

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

Case No. 30 /2022  
Date of Institution 31.12.2020  
Date of Order 24.06.2022

**In the matter of:**

1. Sh. Samit Chakraborty, 14-B, Shyam Sunder Pally, Main Road (Shakuntala Park), Kolkata-700061.
2. Director General of Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2<sup>nd</sup> Floor, BhaiVir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.

Applicants

Versus

M/s. Cloudbtail India Pvt. Ltd., C/o Kuehne Nagle Pvt. Ltd., Dag No. 8-31 Dag No. 414-425 L R, Khatian No.871, 798, Mouza-Shimla, Null Satghara, JL No. 17-18, Shimla, Sreerampore, Hooghly, West Bengal-712203.

Respondent

**Quorum:-**

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

**Present:-**

1. None for the Applicant No.1
2. None for the Respondent.



## ORDER

1. The present report dated 31.12.2020, 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 Rules, 2017 pursuant to National Anti-Profiteering Authority's (NAA) Interim Order No. 15/2020 dated 20.4.2020 under Rule 133(4) of the Rules, 2017, which directed as follows:-

i. The issues of common input tax credit shall be investigated by the DGAP and a detailed Report shall be submitted accordingly.

ii. The claim made by the Respondent of reversal of common credit of Rs. 13,07,118/-, shall be verified by the DGAP as per the provisions of Section 17(2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017 and his findings shall be recorded in the Report.

iii. The issue of benefit of discounts shall be examined by the DGAP in terms of Section 15(3) of the CGST Act, 2017 as per details submitted by the Respondent and a detailed Report shall be filed by him in this regard.

iv. The profiteered amount shall be again computed by the DGAP on the closing and the fresh stocks separately and mentioned in his Report.

2. The brief facts of the case are that the Applicant No. 1 vide his complaint had alleged that the Respondent had not passed on the benefit of reduction in tax rate from 12% to Nil in the light of Notification No. 19/2018-CTR dated 26.07.2018 w.e.f. 27.07.2018 on the purchase of Stayfree Sanitary Napkins. The said complaint was examined by the Standing Committee on Anti-Profiteering in its meeting held on 27.03.2019 and forwarded to the DGAP for detailed investigation in the matter. On receipt of said reference from the Standing Committee on Anti-Profiteering, the DGAP had investigated the aforesaid matter and submitted his Report dated 24.09.2019 concluding that the Respondent had increased the base price of product "Stayfree Sanitary Napkin" when the tax rate was reduced from 12% to 0% (Nil) w.e.f. 27.07.2018 by the Central Government therefore he was additionally benefitted to amount of Rs. 19,61,033/- during the period from 27.07.2018 to 31.03.2019 and this amount was to be passed on by the Respondent to the buyers of this product under the provisions of section 171 of the CGST Act 2017. This Authority after careful consideration of the aforesaid DGAP's Report dated 24.09.2019, submissions of the Respondent and other documents placed on record, had sent the matter back vide Interim Order (I.O.) No. 15/2020 dated 20.04.2020 under Rule 133(4) of the CGST Rules 2017 on the grounds mentioned in paragraph 1 above.

3. Accordingly, the DGAP had investigated the above issues and furnished his Report dated 31.12.2020 wherein the DGAP has submitted;





i. That after receipt of the aforesaid Order from this Authority, a letter dated 04.06.2020 and reminder dated 22.06.2020 were issued to the Respondent calling for following documents:

- Any agreement related to discount.
- Certified copies of the relevant tax invoice (containing discount, if any).
- The detailed calculation sheet of common credit of Rs. 13,07,118/-.
- Whether the proportionate Input Tax Credit to the discount has been reversed and the certified copy of the documentary evidence.
- Outward supply data out of closing stock and fresh stock separately.

