

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

Case No.	59/2022
Date of Institution	31/12/2020
Date of Order	22/08/2022

In the matter of:

1. Shri Shubham Saxena, E-506, Megapolis Sunway Internal Road, Hinjewadi, Rajiv Gandhi Infotech Park Hinjawadi, Pimpri-chichwad, Maharashtra - 411057.
2. Sh. Shyam Aggarwal S-201, Montvert Belrose, Pashan, Pune, Maharashtra - 411057.
3. Sh. Prakhar Varshney, A - 201, Montvert Belrose, Pashan, Pune, Maharashtra - 411028.
4. Directorate General of Anti-Profiteering, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, New Delhi-110001.

Applicants

Versus

M/s New World Realty LLP, Sr. No. 288, Village - Maan, Taluka -Mulshi, Hinjawadi Phase - II, Before Quadrant, Pune, Maharashtra - 411057.

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 Applicants.
2. Mr. Rohit Jain, Advocate authorized Representative for the Respondent.

ORDER

1. The Present Report dated 30.12.2020 had been received from the Applicant No. 4 i.e. the Director-General of Anti-Profiteering (DGAP) after a detailed investigation under Rule 129(6) of the Central Goods & Service Tax (CGST) Rules, 2017, alleging profiteering by Respondent in respect of purchase of flats in the Respondent's project "Tinsel Town". The Applicant No. 1, 2 and 3 vide their complaint had alleged that the Respondent had not passed on the benefit of ITC to him by way of commensurate reduction in prices after implementation of GST w.e.f. 01.07.2017, in terms of Section 171 of the Central Goods and Services Tax Act, 2017. The Standing Committee forwarded the copies of the Complaint of the Applicants along with demand letters to the DGAP for further investigation.
2. The DGAP vide the above said Report dated 30.12.2020 had inter-alia stated the following: -
 - I. 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 21.10.2019, calling upon the Respondent to reply as to whether he admit that the benefit of ITC had not been passed on to the recipients by way of commensurate reduction in price and if so, to suo-moto determine the quantum thereof and indicate the same in his reply to the Notice as well as furnish all documents in support of his reply. Further, the Respondent was afforded an opportunity to inspect the non-confidential evidences/information which formed the basis of the said Notice, during the period 30.10.2019 to 31.10.2019. The authorized representative of the Respondent availed of the said opportunity on 14.11.2019.
 - II. The period covered by the current investigation was from 01.07.2017 to 30.09.2019.
 - III. As complete and relevant documents were not submitted by the Respondent even after repeated requests, Summons under Section 70 of the Central Goods and Services Tax Act, 2017 read with Rule 132 of the Rules was issued on 01.06.2020 to Shri Vincet Goyal, Partner of the Respondent to produce the relevant documents. In response to the

Summons dated 01.06.2020, the Respondent furnished the documents and clarifications vide E-mail dated 09.06.2020.

- IV. The Respondent has claimed all the documents submitted as confidential in terms of Rule 130 of the CGST Rules, 2017.
- V. The Respondent vide email dated 17.12.2020, submitted that the company was engaged in construction of residential complex. In the context of "Tinsel Town project", the company had executed agreements of Rs. 139 Crores pertaining to approx. 2.74 lakh sq. ft. in the pre-GST regime. The anti-profiteering benefit was restricted to the extent of items which were non-creditable in earlier regime, which had now become creditable. Before implementation of GST, ITC on goods procurement under VAT was not available; however, post implementation of GST, ITC of the same was available. Accordingly, after applying cost reduction method, benefit to be passed on was calculated as under:

S. No.	Particulars	Tax cost
A	Saving of VAT/SBC pertaining to procurements of FY 2017-18	1,14,13,475
B	Saving of VAT/SBC pertaining to procurements of FY 2018-19	2,49,58,905
C	Credit of VAT availed in GST TRAN-1	63,69,072
D	Less: ITC reversed for unsold area	67,60,000
E	Benefit: (E=A+B+C+D)	3,59,81,452
F	Area sold before obtaining OC	4,84,921
G	Area sold pre-GST	2,74,510
H	Agreement value of flats sold pre-GST	1,39,16,18,698
I	Amount invoiced in GST regime pertaining to flats sold in pre-GST regime	31,99,60,554
J	Benefit to be passed on to the customer (J=E/I*G*I/H)	46,83,193

RS. 58 Lakhs has already been passed on to the customers in terms of Section 171 of the CGST Act, 2017. Hence, he was not required to pass on any additional benefit on account of anti-profiteering.

