khushwant Singh	A502	85219
42	Mr. Y Ramu	A903	97504
43	Mr. A V Ramana Murty	K502	20965
44	Mr. Cheparthi Sreenivasa Durga Prasad	K602	21299
45	Mrs. Suman Bothra	K202	20965
46	Mr. Jaganmohan Rao Nippani	K402	20928
47	Mr. DVS Prasad	B1201	94089
48	Mrs. V Hari Lakshmi	A403	94155
49	Mr. Gullipalli Lenin Babu	A203	94155

50	Mr. Venkata Veera Sudheer Uddandapu	A1103	*
51	Mr. Mallikarjuna Rao Kunisetty	K102	*
52	Mr. Ravi Kumar Sinha	A1202	85219
53	Mrs. Aparna Kunisetty	A1102	192364
54	Mr. Praveen Buradagunta	A1002	89658
55	Mr. Pusapati Venkata Simhadri Vijaya Rama Raju	K903	20990
56	Mr. Duddupudi Srinivasarao	J402	22208
57	Mr. K V V Satyanarayana	J1102	22552
58	Mr. K V V Satyanarayana	B1102	102218
59	Dr. Pradyut Waghray	A1003	98341
60	Mr. K L Jalandhara Rao	J901	22991
61	Mrs. Laxmi Chitturi	J701	22991
62	Mr. Lingaraj Rauto	K503	21176
63	Mr. Karri Ravindrakumar	J802	22991
64	Mr. B N V Sarat	J401	22991
65	Mr. K Suryanarayana	B802	96358
66	Mr. Narasimha Rao Ponnada	B1001	88093
67	Mrs. Panga Venkata Lakshmi	K803	20621
68	Mr. Angeswara Rao Gogeneni	B1103	103363
69	Mr. Venkata Krishnarao Vuyyuru	K1003	20804
70	Mrs. Rajamani Ranganathan	B1203	105038
71	Mrs. Supraja Challa	J301	22991
72	Mrs. V Kiranmai	J1001	22552
73	Mr. Soupati Satish	B803	101073
74	Mrs. Amitoz Bakshi	B801	85803
75	Mr. KTR Patnaik	D903	201748
76	Mrs. Jasti Sreedevi	J602	22460
77	Mr. Jasti Bhanu Prasad	J502	22460
78	Mr. Yalamanchili Rama Koteswara Rao	J302	22460
79	Mrs. Sangani Vijayalaxmi	J1203	21504
80	Mrs. Moningi Vasudha	K703	20643
81	Mr. Bhupin Singh Bakshi	B1101	85803
82	Mrs. Shirisha Boda	B902	101073
83	Mr. Sangani Sri Rama Vara Prasada Rao	J803	21504
84	Mr. K Srinivasa Raju	B502	100913
85	Mr. Mani Kumar Mandavilli	B901	85803
86	Mr. Vasa Naga Durga Vara Prasad	J1202	22991
87	Mrs. Konchada Suhasini	K603	20643
88	Mr. Cheparthi Nagaraju	J902	22991
89	Mr. Marrapu Vikram Naidu	J801	22991
90	Mrs. Surya Varalakshmi Paliseti	C1001	152492
91	Mr. P Anup Kumar	B1202	101073
92	Mrs. Sujata Akkapeddi	B1002	100844
93	Mr. Kanaka Durga Murthy Malli Reddy	B101	*
94	Mr. Batchali Sarath Babu	J702	22991
95	Mr. Gandepalli Appala Veera Venkata Satyanarayana	I1201	208192
96	Mrs. Patnala Asha Latha	A303	94155
97	Mr. M Narasimha Murthy	J201	22991
98	Mr. Viddamsetti Jaikishan	I501	211994
99	Mrs. Lalitha Kiran Attaluri	K1403	23414
100	Mr. Raju Lagudu	B402	101073
101	Mrs. Lalitha Kiran Attaluri	A1401	112793
102	Mrs. S Jalaja	A101	*
103	Mr. Gundu Venkatesh	B303	100249

104	Mr. P V V Ramaraju	J503	21275
105	Mr. Rajesh Kumar Ojha	I601	211549
106	Mr. Anil Kumar Anusuru	B503	101073