ii. That in response, the Respondent had submitted replies dated 19.06.2020, 24.06.2020, 18.08.2020, 27.08.2020, 31.08.2020, 25.09.2020, 23.10.2020, 06.11.2020 and 25.11.2020, wherein the Respondent, *inter alia* in respect of issues of NAA's Interim Order No. 15/2020 dated 20.04.2020 has stated that;

a. In respect of issue mentioned at para 1 (i) supra, the manner of determination of input tax credit in respect of inputs/input services was done in terms of Rule 42(1) of the CGST Rules, 2017. The ITC in respect of inputs or input services and reversal thereof wherein the ITC in respect of inputs or input services, which attracted the provisions of sub-section (1) or sub-section (2) of Section 17 of the Act, being partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in a manner as specified in the Rule. Thus, the issue of common ITC and verification of common ITC reversal post rate reduction was to be done in terms of Rule 42(1) of the Rules. To substantiate the Respondent's claim of reversal, the amount of credit reversed by him, had been verified with the GSTR-3B Returns of the corresponding month and ledgers, as submitted by him. It is found that the ITC amount reversed in the Return was more than that of his submissions for common input tax credit reversal with respect to impugned products. Thus, the claim of reversal of credit was correct and it would impact the cost of the impugned product. To arrive at the base price for post-rate reduction, that reversal of common credit amounting to Rs. 13,02,995/- was to be distributed proportionately to the turnover of Rs. 13,15,87,568/- of the sanitary napkins during the investigation period, which is 0.99% of the turnover. Hence, the base price would increase by 0.99% for calculation of profiteering for the fresh stock.

b. In respect of issue mentioned at para 1 (ii) supra, the Respondent vide his submissions had revised the claim of reversal of common credit from Rs. 13,07,118/- to Rs. 13,02,995/-. Accordingly, Rs. 13,02,995/- was considered for calculation of profiteering. He has further submitted that the reply for this point is as given above with respect to point (i).



c. In respect of issue mentioned at para 1 (iii) supra, the Respondent is a retailer of Sanitary Napkins and all discounts to the end customers were given at the time of making the supply of the goods on the face of the invoice itself. There was no agreement with the end customer for the same thus, the value of supply would not include any discount in terms of Section 15(3) of the CGST Act, 2017. Therefore, the profiteering was to be calculated on the taxable value i.e. transaction value, as indicated in the invoices. Accordingly, the profiteering had been re-computed on the taxable value only, on the basis of the data of outward taxable supplies submitted by him.

d. In respect of issue mentioned at para 1 (iv) supra, that to arrive at the base price for purpose of computation of profiteering, the methodology adopted was the same as adopted in investigation report dated 24.09.2019. However, during re-verification of the invoice wise outward supply data, the DGAP had observed that some of SKUs were left out inadvertently, which were part of this investigation report. The profiteered amount is worked out as under:

(i). **The profiteered amount on closing stock:** During the pre-rate reduction period (01.07.2018 to 26.07.2018), the Respondent had purchased the goods "Whisper Ultra Overnight Sanitary Pads XL Plus wings (7 Count)" at an average base purchase price of Rs. 66.91/- (as submitted by the Respondent), while the average selling price of the same goods during the said period was Rs. 67.99/-. Thus, the profit margin for him during the pre-rate reduction period for that SKU was Rs. 1.08/- per unit. As the rate of tax on the "Whisper Ultra Overnight Sanitary Pads XL Plus wings (7 Count)" was reduced from 12% to NIL w.e.f. 27.07.2018, the Respondent was not entitled to avail input tax credit on this closing stock. Hence, the commensurate price of the closing stock of "Whisper Ultra Overnight Sanitary Pads XL Plus wings (7 Count)" as on 26.07.2018, should have been the sum total of Rs. 66.91/- (basic purchase price), Rs. 8.03/- (increase in cost due to denial of input tax credit @ 12% of the basic purchase price of Rs. 66.91/-) and Rs. 1.08/- (profit margin for that SKU) i.e., Rs. 76.02/- per unit. Ongoing through the outward supply data of closing stock, as submitted by the Respondent, DGAP had observed that the Respondent had sold the same at Rs. 80/- per unit vide invoice no. UBO3-29100 dated 05.09.2018. Thus, the profiteering amount for "Whisper Ultra Overnight Sanitary Pads XL Plus wings (7 Count)" for one unit is **Rs. 3.98/-**. Following the similar methodology, profiteering has been computed on the closing stock and the profiteered amount works out to **Rs. 5,37,208/-**.