- VI. Further, the Respondent had submitted that he had already passed on the benefit to all the customers who had booked the flats after implementation of GST, by way of reduction in the prices of the flat, as specified in the agreements executed with specific clause- "the consideration accounts for the benefits to be passed on vide computation of estimated ITC under GST and the promoters were under no obligations to make any further concession to the Allottee/purchaser in the above consideration". Basic price of the flats sold to the customer post implementation of GST had been reduced by Rs. 296/Sq. Ft. on average basis, illustrated as below:

Particulars	Taxable Value	Area	Per Sq. Ft. Area(Rs)
Agreements executed during the last quarter (pre-GST)	23,21,90,850	46,650	4977
Agreements executed during the first quarter(post-GST)	21,06,34,083	44,999	4681
Reduction in per Sq. Ft. rate			296

In view of the above, the turnover of Rs.103 Crores (approx) pertaining to flats sold post-GST was not required to be considered for the purpose of computation of anti-profiteering benefit.

- VII. Vide the aforementioned letters/e-mails, Respondent submitted the following documents/ information:

- a. Copies of GSTR-1 returns for the period July, 2017 to September, 2019.
- b. Copies of GSTR-3B returns for the period July, 2017 to September, 2019.

- c. Copies of Tran-1 return for transitional credit availed by the Respondent.
- d. Copies of VAT & ST-3 returns for the period April, 2016 to June, 2017.
- e. Electronic Credit Ledger for the period July, 2017 to Sept, 2019.
- f. CENVAT/ITC register for the F.Ys. 2016-17 to 2019-20 (upto September-2019).
- g. Status of project "Tinsel town" as on 30.09.2019 in terms of tower wise sold and unsold units alongwith copies of occupancy certificate.
- h. Copies of all demand letters issued and sale agreement executed with the applicants.
- i. Reconciliation of turnover in home buyers list with statutory returns and Balance Sheets.
- j. Copy of Occupancy Certificate dated 15.02.2019 and 28.10.2019 for phase-I.
- k. Details of applicable Tax rates, pre-GST and post-GST.
- l. Details of Service Tax, CENVAT credit for the period Apr 16 to Jun 17 and output GST and ITC of GST for the period July 2017 to September 2019.
- m. Copy of Financial Statements for FY 2016-17, 2017-18& 2018-19.
- n. Copy of project report submitted to RERA Authorities including all periodic reports submitted till September-2019.
- o. List of home buyers in the project "Tinsel Town".
- p. Copy of agreement/ registry between the land owner and developer for the project "Tinsel Town".

q. Trial Balance for the period 01.07.2017 to 31.03.2019.

r. Email addresses of home buyers.

s. Sample agreements for the bookings made in post-GST period.

VIII. The Respondent also submitted that he had got two RERA registrations no. P52100000392 and no. P52100017178 for Phase-I and Phase-II of the construction. In the Phase-I, Tower A to D had been constructed and in Phase-II, Tower E had been constructed. Phase-II had been launched after introduction of GST and he had charged GST @5% for the flats sold post 01.04.2019.

IX. The phase wise project registration details were verified by the DGAP from official website of RERA, and relevant information is furnished in table- 'A' below:

Table-'A'

Tower	Phase	RERA Registration No.	Total Flats	Remark
A	1	P52100000392	165	OC received on 15.02.2019.
B			110	
D			110	
C			110	Opted for GST payment @5%, as per Notification No. 3/2019- Central Tax dated 29.03.2019.
E	2	P52100017178	81	The project was launched in Post-GST.

X. The DGAP also submitted that 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 reads 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 reads 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 ITC pertaining to the residential units and commercial shops which were under construction but not sold was provisional ITC 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 were 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 was 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 might be prescribed and shall include supplies on which the recipient was 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 ITC pertaining to the unsold units might not fall within the ambit of this investigation and the Respondent were required to recalibrate the selling price of such units to be sold to the prospective buyers by considering the net benefit of additional ITC available to him post-GST. However, in the present case, Respondent had received Occupancy Certificate (hereinafter referred to as "O.C.") for Phase-I construction as mentioned in Table-'A' and 40 units/ flats remained unsold at the time of OC.