107	Ms. Nikita Sharma	B602	102747
108	Mr. Satish Maradapudi	J703	21046
109	Mr. Mohammed Saquib Hussain	J603	20755
110	Mr. Vaka Bhakta Vatsala Reddy	I1101	208216
111	Mr. Suryanarayana Challa	B203	101394
112	Mrs. Bhavani Nagender	C1203	206544
113	Mr. Veera Venkata Satyanarayana Duddhupudi	J102	*
114	Mr. Wuyyuru Gowri Sankar	J202	22323
115	Mrs. Surya Varalakshmi Paliseti	C1101	152492
116	Mrs. Padmaja Vuppu	J1401	23805
117	Mr. K Krishna Chaitanya	C901	153593
118	Mr. Vinod Pulavarthy	K303	20378
119	Mr. Mamillapalli Sudhakar	C1003	215933
120	Mrs. Yellumahanthi Prasanna	I901	205303
121	Mr. Annavajhala Srinivasa Rao	C801	160253
122	Mr. M V Mahesh Kumar	I301	208204
123	Mr. Vamsi Krishna Seethamsetty	I401	208204
124	Mr. Shashikant Dubey	I201	203442
125	Mr. Sadhanala Venkata Rajesh	J403	20359
126	Mr. Y Sandeep Krishna	J303	20185
127	Mr. V N V Mohan Rao	C1201	153593
128	Mr. Narasimha Bairagi raju Uppalapati	B302	101073
129	Mr. Kolluru V S Sridhar	I902	155863
130	Mr. K Venkateswarlu	I1102	155863
131	Mr. Kosana Venkata Ramana	K1402	23434
132	Mrs. Kavitha Madhuri Kosuri	I1401	226173
133	Mr. Bandela Suresh	J1402	24546
134	Mrs. Mantha Subhadra	C602	155863
135	Mr. Mulagada Thrivikrama Rao	C501	159241
136	Dr. Kiran kumar Veera Kosuri	C1103	200904
137	Mr. Pala Rajasekhar	A801	103859
138	Mr. Manmath Raj Nayak	C601	150273
139	Mr. Siva Kondaiah Yellapu	B1402	105523
140	Mr. Abhishek Agarwalla	B103	*
141	Mr. Navdeep Singh Grewal	I101	*
142	Mr. Brahmam H Vangipurapu	J1101	22946
143	Mr. Karthik Valluri	C701	152696
144	Mrs. Padmavati Kodali	C1401	161513
145	Mr. Kotla venkata Ramachandra Murthy	I1001	208150
146	Mrs. Kavitha Gayak	K203	21876
147	Mr. Kushwaha Vishnu	I802	158244
148	Mr. Jayant Ray Chaudhary	C401	150681
149	Mr. Ritesh Kumar Singh	I1202	159827
150	Mr. Kalyan Chakravarthy Mekala	C803	199915
151	Mr. Krovvidi Srinivas	C603	199874
152	Mr. MVR Mohan Rao	I1203	191488
153	Mr. Dadi G S Raja Ramesh	C903	200904
154	Mr. Srinivasa Rao Kottakota	C301	150658
155	Mr. Durbha S s s s Sarma	B1403	106475
156	Mr. Gonthina Srinivasa Rao	B702	99505
157	Mr. Sriram Siddhartha Potluri	C703	205907
158	Mrs. Kanaka Padma Krovvidi	C203	205907

159	Mr. C V Nageswara Rao	B201	86498
160	Mr. Chivukula V S M P Pathanjali	C303	204907
161	Mr. Shaikh Jeelani	I602	164500
162	Mrs. Basana Bhanu Harika	I1103	181057
163	Mr. Soumen Banerjee	C201	151712
164	Mr. Soumen Banerjee	AP01	*
165	Mr. Nageswara Rao Attili	B903	102081
166	Mrs. Madhavi Latha Gogineni	A1403	106891
167	Mrs. Madhavi Latha Gogineni	A1503	106891
168	Mr. Potluri Surya Venkata Subba rao	K1401	23391