(ii). **The profiteered amount on fresh stock:** During the post-rate reduction period (27.07.2018 to 30.09.2018), the purchase price of the



goods "Whisper Ultra Overnight Sanitary Pads XL Plus wings (7 Count)" for the Respondent increased to Rs. 73.61/-. Hence, the commensurate selling price of the Respondent for the stock purchased after rate reduction w.e.f. 27.07.2018 should have been the sum of Rs 73.61/- (basic purchase price), Rs. 1.08/- (profit margin for that SKU) and Rs. 0.73 (0.99% of basic purchase price, as discussed in above, i.e. Rs. 75.42/-. Ongoing through the data of outward supplies for the month of September, 2018, as submitted by the Respondent, the DGAP had observed that the Respondent had sold the same at Rs. 80/- per unit vide invoice no. UHY1-17293 dated 05.09.2018. Thus, the profiteering amount for "Whisper Ultra Overnight Sanitary Pads XL Plus wings (7 Count)" for one unit is **Rs. 4.58/-**. Following the similar methodology, profiteering has been computed on the fresh stock and the profiteered amount works out to **Rs. 4,47,146/-**.

Thus, total amount of profiteering in respect of all the units supplied by the Respondent during the period 27.07.2018 to 30.09.2018, at a price above the commensurate price, comes to **Rs. 9,84,354/-**. Therefore, the amount of profiteering by the Respondent on account of contravention of provisions of Section 171 of Central Goods and Services Tax Act, 2017 is **Rs. 9,84,354/-**. The place (State or Union Territory) of supply-wise break-up of the total profiteered amount of **Rs. 9,84,354/-** is furnished in table-A below:

**Table-A**

(Amount in Rs.)

S. No.	State	Closing stock	Fresh stock	Total profiteering
1	01-Jammu & Kashmir	954	2,194	3,148
2	02-Himachal Pradesh	1,844	4,110	5,955
3	03-Punjab	5,809	9,583	15,392
4	04-Chandigarh	3,278	2,574	5,853
5	05-Uttarakhand	3,477	5,957	9,434
6	06-Haryana	27,138	29,676	56,814
7	07-Delhi	61,103	41,314	1,02,418
8	08-Rajasthan	9,351	17,146	26,497
9	09-Uttar Pradesh	27,356	38,928	66,285
10	10-Bihar	4,880	8,018	12,898
11	11-Sikkim	100	97	197
12	12-Arunachal Pradesh	130	111	241
13	13-Nagaland	123	302	425
14	14-Manipur	375	588	963
15	15-Mizoram	254	65	319
16	16-Tripura	217	292	509
17	17-Meghalaya	449	699	1,148
18	18-Assam	4,125	6,132	10,257
19	19-West Bengal	25,789	23,706	49,495
20	20-Jharkhand	2,672	4,402	7,074
21	21-Odisha	4,459	8,519	12,979
22	22-Chhattisgarh	1,695	2,941	4,636
23	23-Madhya Pradesh	3,651	8,631	12,281
24	24-Gujarat	7,096	13,895	20,992
25	25-Daman & Diu	63	127	190
26	26-Dadra & Nagar Haveli	32	6	38
27	27-Maharashtra	77,429	44,880	1,22,309

28	29-Karnataka	97,782	49,208	1,46,991
29	30-Goa	2,065	5,084	7,149
30	31-Lakshdweep	-	334	334
31	32-Kerala	5,720	16,803	22,523
32	33-Tamil Nadu	1,16,585	60,227	1,76,812
33	34-Pondicherry	986	716	1,702
34	35-Andaman & Nicobar Islands	376	559	935
35	36-Telangana	32,780	26,944	59,724
36	37-Andhra Pradesh	7,063	12,378	19,441
		<b>5,37,208</b>	<b>4,47,146</b>	<b>9,84,354</b>

4. The above Report dated 31.12.2020 was considered by this Authority in its meeting held on 05.01.2021. Accordingly a Notice dated 05.01.2021 (enclosing the DGAP's Report dated 31.12.2020) was issued to the Respondent to explain why the above Report of the DGAP should not be accepted and his liability for profiteering should not be determined under Section 171 of the CGST Act, 2017.

5. Therefore, the Respondent vide his submissions dated 01.03.2021, has furnished his reply to this Authority, wherein the Respondent has reiterated and re-asserted the grounds taken by him in his previous submissions dated 11.11.2019 as well as Rejoinder dated 03.03.2020 and submitted that:-

**a. the benefit of total common credit reversed should be accorded to him.**

i. The DGAP has worked out the benefit of common credit reversal by working out Commensurate Base Price: Pre-exemption Profit Margin + Post-exemption Purchase Price + Common Credit Reversal (0.99% of Post-exemption Purchase Price).

ii. The above said commensurate base price was then compared with the Actual Selling Price at invoice-level data in the outward supply data of the fresh stock. Line items where there was a positive difference was then considered for arriving at the alleged profiteering on new stock.