- XI. As the Respondent got RERA registration for Phase-II project post-GST and no bookings were done in the pre-GST era, no benefit of additional ITC was available to the home-buyers of Phase-II (i.e. Tower-E). Hence, Phase-II was not part of the investigation.
- XII. The Respondent's claim with respect to reduction on the basis of cost reduction method was not relevant, as the investigation was limited to aspect of passing of the benefit of ITC resulting on account of implementation of GST. The profit or loss or costing was not looked into by the DGAP. The Respondent's claim that the benefit of estimated ITC had already been passed on to the customers booking the flats after 01.07.2017, by way of reduction in the prices as

mentioned in allotment letter and the Agreement for sale had been looked into and it was observed that he had submitted sample copies of agreements with the home buyers for the post-GST period. In the agreement, the following clause was inserted:

"the consideration as mentioned in Clause 3 hereinabove, accounts for the benefits to be passed on vide computation of estimated ITC under GST and the promoters were under no obligations to make any further concession to the Allottee/ purchaser in the above consideration as mentioned in Clause 3".

Since, the Respondent had already given the benefit of rate reduction and the same was backed by Agreement of Sale wherein definite clause of GST benefit had been given. Hence, it appears that bookings made post-GST were out of purview of investigation. Accordingly, profiteering had been calculated with respect to flats booked in pre-GST era only. As per home buyers list submitted by the Respondent, 199 flats were booked post- implementation of GST.

- XIII. The Respondent had submitted that he had opted for payments of GST @5% without ITC, as notified vide Notification No. 03/2019- Central Tax (Rate) dated 29.03.2019 w.e.f. 01.04.2019. Accordingly, the investigation period was limited upto 31.03.2019.
- XIV. As regards the allegation of profiteering, it was observed that Phase-I of the project had 04 towers (A, B, C & D). Work on all the 04 towers started in pre-GST era and continued in post-GST. O.C. for 03 towers (A, B & D) was received on 15.02.2019 and for Tower-C, O.C. was not issued upto 31.03.2019. Prior to 01.07.2017, i.e., before the GST was introduced, the Respondent availed Credit of Service Tax paid on input services only. No credit was available in respect of Central Excise duty paid on the inputs. Further, VAT paid on inputs by the Respondent was also not available in the instant case, as the Respondent was under composition scheme in Maharashtra. Post-GST, the Respondent was entitled to avail ITC of GST paid on all the inputs and the input services including the sub-contracts. From the information submitted by the Respondent for the period April, 2016 to March, 2019, the details of the ITC availed by them, his turnover from the Phase-I of the project "Tinsel Tower" and the ratio of ITC to turnover, during the pre-GST (April, 2016 to June, 2017) and post-

GST (July, 2017 to March, 2019) periods, were furnished in Table- 'B' below:

Table-'B'

(Amount in Rs.)

S. N o.	Particulars	April, 2016 to March, 2017	April, 2017 to June, 2017	Total (Pre-GST)	Total (Post-GST)
(1)	(2)	(3)	(4)	(5)=(3)+(4)	(6)
1	CENVAT of Service Tax Paid on Input Services as per ST-3 (A)	1,67,16,539	57,38,408	2,24,54,947	
2	Input Tax Credit of VAT Paid on Purchase of Inputs as per VAT Returns (B)	-	-	-	
3	Total CENVAT/Input Tax Credit Available (C)= (A+B)	1,67,16,539	57,38,408	2,24,54,947	
4	Input Tax Credit of GST Availed as per GST Return (D)				11,02,87,535
5	Total Taxable Turnover as per homebuyer list (excluding turnover for the units sold post OC)(E)			55,34,99,865	1,31,42,01,642
6	Total Saleable Area in the project (Sq.ft) (F)			5,27,361	5,27,361
7	Area Sold relevant to Taxable turnover as per returns (excluding turnover for the units sold post OC)(G)			1,49,184	4,81,751
8	Relevant CENVAT/Input Tax Credit (H)= [(C)*(G)/(F)] or [(D)*(G)/(F)]			63,52,231	10,07,49,070
9	Ratio of CENVAT/ ITC to Taxable Turnover [(I)=(H)/J]			1.15%	7.67%

XV. From the Table- 'B' above, it was clear 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 1.15% and during the post-GST period (July, 2017 to March, 2019), it was 7.67%. This clearly confirms that post-GST, the Respondent had benefited from additional ITC to the tune of 6.52% [7.67% (-) 1.15%] of the turnover. Accordingly, the profiteering had been examined by comparing the applicable tax rate and ITC available in the pre-GST period (April, 2016 to June, 2017) when effective Service Tax @4.50% was payable with the post-GST period (July, 2017 to March, 2019) when the effective GST rate was 12% (GST @18% along with 1/3rd abatement for land value) on construction service, vide Notification No.11/2017-Central Tax (Rate), dated 28.06.2017.