169	Mr. R Jayakumar	J903	19697
170	Mr. Nadiger Chidambar	I402	155674
171	Mr. Prakasarao Pedakota	K1002	22598
172	Mr. Chandrasekhar Runku	B701	83667
173	Mr. Nargana Venkata Bhaskar Raj	D301	148987
174	Mr. Vegi Durga Prasad	B401	83357
175	Mr. S V M K Rao	I803	179855
176	Mr. Tirumamidi Sashikanth	B1503	106475
177	Mr. Basva Rajesh Kumar	I903	178654
178	Mr. Avijeet Saha	I703	180174
179	Mr. Vasantha Rao Palipalli	KP01	*
180	Mr. Garuda Nookaraju	BP01	*
181	Mr. Trivikram Ambati	B1502	103701
182	Ms. Sujatha Narapaneni	J601	22600
183	Mr. Venkata Srinivasa Rao Galidevara	I1003	185192
184	Mr. Brijesh Shaw	CP01	*
185	Mr. Ajay Kumar Pandey	J1003	20618
186	Dr. Khushwant Singh	A602	85959
187	Mrs. Jami Adilakshmi	B202	98073
188	Mrs. Mallampalle Lalitha Pratyusha	C503	205574
189	Mr. Mohit Bisht	J1103	19921
190	Mr. Kamireddy Suryanarayana	B601	86732
191	Mrs. Ankita Garikena	I303	179433
192	Mr. V V Ram Mohan Rao	C403	204038
193	Mr. Mohan Joga Rao Oruganti	A802	94836
194	Mr. Kavuru Srinivasa Rao	I403	179124
195	Mr. Chinta Venkata Adinarayana Rao	C1403	208160
196	Mr. Kandregula Janakiram	A102	*
197	Mr. Surlaw Appajhi	C1501	158284
198	Mr. Ronanki Ramesh	J1403	21525
199	Mr. P J Prasad	D603	209569
200	Mr. Nagendra Srinivas Pantula	J101	*
201	Mrs. Korada Gouthami	D803	208830
202	Mr. Mandapati Lakshmipathi Varma	K1503	21295
203	Dr. Moka Kishore Kumar	A1402	94026
204	Mr. Tippana Gopala Krishna	E601	101389
205	Mrs. Sunanda Chitrada	H401	166185
206	Mrs. Kalakuri Anjani Lakshmi Santhi Priya	I503	179837
207	Mr. K N V S Surya Ramesh	A103	*
208	Mr. S.R.K Paramahamsa	C802	157158
209	Mr. Duvvada Jeeviteswara Rao	D1203	213314
210	Mr. Duvvada Tara Narayana Pradeep	D1003	213314
211	Mr. Mohana Rao Bammidi	D703	211458
212	Mrs. Peddi Sridevi	D1103	213314
213	Mr. Ibrahim Mohammed	K1502	23434



214	Mr. Ibrahim Mohammed	C902	157158
215	Mrs. Oruganti Padmaja Kalyan	I1501	215856
216	Mr. Nagendra Kumar Biyani	C402	162382
217	Mrs. Annapoorna Nagireddi	B301	87648
218	Mrs. Gottimukkala Umadevi	I1402	165074
219	Dr. Karunakara Padhy	D403	217993
220	Mr. Murali Krishna Abburi	C702	*
221	Mr. Oruganti Shridhar Rao	A902	96985
222	Mrs. Pragya R Jopat	I502	155427
223	Mrs. Anisha Atluri	D1001	161330
224	Mr. Birlangi Hari Prasad	B1501	87190
225	Mr. Khandrika Seetharama Phani Kamesh	BP03	*
226	Mrs. Malti Devi	B102	*
227	Mr. Venkata Satya prasad Behara	H1203	173886
228	Mr. Appala Trinadharao Pampana	H903	172775
229	Mr. Varanasi Venkata Ramana	C1002	151139
230	Mrs. Swetha Dumpa	I603	179450
231	Mrs. Ganti Lakshmi	K1001	24176
232	Mr. Vuda Nagesh	H1003	170714