iii. Under the methodology adopted by DGAP, the cost of common credit reversal was notionally distributed across all individual supplies, including those where he (the Respondent) was already making a loss as per DGAP's methodology. Since loss-making supplies were ignored by DGAP for arriving at profiteering, the benefit of common credit reversal which had notionally attributed to such supplies is in effect denied to him.

iv. The common credit was understood to be such credit which was not attributable exclusively to any particular supply and was instead common to the total supplies (turnover) made by the registration. If an assessee has an exempt turnover, reversal of common credit will arise for such assessee in the



proportion of the said exempt turnover. Thus, there is a lumpsum reversal of common credit by an assessee in his monthly return in Form GSTR-3B against the total value of exempt supplies by him.

v. He had incurred loss due to reversal of common credit to the tune of Rs. 13,02,995/- on total exempt supplies of Sanitary Napkins made by him in the relevant period of the investigation and the said reversal had also been confirmed by DGAP in his Report dated 31.12.2020.

vi. The benefit of total loss incurred by him on account of common credit reversal of Rs. 13,02,995/- should be given to him against the total alleged profiteering calculated by the DGAP, whereby there was no profiteering in the present case.

**b. benefit of common credit reversal should be given for closing stock as well.**

i. In the Report dated 31.12.2020, some computation issues/errors made by the DGAP including benefit for common credit reversal given only for alleged profiteering of fresh stock and that such benefit will also be given to him in respect of out ward supply of closing stock.

ii. In the said Report, the DGAP had given benefit to him only in respect of the input tax paid on purchase of closing stock of Sanitary Napkins, which was reversed by him when the closing stock was sold after exemption. He had quoted Rule 42 of the CGST Rules stating that it provides a specific methodology for availment/reversal of credit;

*(a) Non-availment or reversal (if already availed) of input tax pertaining exclusively to non-business purposes, exempt supplies, or for restricted purposes listed in Section 17(5) of the CGST Act, from the total input tax;*

*(b) Crediting the differential input tax in the electronic credit ledger;*

*(c) From such differential input tax credit availed, the input tax attributable exclusively to taxable supplies is segregated;*

*(d) What remains is common credit, on which the formula prescribed in Rule 42 is to be applied to compute the common credit reversal.*

iii. Common credit was availed in addition to input tax credit pertaining exclusively to any supply and from the above rule, it could be seen that reversal of common credit was over and above the reversal of exclusive credits on account of exempt supplies.

iv. The benefit of common credit reversed on account of exempt outward supplies of such closing stock has not been accorded to him.

6. On receipt of the above said submissions dated 01.03.2021 of the Respondent, this Authority vide its Order dated 02.03.2021 had forwarded the same to the DGAP for

his clarifications under Rule 133 (2A) of the CGST Rules 2017. The DGAP vide his Report dated 16.03.2021 had submitted his clarifications as under;

i. On the contention of the Respondent that the total common credit reversed by the Respondent should be adjusted against the total alleged profiteering, was incorrect. All the products of Sanitary Napkins, irrespective of the fact whether the commensurate reduction in prices was done or not done have been taken into consideration. The Respondent himself had apportioned the common credit that was attributable to the exempted supplies, on the basis of turnover only. Therefore, this benefit of credit reversal was to be apportioned against the total turnover for the sanitary napkins during the period. This approach has been adopted by the DGAP for calculation of profiteering.

Further the contention of the Respondent that the cost of common credit reversal should not be allocated to the supplies where profiteering is negative, was also not correct as all the products of sanitary napkins were affected by common credit reversal. The uniform approach for calculation of base price was adopted and that base price had been compared with the actual Selling Price at invoice level data. Thus, after considering the benefit so available to him, profiteering had been computed. The Respondent could not contend that reversal did not involve those products which had negative profiteering and should not be considered for negative supplies.

ii. on the contention of the Respondent regarding credit reversal on closing stock, the Respondent himself had submitted the details of credit reversal on account of closing stock and benefit of such credit reversal had already been accounted for in the DGAP's Report dated 31.12.2020. Further, the total amount of reversal of common credit could be distributed twice, as the total benefit of common credit (i.e. Rs. 13,02,995/-) reversal done by him had already been incorporated to new stock.