XVI. On the basis of the figures contained in Table-'B' above, the comparative figures of the ratio of ITC availed/available to the turnover in the pre-GST and post- GST periods as well as the turnover,

the recalibrated base price and the excess realization (profiteering) from the home buyers who booked flats during the pre-GST period, were tabulated in Table-'C' below:-

Table-'C'

(Amount in Rs.)

S. No.	Particulars		
1	Period	A	July, 2017 to March, 2019
2	Output tax rate (%)	B	12.00%
3	Ratio of CENVAT/ ITC to Taxable Turnover as per Table - C above (%)	C	7.67%
4	Increase in ITC availed post-GST (%)	D= 7.67% less 1.15%	6.52%
5	<u>Analysis of Increase in input tax credit:</u>		
6	Base Price collected during July, 2017 to March, 2019 (excluding turnover for the units sold post OC)	E	27,80,41,750
7	GST Collected @ 12% over Basic Price	F= E*12%	3,33,65,010
8	Total Demand collected	G=F+E	31,14,06,760
9	Recalibrated Basic Price	H= G*(1-D) or 93.48% of E	25,99,13,428
10	GST @12%	I= H*12%	3,11,89,611
11	Commensurate demand price	J= I+H	29,11,03,039
12	Excess Collection of Demand or Profiteering Amount	K= G-J	2,03,03,720

From Table-'B' and 'C' above, it was deduced that the additional ITC of 6.52% of the turnover should had resulted in the commensurate reduction in the base price as well as cum-tax price.

- XVII. The Respondent had claimed that he had passed on the benefit of Rs. 58,35,648/- to the home buyers. Ongoing through the home buyers list submitted by the Respondent, it was observed that the Respondent had passed on excess credit of Rs. 59,210/- to the 04 home buyers. This credit can't be set off against the benefit which ought to had been passed on to other home buyers. Thus, this excess amount was not part of benefit already passed on by the Respondent. The summary of category-wise ITC benefit that was required to be passed on and the benefit already passed on by the Respondent, was furnished in Table-'D' below:-

Table-'D'

(Amount in Rs.)

Sr. No.	Category of Customers	No. of Units	Saleable Area (as per agreement) (in Sqf)	Demand Raised Post GST	Profiteering Amt. as per Annex-27	Benefit already Passed on by the Respondent	Difference	Remark
A	B	C	D	E	F	G	H=F-G	I
1	Applicant 1 (Residential)	1	1,013	21,17,277	1,54,612	59,886	94,726	Further Benefit to be passed on
2	Applicant 2 (Residential)	1	1,015	20,37,000	1,48,749	52,377	96,373	Further Benefit to be passed on
3	Applicant 3 (Residential)	1	1,015	20,37,000	1,48,749	52,377	96,373	Further Benefit to be passed on
4	Home buyers	4	4,439	3,05,882	22,336	81,544	(59,210)	Excess benefit passed on to 04 home buyers
5	Other Buyers (Residential)	248	2,65,661	27,15,44,591	1,98,29,274	55,89,462	1,42,40,774	Further Benefit to be passed on
	Total	255	2,73,143	27,80,41,750	2,03,03,720	58,35,648	1,45,28,245	

XVIII. To verify the claim of the Respondent, with respect to Pre-GST bookings, DGAP had sent emails dated 12.10.2020 to all 255 home buyers. In response to these 255 emails, 83 home buyers replied that he had received benefit of ITC.

XIX. From the Table 'C' and Table 'D' above, it was observed that the benefit already passed on by the Respondent was less than what he ought to have passed on in case of 251 residential flats by an amount of Rs. 1,45,28,245/- (including applicants). Thus, on the basis of the aforesaid CENVAT/input tax credit availability pre and post-GST and the details of the amount during the period 01.07.2017 to 31.03.2019, the amount of benefit of ITC that had not been passed on by the Respondent to the recipients, who booked flat in pre-GST period

comes to Rs.1,45,28,245/- which included GST @12% on the base profiteered amount of Rs.1,29,71,647/-. This amount was inclusive of profiteered amount of Rs. 94,726/- for Applicant no. 1 and Rs. 96,373 each for Applicant no. 2 & 3.