233	Ms. Mullapudi Manjeera	H801	160300
234	Mr. Rallabandi Ramakrishna Sarma	H301	164101
235	Mr. Joseph Alexander	H601	147705
236	Mr. Dwaram B S K Prasad	H701	156360
237	Mrs. Sri Lakshmi Thota	D503	208160
238	Mr. K Ram Rahul	D303	208985
239	Mr. Pichuka Nagendra Kumar	H502	165074
240	Mr. Jagannadha Rao Pitchuka	H402	165074
241	Mr. Shyam Sunder Sistla	D802	163507
242	Mrs. Kamala Lakshmi Sistla	D801	156154
243	Mrs. Anupama Kolluru	H1103	163134
244	Mr. Nurukurti Sreenivasa Rao	K901	23805
245	Mr. Krishnamurthy Unkili	A703	108757
246	Mr. Duvvada Syamasundara Rao	H1202	164332
247	Mrs. Pedaprolu Ramadevi	IP01	*
248	Mr. Pasala Bheemeswara Rao	I701	216956
249	Mrs. Narkedamalli Malleswari	J103	*
250	Mr. Lokeswara Rao Kanithi	H503	166752
251	Ms. Nekkanti Sahithya	H1102	166558
252	Mr. Kavi Shankar Giri	H1101	155719
253	Mr. Vinaykumar Inapakurthi	C1102	*
254	Mr. Sham Jacobrao Palaure	D103	*
255	Mr. Ravi Chandra Kumar Natla	I203	179378
256	Mr. Gopal Krishna Kotni	H603	163740
257	Mr. Polavarapu Ramakrishna	D501	152376
258	Mr. Prasad Nayana	C502	*
259	Mr. Gorti Murali Krishna	H403	173679
260	Mr. Gopichand Bhalaki	E403	221703
261	Mr. Suresh Babu Katta	E1203	217581
262	Mrs. Surepeddi Sudha Rani	H501	155719
263	Ms. Muthyala Sri Sailaja	I801	216956
264	Mrs. Mallidi Mahalakshmi	D1401	151963
265	Mr. T.V Narasimha Raju	H1401	151963
266	Mr. Muddana Srinivasa Rao	JP02	*
267	Mrs. Routhu Neelima	H702	162435
268	Mr. Kallepalli Venkata Annaji Rao	H1403	161679

269	Mr. Vatapalli Jagdish	D1202	166558
270	Mr. Alla Ananda Rao	I103	*
271	Mr. Bhanu Prakash Malla	H901	151963
272	Mr. Azmatulla Khan	E703	213108
273	Mr. Alok Mazumdar	G402	167712
274	Mr. Mudunuri V N Kundan Varma	A1001	108299
275	Mr. Komali Raghav	K103	*
276	Mr. Suneel Kumar Singh	H1002	160374
277	Mr. Pavan Kumar Nandigam	D502	160374
278	Mr. Ananda Rao	D601	159842
279	Mr. Dhananjay Majhi	D401	152170
280	Mr. Potnuru Sai Venkata Santosh Kumar	H1001	152495
281	Mr. Bhargav Alahari	A701	106662
282	Mr. Rachakonda Srinivas	E603	210910
283	Mr. Vaziruddin Mahammed	D1501	153200
284	Mr. Vaziruddin Mahammed	D1502	160374
285	Mr. Vaziruddin Mahammed	D1503	202178
286	Mr. Phani Prasad Kamuju	JP03	*
287	Mrs. Mudunuri Suneetha	G1101	137080
288	Dr. Sireesha Koorma	G803	143215
289	Dr. Sujatha Devi Rapaka	G903	143215
290	Mr. Latchi Bugatha Venkata Vidya Sagar	I1503	178093
291	Mr. Nalli Syambabu	G1203	143215
292	Mrs. Venkata Lakshmi Nagini Nunaparti	E503	207575
293	Mr. Laudu V R Durga Prasad	H902	160374
294	Mr. Mudunuri Chandra mouli Varma	G1001	137080
295	Mrs. Sampatirao Jhansi Rani	D1101	151963