7. The above said clarifications dated 16.03.2021 of the DGAP, were supplied to the Respondent for filing his rejoinder. The Respondent had filed his rejoinder dated 31.05.2021 reiterating the grounds taken earlier. It was further contended that the benefit of total common credit should be accorded to them, since one such credit was reversed, the same become cost and is appropriated by him in his pricing. The benefit of total loss incurred by him on account of common credit reversal of Rs. 13,02,995/- should be given to him against the total alleged profiteering calculated by the DGAP. He also submitted that the benefit of common credit reversal should be considered for arriving at the alleged profiteering in case of closing stock which was given to him.

8. Considering the above said rejoinder 31.05.2021 of the Respondent and his request for Personal Hearing, this Authority has granted a hearing on 28.04.2022 through video conferencing to the Respondent and the Applicant No.1. However the



Respondent vide his letter dated 27.04.2022, has submitted that he does not wish to contest this matter and is ready to pay the profiteered amount as computed by the DGAP in his above said Report dated 31.12.2020 without admitting the liability and requested to conclude the proceedings in the instant matter.

9. This Authority has carefully considered the above said Report dated 31.12.2020 furnished by the DGAP, the submissions made by the Respondent and the other material placed on record. On examining the various submissions the Authority finds that the following issues need to be addressed:-

- a. Whether there was any violation of the provisions of Section 171 of the CGST Act, 2017 in this case?
- b. If yes, then what was the quantum of profiteering?

10. A plain reading of Section 171 (1) of the CGST Act, 2017 indicates that it deals with two situation:- one relating to the passing on the benefit of reduction in the rate of tax and the second about the passing on the benefit of the ITC. On the issue of reduction in the tax rate, it is apparent from the record that there has been a reduction in the rate of tax from 12% to Nil on "Sanitary Napkins" w.e.f. 27.07.2018, vide Notification No. 19/2018-CTR dated 26.07.2018. Therefore, the Respondent was liable to pass on the benefit of the above tax rate reduction to his customers in terms of Section 171 (1) of the above Act. It is also apparent that the DGAP has carried out the present investigation w.e.f. 27.07.2018 to 31.03.2019.

11. This Authority had given specific direction to DGAP vide Interim Order No. 15/2020 dated 20.04.2020 to carry out investigation on the specific points that are discussed in paragraph 1 above. Based on the said direction and subsequent investigation, the DGAP has calculated that the Respondent has increased the base price of the impugned goods during the period from 27.07.2018 to 31.03.2019. Thus, the benefit of reduction in the tax rate has not been passed on to the recipients by way of commensurate reduction in the prices by the Respondent in terms of Section 171 (1) of the CGST Act, 2017 during the above period. Therefore, the DGAP had calculated the profiteered amount on the impugned item i.e. "Sanitary Napkins" by comparing the average pre-rate reduction base price of the impugned item with the actual selling price during the post-reduction period i.e. after 27.07.2018 by the Respondent during the period from 27.07.2018 to 31.03.2019. The mathematical methodology employed by the DGAP to compute the profiteered amount is correct, appropriate, reasonable and in consonance with the provisions of Section 171 (1) of the CGST Act, 2017.

12. The Respondent has raised certain issues relating to reversal of common credit and the DGAP has replied to the said contention citing the relevant provisions of law. As such, the Authority finds that this contention of the Respondent is untenable. The Authority finds that the DGAP has correctly calculated the profiteered amount as **Rs. 9,84,354/-** (Rs. 5,37,208/- on closing stock & Rs. 4,47,146/- on fresh stock) as



mentioned in Table-A above, which was to be passed on to the buyers of the impugned item by way of commensurate reduction in the prices in terms of Section 171 (1) of the CGST Act, 2017 during the above period, by the Respondent. Further, it is also observed that the Respondent vide his letter dated 27.04.2022, has submitted that he is ready to pay the profiteered amount as calculated by the DGAP in his above said Report dated 31.12.2020.

13. As per the above discussion and findings, this Authority as per the provisions of Section 171 of the CGST Act, 2017, determines the profiteered amount as Rs. 9,84,354/- for period from 27.07.2018 to 30.03.2019 by the Respondent. The Authority finds that such amount needs to be passed on by the Respondent alongwith interest @ 18% as prescribed to the recipients of supply/customers other than the Applicant No. 1 as the profiteering in respect of the Applicant No. 1 has been found to be Nil as per the DGAP Report dated 24.09.2019. As the recipients other than the Applicant No. 1, of such supply are not identifiable, the Authority directs that, the Respondent shall deposit the said amount with interest in the Consumer Welfare Funds (CWF) of the Central and State Governments as prescribed under Rule 133 (3)(c) of the CGST Rules 2017, within three months of the date of this order, failing which such amount will be recovered under the provisions of CGST Act 2017.