- XX. The Respondent had total of 495 units in the whole Phase-I project as on 31.03.2019, out of which 255 flats were booked in pre-GST period, 199 flats were booked in post-GST period and 41 flats remained unsold at the time of O.C. Accordingly, the home-buyers data provided by him was for the live customers as existing on 31.03.2019, after which he had opted for new scheme i.e. GST payment @5%, without ITC. The above computation of profiteering was with respect to 255 units in the towers, which were booked prior to launch of GST.
- XXI. The DGAP thus concluded that post-GST; the benefit of additional input tax credit to the tune of 6.52% of the turnover, accrued to the Respondent post-GST and the same was required to be passed on by the Respondent to the Applicant and other recipients for the project "Tinsel Town", who had booked flats in pre-GST period. The provisions 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 ITC @6.52% of the amount collected during the period 01.07.2017 to 31.03.2019 from the home buyers, had not been passed on to the 251 recipients including the Applicants. Therefore, the total additional amount of Rs.1,45,28,245/- was required to be returned to the such eligible recipients. As the Respondent had submitted the agreement with home buyer evidencing passing on of benefit of additional ITC to the various home buyers, who had booked flats in post-GST period i.e. a contract agreed upon by the promoters and home buyers, the same were not considered for profiteering. Also, Phase-II of the project was launched after implementation of GST and no bookings were made in the period prior to GST, provisions of Section 171 were not attracted for Phase-II.
- XXII. The present investigation computed the profiteering covering the period 01.07.2017 to 31.03.2019. Profiteering, if any, for the period post 01.04.2019 had not been examined as no benefit of ITC for construction service would be available to the Respondent in future as

he had opted for GST@5% with no ITC, as provided by Notification No. 03/2019- Central Tax (Rate) dated 29.03.2019.

3. The above Report was carefully considered by the Authority in its meeting on 05.01.2021 and a Notice dated 05.01.2021 was issued to the Respondent to explain why the Report dated 30.12.2020 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. The Respondent was directed to file written submissions which had been filed vide submissions dated 10.02.2021, 27.03.2021 and 12.05.2022 wherein the Respondent had inter-alia submitted following points:-

- I. The Respondent was engaged in the business of construction and sale of residential units. The Company was in the process of constructing residential project – 'Tinsel Town' consisting of Towers A, B, C, D and E. In the Phase-I, Tower A to D had been constructed and in Phase-II, Tower E had been constructed. Towers A, B, C and D were registered with Maharashtra Real Estate Regulatory Authority vide Project Registration No. PS2100000392. Under the erstwhile regime, the Respondent was not allowed to avail credit of Central Excise Duty and VAT paid on the goods used for providing construction services to his customers. Therefore, such non-creditable duties and taxes paid on inward supplies were embedded in the budgeted cost of the project. However, pursuant to introduction of GST law, Respondent was allowed to avail the credit of taxes paid on procurement of goods. Therefore, the benefit accruing on account of such non-creditable taxes was being computed and the Respondent passed on these benefits to the customers in terms of Section 171 of the CGST Act, 2017.
- II. No methodology prescribed to derive profiteering; thus, leading to arbitrary exercise of powers by DGAP. It was settled law that in the absence of a machinery provision for assessment of tax the levy itself fails 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 and*

Customs, Kerala vs. Larsen and 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. Resultantly, the present Impugned Report was required to be quashed on this ground itself.

- III. Methodology of Anti-Profitteering being an important Legislative function could not delegate to NAA. Delegation of such unabated and uncontrolled power to an executive body was itself unconstitutional.
- IV. Section 171 of the CGST Act was itself unconstitutional as it seeks to regulate prices. It was submitted that under the guise of a tax enactment, the legislature cannot act as a price regulator. It was settled law that prices were governed by market forces and price regulation would be violative of fundamental right of trade and commerce. Reliance was placed on *Indraprastha Gas Ltd. vs. Petroleum and Natural Gas Regulatory Board and Ors. 2015 (9) SCC 209*) which had affirmed the above position.
- V. 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/she might choose to pass it on to the customer or bear the burden himself/herself. Passing of burden of tax was not determinative of the nature of tax. Reliance could be placed on the decision of the *Hon'ble Supreme Court in the case of British India Corporation Ltd vs CCE 1978 (2) ELT 1307 (SC)*.
- VI. He quoted the meaning of the word Profitteering through different mean and the key aspects he derived out about profiteering were that
- (a) There must accrue a benefit from the specified event; and
 - (b) The benefit was 'willfully' not passed on to the recipient by commensurate reduction in prices (i.e. the prescribed action in Section 171(1) of the CGST Act).