296	Mrs. Bagadi Anuradha	D1201	151963
297	Mr. Manu Kasi Raju K	G1003	143215
298	Mr. R Kumar Raju Kucharlapati	E1503	208362
299	Mr. U Mayur	E303	208362
300	Mr. Byrraju Prasadraju	G1103	*
301	Mrs. Gowthmi Karukola	G603	145276
302	Mr. Gurmeet Singh	G1402	159615
303	Mr. Kaushik Vaishnav	G1502	*
304	Mr. Gorla Srinivas	K301	22464
305	Mr. Chandra Sekhar Karri	J501	22552
306	Ms. Miss Jami Rishita	J1503	20903
307	Mr. Master Jami Vignesh Pushkar	KP03	*
308	Mr. M C Sekhar	G1202	160374
309	Mr. Ramesh Mylapalli	E502	135844
310	Mr. AMNVMS Raju	E802	135844
311	Mr. Rajesh Mylapilli	E602	135844
312	Mr. Koteswara Rao Kandula	G1102	160374
313	Mrs. Manorama Pantula	I702	160374
314	Mr. V J Raghunath	D701	153200
315	Mrs. Sita Rama Rajani	G802	155097
316	Mr. Srirama Murthy Gurugubelli	G301	138095
317	Mr. B Prasan Kumar	G901	142237
318	Mr. Malisetty Venkata Suryanarayana	G401	135637
319	Mr. Yallapantula Venkata Satya Sai Kiran	E901	143174
320	Mr. Manthina Sesha Rama Neeladri Raju	H1503	168733
321	Mrs. Bali Kamala	E902	151716
322	Mr. Allada Veera Venkata Durga Prasad	H303	168258
323	Mr. Pentakota Ramu	G503	147210

324	Mr. Ladi Satyanarayana	E702	142646
325	Mr. B R Lakshmi Kanth	H1402	160374
326	Mr. Arun Kumar Somavarapu	G601	139142
327	Mr. Viswanadha Gowrisankar	E1002	135431
328	Mr. Pantula Venkata Naga Bhaskar	G702	160374
329	Mr. Panddiri David Raju	G701	137699
330	Mr. Pandiri David Raju	G801	137699
331	Mr. Venkateswara Rao Chappa	G502	157735
332	Mrs. Veduruparthi Lavanya	E103	*
333	Mr. Vijay Kiran Vinukonda	H203	*
334	Mr. Viswanadha Satyanarayana Sarma	E1102	135431
335	Mr. Jinaga Sivaprasad	E1402	133164
336	Mr. Thonangi Venkata Satya Jagadeep	C1402	158477
337	Mr. KVS N Prasad	E302	140172
338	Mr. Ram Mohan Inukonda	D102	*
339	Mr. Sri Venkateswara Satyanarayana Raju Nadimpalli	E202	*
340	Mr. Boddeti Satya Penta Rao	E102	*
341	Mr. M Srinivas	H103	*
342	Mrs. Nookala Rekha	E203	*
343	Mr. Vanaparathi Appala Raju	F41201	139216
344	Mr. K V N Raju	G203	*
345	Mr. Ramesh Babu Peri	H202	*
346	Mr. Venkata Ramana Bendalam	E803	204046
347	Mr. Uma Shankar Pattnaik	H201	*
348	Mr. Mohan Rao Javvadi	D1402	160374
349	Mr. Suri Babu Kuchimanchi	B1401	85844
350	Mr. Nekkanty Vivek	A1501	101894
351	Mrs. Mudundi Swati	JP01	*
352	Mr. Goutam Kumar Dasari	F4301	139537
353	Mr. Burla Balakrishna	D602	155262
354	Mrs. Panganamamula Venkata Ramya	G902	155097
355	Mr. Venkata Sivaram Sarma Karra	C1202	154684
356	Mr. Santosh Kumar Maddila	F1801	119779
357	Mr. P.B.V Ravi Kumar	F1701	122455
358	Mr. Namala Bala Venkata Subbarao	G1002	157735