The Respondent shall deposit an amount of Rs. 4,92,177/- alongwith Interest @ 18% as prescribed under Rule 133 (3)(b) of CGST Rules 2017 in the CWF of the Central Government and the amount tabulated below alongwith interest @18% prescribed in the CWF of the State/UTs.

S.No.	Name of Consumer Welfare Fund	Amount (Rs.)
1	Consumer Welfare Fund of Central Government	492177/-
2	Consumer Welfare Fund of Jammu & Kashmir	1574
3	Consumer Welfare Fund of Himachal Pradesh	2977.5
4	Consumer Welfare Fund of Punjab	7696
5	Consumer Welfare Fund of Chandigarh	2926.5
6	Consumer Welfare Fund of Uttarakhand	4717
7	Consumer Welfare Fund of Haryana	28407
8	Consumer Welfare Fund of Delhi	51209
9	Consumer Welfare Fund of Rajasthan	13248.5
10	Consumer Welfare Fund of Uttar Pradesh	33142
11	Consumer Welfare Fund of Bihar	6449
12	Consumer Welfare Fund of Sikkim	98.5
13	Consumer Welfare Fund of Arunachal Pradesh	120.5
14	Consumer Welfare Fund of Nagaland	212.5
15	Consumer Welfare Fund of Manipur	481.5
16	Consumer Welfare Fund of Mizoram	159.5
17	Consumer Welfare Fund of Tripura	254.5
18	Consumer Welfare Fund of Meghalaya	574
19	Consumer Welfare Fund of Assam	5128.5
20	Consumer Welfare Fund of West Bengal	24747
21	Consumer Welfare Fund of Jharkhand	3537
22	Consumer Welfare Fund of Odisha	6489.5



23	Consumer Welfare Fund of Chhattisgarh	2318
24	Consumer Welfare Fund of Madhya Pradesh	6140.5
25	Consumer Welfare Fund of Gujarat	10496
26	Consumer Welfare Fund of Daman & Diu	95
27	Consumer Welfare Fund of Dadra & Nagar Haveli	19
28	Consumer Welfare Fund of Maharashtra	61154.5
29	Consumer Welfare Fund of Karnataka	73495
30	Consumer Welfare Fund of Goa	3574.5
31	Consumer Welfare Fund of Lakshdweep	167
32	Consumer Welfare Fund of Kerala	11261
33	Consumer Welfare Fund of Tamil Nadu	88406
34	Consumer Welfare Fund of Pondicherry	851
35	Consumer Welfare Fund of Andaman & Nicobar Islands	467.5
36	Consumer Welfare Fund of Telangana	29862
37	Consumer Welfare Fund of Andhra Pradesh	9720.5
<b>TOTAL=</b>		<b>984354/-</b>

14. The Authority finds that the Respondent has contravened the provisions of Section 171 (1) of the CGST Act, 2017. Therefore he is liable for imposition of penalty under the provisions of Section 171 (3A) of the said Act. However, since, the provisions of Section 171 (3A) have come in to force w.e.f. 01.01.2020 and the offence pertains to the period from 27.07.2018 to 31.03.2019, hence penalty under the above section cannot be imposed retrospectively on the Respondent.

15. The jurisdictional Commissioners of CGST/SGST are also directed to ensure compliance of this order. They are directed to send a Report to this Authority and the DGAP in this regard, within four months of the date of receipt of this order.

16. The Hon'ble Supreme Court in Miscellaneous Application No 21 of 2022 in MA 665 of 2021 in Suo Moto Writ Petition (C) No. 3 of 2020 vide its Order dated 10.1.2022 has directed that:-

*I. 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.*

*II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.*

*III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, the longer period shall apply.*

*IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Section 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings."*

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

17. A copy each of this Order be supplied free of cost to the Respondent, Applicant No.1, the DGAP and concerned jurisdictional commissioners of CGST/SGST. File be consigned after completion.