Further, it must be noted that profiteering could be confirmed only if the benefits were not passed on to a recipient willfully by the

supplier, implying a mala fide-intent on part of the supplier must be proved.

- VII. It was quite impossible in an industry, like Real Estate where the project itself takes 3-4 years for completion to accurately compute in advance the benefit which should be passed on to the customer. Further, construction of multiple towers and commencement and completion of each tower might vary from time to time, and the exact benefit of which would be available only on the completion of the project. Accordingly, the Respondent had computed the benefit on implementation of GST pertaining to non-creditable taxes under the pre-GST regime basis quo the construction cost incurred post July 1, 2017 and had passed on the benefit to the customers.
- VIII. It could also be observed that there was no reduction in the rate of tax of supply on the contrary the tax liability of the Respondent had increased also for additional ITC, the Respondent was eligible for the additional ITC to the extent of VAT and Excise duty considered as cost at the time of budgeting. The Respondent submitted that it had appropriately computed such non creditable cost and had passed on these benefits to the customer including the Complainant.
- IX. The Respondent's calculation with respect to profiteering benefit was as under:

A	Saving of VAT/SBC pertaining to procurements during July	3,63,72,380
B	Credit of VAT availed in GST TRAN-1	63,69,072
C	Less: ITC reversed for unsold area	67,60,000
D	Benefit [A+B+C]	3,59,81,452
E	Area sold before obtaining OC	4,84,921
F	Area sold Pre-GST	2,74,510
G	Agreement value of flats sold pre-GST	1,39,16,18,698
H	Amount invoiced in GST regime pertaining to flats sold in pre-	31,99,60,554

	GST regime	
IJ	Benefit to be passed on to the customers [D*E/f*H/G]	46,83,193

- X. The DGAP had compared the percentage of credit availed to taxable turnover for the period April 2016 to June 2017 (pre-GST) with July 2017 till March 2019 (post GST) as reflected in the returns by the Notices to arrive at the additional ITC, the ratio adopted by the DGAP would invariably differ from project to project and within project from period to period. Accordingly, it could be observed that in a real estate business such ratio was never a true reflective and comparative of additional tax benefit and more likely than not provides a distorted figure of the additional credit as envisaged under Section 171 of the CGST Act.
- XI. The project had started from December 2014 and accordingly the detail of CENVAT credit and if turnover is considered since October 2014. In that event the benefit determined by the Respondent reduces to 5.17% as opposed to 6.52%.
- XII. In the total alleged profiteering amount, a notional 12% amount had been incorrectly added. The DGAP report mentions that the GST collected from the recipients was also included in the profiteered amount because the excess price collected from the recipients also included the GST charged on the increased base price. The Respondent submitted that the amount already stands paid to the Government and hence it cannot be held that the Respondent had profiteered from such amount. Since the amount collected as GST from the recipients on alleged profiteering amount had already been deposited with Government and there was no factual dispute on this aspect, inclusion of GST component again to calculate the alleged profiteering was incorrect. The Respondent does not profiteer from any GST collected from the recipients on behalf of the Government. In case the GST amount was included in alleged profiteering calculation, it would lead to double payment of the same amount by the Respondent. The role of the Respondent was to collect the GST amount on behalf of the Government and deposit the same with the Government. The

Respondent neither earns revenue in the form of GST collected from customers nor was legally entitled to retain the same. Conversely put, had the Government granted-exemption to restaurant services from payment of GST, the Respondent would had not collected GST in addition to the base price of the subject goods.