359	Mr. P R Rakesh	D902	162435
360	Mr. Ramesh Babu Datla	F11401	123966
361	Mr. Srinivasa Rao	F41203	136237
362	Mr. Dhirender Prasad	I1403	179378
363	Mr. K V S S Gupta	F4801	138010
364	Mr. KTR Patnaik	E1003	202572
365	Mr. Naveen Kumar Yadavalli	H302	158560
366	Mr. Prafulla Kumar Nayak	F31202	123004
367	Mrs. Anitha Cheerla	G1201	139966
368	Mr. Mahesh Vallampati	J203	22019
369	Mrs. R Premlata	F4601	146153
370	Mrs. Singupalli Sushila Naidu	D1403	215033
371	Mr. Namana Venkata Rao	F3503	117136
372	Mr. Bammidi Kiran Kumar	F1803	130699
373	Mr. Sujith P Menon	F2703	36427
374	Mrs. Nekkanti Anuradha	F21202	36683
375	Mrs. Kodukula Lakshmi Dharmeswari	GP01	*
376	Mr. Y Ashok Kumar	C103	*
377	Mr. Penumatsa Naresh Varma	F11201	121814

378	Mr. R Sankar Rao	E801	138688
379	Mr. Lavanya Gorle	F1301	119156
380	Mr. Balaji Praveen Yerra	F11101	119156
381	Mr. R Suresh	GP02	*
382	Mr. Ryali Shyam Kumar	EP02	*
383	Mrs. Suvvari Suneetha	D901	151963
384	Mr. Gunnam Satish	G1401	140172
385	Mr. M V V Subrahmanyam	F2902	36097
386	Mr. Budida Sivaram	H1201	154506
387	Mr. Veeravilli V Narendra Babu	F4P01	*
388	Mr. Veera Raju Buddha	F1603	123818
389	Mr. Ravi Kumar Nadendla	D702	162435
390	Mrs. K Hema Latha	F11103	127493
391	Mr. Shashank Tosawad	H803	*
392	Mrs. Raja Rajeshwari Adapa	E1401	143174
393	Mr. Rama Govind Rao Adapa	E1403	210910
394	Mrs. Lalitha Devi Sharma	F31002	124735
395	Mr. Ramesh Polimetla	F3702	126338
396	Mr. Amarnath Reddy T	E1101	133972
397	Mr. Kandikonda Srinivas	K1501	21863
398	Mr. Sridhar Raju Konda	F3903	115532
399	Mr. Govada Nireekshana Ratna Kishore	G1503	143215
400	Mr. M Jagannadha Rao	G303	143108
401	Mr. Kandrakunta Prakash Kumar	E1502	136359
402	Mr. Naveen Babu Patnala	G1501	136359
403	Mr. Varahabhatla Appala Narasimha Sarma	E402	134710
404	Mr. Sreedhar Mandapati	F31102	157175
405	Mrs. V V Bhavani	F4701	133572
406	Mrs. V V Bhavani	F4901	133572
407	Mr. Doddi Narayanakumar	E1201	*
408	Mr. A Madhu Babu	E1001	134384
409	Mr. Chenna Siva Koteswara Rao	F21203	35468
410	Mr. Murali Krishna Devershetty	F3502	134676
411	Mr. Dorababu Surla	F1503	123083
412	Mrs. Kodukula Sangita	F1901	117517
413	Mrs. Kalla Hrudaya	E1501	134796
414	Mrs. Gedela Sudha Rani	F4501	134305
415	Mr. Addanki Pavan Kumar	E501	*
416	Mrs. Yeluri Lakshmi Chaitanya	F1601	117517
417	Mrs. Ponamandi Lakshmi	G501	135637
418	Mrs. Sunita Jonnalagadda	F1903	124139
419	Mr. G Siva Kumar	F41501	142514
420	Mrs. Gogu Prithvi Shanthi	F31402	130443
421	Mr. Ganti Rama Krishna	C1503	210910
422	Mr. Prashant	F31003	118171
423	Mr. Jagannadham Naidu Simma	F4401	136178