Sd-  
(Amand Shah)  
Technical Member & Chairman

Sd-  
(Pramod Kumar Singh)  
Technical Member

Sd-  
(Hitesh Shah)  
Technical Member

Certified copy  
  
27.6.22  
(Rajarshi Kumar)  
Secretary, NAA

File No. 22011/NAA/86/Cloudtail/2018 | 6064 — 7023  
Date: 27.06.2022

**Copy to:-**

1. M/s. CloudtailIndia Pvt. Ltd., c/o Kuehne Nagle Pvt. Ltd., Dag No.8-31, Dag No. 414-425, L R Khatian No. 871, 798, Mouza-Shimla Null Satghara, JL No. 17-18, Shimla, Sreerampore, Hooghly West Bengal-712203.
2. Sh. Samit Chakraborty, 14-B, Shyam Sunder Pally, Main Road (Shankutala Park), Kolkata-700061 ShriSamitCharaborty, 14-B, Shyam Sunder pally, Main Road (Shankutala Park), Kolkata-700061.
3. Director General of Anti profiteering, Central Board of Indirect Taxes & Customs, 2<sup>nd</sup> Floor, Bhai Vir Singh Sahitya Sadn, BhaiVir Singh Marg, Gole Market, New Delhi-110001.
4. Commissioner of Commercial Taxes, Excise & Taxation Complex, Rail Head Complex, Jammu.



5. Commissioner of Commercial Taxes, Excise & Taxation Commissioner, Government of Himachal Pradesh, B-30, SDA Complex, Kasumpti, Shimla.
6. Commissioner of Commercial Taxes, Office of Excise and Taxation Commissioner, Bhupindra Road, Patiala- 147 001
7. Commissioner of Commercial Taxes, Dept. of Excise & Taxation, Additional Townhall Building, Sector-17-C, U.T. Chandigarh.
8. Commissioner of Commercial Taxes, State Tax Department, Head Office Uttarakhand, Ring Road, Near Pulia No. 6, Natthanpur, Dehradun.
9. Commissioner of Commercial Taxes, Vanijya Bhavan, Plot No. 1-3, Sector-5, Panchkula PIN - 134 151
10. Commissioner of Commercial Taxes, Deptt of Trade & Taxes, Vyapar Bhavan, IP Estate, New Delhi-110 002.
11. Commissioner of Commercial Taxes, Kar Bhavan, Ambedkar Circle, Jaipur, Rajasthan - 302 005.
12. Commissioner of Commercial Taxes, Office of the Commissioner, Commercial Tax, U.P. Commercial Tax Head Office Vibhuti Khand, Gomti Nagar, Lucknow.
13. Commissioner of Commercial Taxes, Additional Commissioner (GST), Commercial Tax Department, Ground Floor, Vikas Bhawan, Baily Road, Patna – 800 001
14. Commissioner of Commercial Taxes, SITCO Building, Block-D, above A.G. Office, Gangtok, East, Sikkim - 737 101.
15. Commissioner of Commercial Taxes, Department of Tax & Excise, Kar Bhawan, Itanagar, Arunachal Pradesh - 791 111
16. Commissioner of Commercial Taxes, Office of the Commissioner of State Taxes, Dimapur, Nagaland - 797112.
17. Commissioner of Commercial Taxes, Department of Taxes, Old Guwahati High Court Complex, North AOC, Imphal West, Manipur - 795 001.
18. Commissioner of Commercial Taxes, Office of the Commissioner of State Tax, New Secretariat Complex, Aizawl – 796005.
19. Commissioner of Commercial Taxes, Office of the Commissioner of Taxes & Excise, Head of the Department, Revisional Authority, P.N. Complex, Gurkhabasti, Agartala - 799 006.
20. Commissioner of Commercial Taxes, Office of the Commissioner, GST&CX Commissionerate, Morellow Compound, M.G.Road, Shillong- 793001.
21. Commissioner of Commercial Taxes, Office of the Commissioner of Taxes, Government of Assam, Kar Bhawan, Ganeshpuri, Dispur, Guwahati - 781 006.
22. Commissioner of Commercial Taxes, 14, Beliaghata Road, Kolkata - 700 015.
23. Commissioner of Commercial Taxes, Commercial Taxes Department, Project Bhawan, Dhurva, Ranchi- 834 004.
24. Commissioner of Commercial Taxes, Office of the Commissioner of State Tax, Banijyakar Bhawan, Old Secretariat Compound, Cuttack - 753 001.
25. Commissioner of Commercial Taxes, Commercial Tax, SGST Department, Behind Raj Bhawan, Civil Lines, Raipur - 492 001