424	Mrs. K N Bhageeradhi	F4903	140971
425	Mr. Raghu Ram Kumar Kamidi	E401	141112
426	Mrs. V Kusuma Kumari	F1501	123074
427	Mr. Pericherla Mahendra Varma	D1002	164950
428	Mr. K Venkata Bhaskara Varma	H602	164950
429	Mr. Addepalli Vijaykumar Varma	D1102	164950
430	Mrs. Suneetha Thota	J1502	21952
431	Mr. Karri U S L N Nagendra	G1403	156531
432	Mr. Kumar Raja Kandula	E1103	208849

433	Mrs. Bharani Chandrika Dabburu	H703	171950
434	Mr. Goddu Satyanarayana	F3902	130443
435	Mr. Kanithi Balakrishna	F3302	130443
436	Mr. Ganta Satyanarayana	F3802	129481
437	Mr. Gumma Gouri Shankar	F3602	130443
438	Mr. Mondeti Chandra Sekhar	F1P01	*
439	Mr. Mahanthi Uday Kumar	F1403	131636
440	Mrs. Kollati Ramadevi	F1703	132598
441	Mr. Hemanth Veeramalla	F4803	138604
442	Mr. Gopinadh Putta	F21002	37544
443	Mr. Ramesh Pandrinki	D302	164918
444	Mr. Kamanchi Venkata Subba Rao	F1401	124677
445	Mr. Vanjarapu Raghuram	E301	139694
446	Mrs. Tallapudi Madhulekha	G602	167300
447	Mr. Ramesh Pandrinki	D402	165651
448	Mrs. Venkata Naga Lakshmi Nimmana	AP03	*
449	Mr. K Raja Rama Gandhi	F11501	123715
450	M/S. ALFATRONIC MARINE AUTOMATION SERVICES	H802	162435
451	Mrs. Kunchesatya Kumari	F2403	37189
452	Mr. Ampolu Sreenu	F11001	124677
453	Mr. Alla Nauroji Reddy	F21102	37269
454	Mr. Pentakota Ajay	F21001	35531
455	Mr. Venkata Ramana Allu	F31502	130443
456	Mr. Neelam Prabhakara Rao	F41101	144321
457	Mr. Giridhar Mangena	F41001	143954
458	Mr. Sridhar Asu	F41401	143954
459	Mrs. M Jyothi	F3403	*
460	Mr. Krishna Gowtham Uppuluri	F1902	129802
461	Mr. Goutham Gompa	F21402	37343
462	Mrs. Pitchika Aruna	E903	210622
463	Mr. Jandhyala Kameswara Sagar	F3402	*
464	Mr. Kanduru Venkata Krishna	F2903	37244
465	M/S. Ravitej Projects Private Limited	F3901	123966
466	M/S. Ravitej Projects Private Limited	F2901	35419
467	M/S. Ravitej Projects Private Limited	J1501	23151
468	Mrs. T Vijayalakshmi	F21003	37244
469	Mr. Ramakrishna Routhu	F31401	124677
470	Mr. Venugopala Swami Varanasi	F11403	284454
471	Mr. Maradana Ramalingeswara Rao	F31403	254729
472	Mr. Rabindra Kumar	H1501	302352
473	Mrs. Rapetti Padmavati Rajeshwary	F21103	183259
474	Mr. Ponnappalli Bhaskar Ram	F41202	298155
475	Mr. Kota Eswara Rao	F3P02	*
476	Mrs. Kota Jhansi Rani	G703	158593
477	Mr. Manduva Maruthi Prasad	F2802	187721
478	Mr. Nagaraju Yerra	E701	268493
479	Mr. Adireddi Sateesh	F11003	282077
480	Ms. Bongu Bhavana Rao	F21503	148608
481	Mr. Gopalarao Thulugu	F2701	178111
482	Mr. Grandhi Sudhir	F2702	186347
483	Mr. Ramarao P	D201	302788
484	Mrs. Neelima Padhy	D203	398386
485	Mr. Naraharisetty Gangadhar	F21403	187181
486	Mr. Gangeti Ramesh Kumar	F2803	188051
487	Mr. Nanduri Sita Rama Rao	F2602	186347

488	Mr. Suriseti Sivaapparao	F2502	186347
489	Mrs. Konda Sri Gouri	F2601	176965
490	Mr. Korada SV Vinay Deep	F21201	177607
491	Mr. Velaga Dharma Jagannadha Rao	F2402	186347
492	Mr. Amuloju Eswara Krishna Dutt	DP01	75605
493	Mr. Narasimha Rao Nadiminti	F2303	188051
494	Mr. Lukulapu Srinivasa Rao	F31101	267166
495	Mr. Balla Erneswara Rao	F41103	281943
496	Mrs. Sabita Jena	F31001	263730
497	Mr. N Ashwani Chaitanya	F2503	187547
498	Mr. Suggu Ravi Chandra Reddy	F2603	185761
499	Mrs. Mukkavilli Vani Ramakameswari	F41402	298155
500	Mr. Lal Khan	F41102	307537
501	Mr. Govinda Sunkuru	F4503	291412
502	Mr. Amit Kumar Panda	F21101	178111
503	Mr. Vaka Dinesh Reddy	F31201	270959
504	Ms. Datla Vijayalaxmi	F2P01	82015
505	Ms. Suryadevara Deepthi	F3701	271440
506	Mrs. Eda Lavanya	F21401	180639
507	Mr. Srikrishna Gumma	F3801	272127
508	Mr. Gourav Sarkar	G302	316790
509	Mr. Sridhar Pentakota	H1502	195783
510	Mrs. Paidi Neha	F2P02	81305
511	Mrs. Krishna Deepthi Maradani	F11203	282077
512	Mr. Ravindra Yarava	F1802	293675
513	Mr. Raju Dowluri	F21501	181418
514	Mrs. S Vijayalakshmi	F2801	183708
515	Mr. Suresh Kumar Devalla	F1303	290954
516	Mrs. Tarra Kanaka Lakshmi	F4502	298155
517	Mr. Sandeep Annepu	F41002	307537
518	Mrs. Ishwarya Rajya Laxmi Kundha	F2302	194455
519	Mrs. Vallabhaneni Katyayani	E1202	137699
520	Ms. Lalitha Deepthi Manipatruni	F3301	292356
521	Mr. Siddharth Dsouza	F3603	304270
522	Mr. R Sankara Narayanan	F4403	346089
523	Mr. Kasina Bhanu Murty	F4201	89870
524	Mr. Chivukula Satish Kumar	F3501	275563
525	Mr. Kasina Bhanu Murty	F4101	89870
526	Mr. Satyanarayana Murthy Batlanki	F11503	315580
527	Mr. Naga Ganesh Kumar Malla	F1201	89870
528	Mr. Landa Srinivasa Rao	F2201	89870
529	Mr. Buddharaju Ramabhadra Raju	F1101	89870
530	Mr. Ravi Kumar Nallamekala Golla	F2203	94808
531	Mrs. Rajakumari Kimidi	D101	90653
532	Ms. Bhagyabati Garada	F4702	326300
533	Mr. C Sridhar	F4602	343010
534	Mr. Rabindranath Dora	F3601	197194
535	Mrs. Nirupama Kasuladevi	F3201	38518
536	Mrs. Jumana QZ Shahpurwala	F4902	206228
537	Mrs. Jyostna Sure	A301	96666
538	Mrs. Vankayala Sujatha	C101	39525
539	Mr. N Seetaram Rao	F21502	184057
540	Mrs. Rallapalli Padmaja	G403	*
541	Mr. Ampolu Kishore Kumar	G201	*
542	Mr. Sri Vatsavai Vishnu	F3401	*

543	Mrs. Reena Ramanlal Baladiya	F41502	*
544	Mr. Barla Venkata Kalyan	F41003	*
545	Mr. S Srinivasa Rao	K902	22686
<b>Total</b>			6,46,06,227

\*No amount indicated in the DGAP's Report dated 26.06.2020 (Annexure-13)