26. Commissioner of Commercial Taxes, Moti Bangla Compound, M.G. Road, Indore.
27. Commissioner of Commercial Taxes, C-5, Rajya Kar Bhavan, Near Times of India, Ashram Road, Ahmedabad.
28. Commissioner of Commercial Taxes, the Value Added Tax Department, Fort Area, Behind Post Office, Moti Daman-396220.
29. Commissioner of Commercial Taxes, Department of Value Added Tax, 1st Floor, Udhog Bhavan, 66 KV Road, Near Secretariat, Village Amli, U.T. of Dadra & Nagar Haveli-396230.
30. Commissioner of Commercial Taxes, GST Bhavan, Mazgaon, Mumbai- 400 010.
31. Commissioner of Commercial Taxes, Vanijya Therige Karyalaya, 1st Main Road, Gandhinagar, Bangalore- 560 009.
32. Commissioner of Commercial Taxes, Office of Commissioner of Commercial Tax, Vikrikar Bhavan, Old High Court Building, Panji, Goa- 403 001.
33. Commissioner (VAT & Excise) Secretariat, Kavaratti, U.T. Lakshdweep-682555.
34. Commissioner of Commercial Taxes, Government Secretariat, Thiruvananthapuram -695001.
35. Commissioner of Commercial Taxes, PAPJM Building, Greams Road, Chennai – 600 006.
36. Commissioner of Commercial Taxes, First Floor, 100 feet Road, Ellapillaichavady, Pondicherry - 605 005.
37. Commissioner of Commercial Taxes, O/o the Commissioner of State Tax, CT Complex, Nampally Station Road, Hyderabad - 500 001.
38. Commissioner of Commercial Taxes, Office of the Chief Commissioner of State Tax, Eedupugallu, Krishna District, Andhra Pradesh.
39. Chief commissioner of central goods & service tax chandigarh zone c.r. building, plot no.19a, sector17c, chandigarh160017
40. Chief commissioner of central goods & services tax, meerut zone opp. Ccs university, mangal pandey nagar, meerut250 004.
41. Chief commissioner of central goods & services tax panchkula sco 407408, sector8, panchkula
42. Chief commissioner of central goods & services tax delhi zone c.r. building, i.p. estate, new delhi110 109.
43. Chief commissioner of central goods & services tax jaipur zone, new central revenue building, statue circle, c-scheme jaipur 302 005
44. Chief Commissioner Of Central Goods & Services Tax (Lucknow Zone), 7-A, ashok marg, lucknow-226001.
45. Chief commissioner of central goods & services tax (ranchi zone), 1st floor, c.r. building (annexe), veerchand patel path, patna-800001
46. Chief commissioner of central goods & services tax (kolkata zone), 2nd floor, gst bhavan, 180 shanti pally, r. b. connector, kolkata-700107.



47. Chief commissioner of central goods & services tax (guwahati zone), gst bhawan, kedar road, guwahati-781001.
48. Chief commissioner of central goods & services tax, bhopal zone 48, administrative area, arera hills, hoshangabad road, bhopal m.p. 462 011
49. Chief commissioner of central goods & service tax c.r.building rajaswa vihar, Bhubaneswar-751007
50. Chief commissioner central goods & service tax , cochin zone c.r.building, i.s.press road, ernakulam cochin682018
51. Chief commissioner of central goods & service tax, hyderabad zone gst bhavan, l.b.stadium road, basheer bagh, hyderabad 500 004
52. Chief commissioner of central goods & services tax, mumbai zone gst building, 115 m.k. road, opp. Churchagate station, mumbai400020
53. Chief commissioner of central goods & services tax, telangkhedi road, civil lines, nagpur 440001
54. Chief commissioner of central goods & services tax, pune zone gst bhawan ice house, 41a, sasoon road, opp. Wadia college, pune411001
55. Chief commissioner of central goods & services tax, shillong zone north eastern, 3rtd floor, crescens building, m.g. road, shillong793 001
56. Chief commissioner of central goods & services tax, vadodara zone 2nd floor, central excise building, race course circle, vadodara 390 007
57. Chief commissioner of central goods & services tax visakhapatnam zone gst bhavan, port area, visakhapatnam530 035.
58. Chief commissioner of central goods & services tax (bengaluru zone), c.r. building, queen's road, bengaluru-560001.
59. NAA Website.
60. Guard File.