4. The DGAP filed his clarifications on the Respondent's submissions dated 10.02.2021 vide supplementary Report dated 12.03.2021 and had clarified:-
- i. Regarding no methodology prescribed to derive profiteering, thus leading to arbitrary exercise of powers by DGAP, it was submitted that the contentions of the Respondent made in these paras were incorrect as the main contours of the Procedure and Methodology' for passing on the benefits of reduction in the rate of tax and the benefit of ITC was enshrined in Section 171 (1) of the CGST Act, 2017 itself. Section 171 of the CGST Act, 2017 (CGST Act 2017) mandates that any benefit of reduction in the rate of tax or the benefit of ITC which accrues to a supplier must be passed on to the consumers as both was concessions given by the Government and the suppliers was not entitled to appropriate such benefits by increasing his profit margin at the cost of the consumers. "Methodology and Procedure" had also been notified by the NAA vide Notification dated 28.03.2018 under Rule 126 of the CGST Rules, 2017 (CGST Rules 2017). However, one formula which fits all cannot be set while determining such a "Methodology and Procedure" as the facts of each case were different.
 - ii. Regarding unconstitutionality of Section-171 the DGAP submitted that the contention of the Respondent made in this para were incorrect. The mandate of the NAA and DGAP is limited to the extent of protecting the interest of consumers by ensuring that any benefit of reduction in the rate of tax or the benefit of ITC was passed on to them. Neither the fixation of price nor tariff falls under the purview of the NAA and DGAP.
 - iii. As regards the action being willful or not, it was submitted that the DGAP only investigates the case and submits its findings before the

NAA on the basis of evidences in accordance with the mandate of Section 171 of the Act. Further, the same had been discussed in the Investigation Report dated 30.12.2020. Rate change cannot be the reason for Anti-profiteering.

- iv. Additional benefit of ITC had no correlation with the output GST rate. The intent of Section 171 of the CGST Act, 2017 is very clear that any additional benefit of the ITC needed to be passed on to the customers.
- v. Further, regarding Respondent's contention for computation of profiteering on account of incremental credit, it is to submit that in the erstwhile tax regime (pre-GST), various taxes and cesses were being levied by the Central Government and the State Governments, which got subsumed in the GST. Out of these taxes, the ITC in some cases was not allowed in the erstwhile tax regime. In case of construction service, while the ITC of Service Tax was available, the ITC of Central Excise duty paid on inputs was not available to the service provider. Such input taxes, the credit of which was not allowed in the erstwhile tax regime, used to get embedded in the cost of the goods or services supplied, resulting in increased price. With the introduction of GST w.e.f 01.07.2017, all these taxes got subsumed in the GST and the ITC of GST is available in respect of all goods and services, unless specifically denied. The method adopted is to find out the ratio of CENVAT/ITC to taxable turnover in the pre GST era as well as post-GST era, which is nothing but an exercise to find out the accrual of additional amount of ITC, if any, in the post-GST era.
- vi. Section 171 of the CGST Act, 2017 and Rules made thereunder require the supplier of goods or services to pass on the benefit of the tax rate reduction to the recipients by way of commensurate reduction in price. Price included both, the base price and the tax paid on it. If any supplier had charged more tax from the recipients, the aforesaid statutory provisions would require that such amount be refunded to the eligible recipients or alternatively deposited in the Consumer Welfare Fund, regardless of whether such extra tax collected from the recipient had been deposited in the Government account or not. Therefore, the option was always open to the Respondent to return the tax amount to the recipients by issuing credit notes and adjusting his tax liability for the subsequent period to that extent. Moreover, the legislative intent

behind Section 171 of the CGST Act, 2017, is to pass on the benefit of the tax rate reduction by way of reduction in price. As the price included both basic price and the tax charged on it, any excess amount collected from recipients, even in the form of tax, must be returned to the recipients. In case, the recipients was not identifiable, the said amount is required to be deposited in the Consumer Welfare Fund.

- vii. The contention of the Respondent that DGAP in its finding had completely ignored the genesis of Section 171 of the CGST Act, was denied. The DGAP had correctly computed the profiteered amount by taking ITC to turnover ratios in the pre-GST & post-GST periods into account which was correct, reasonable and logical and in accordance with the mandate of Section 171 of the Act. Moreover, the DGAP had correctly taken absolute figures of credit and had divided the same with the turnover so that a ratio could be arrived at and exact additional ITC benefit could be computed accordingly. In this manner any additional benefit of ITC which had accrued to him on enforcement of the GST had been computed. All the deliberations done during computation of the profiteering amount had been discussed in the DGAP's Report dated 30.12.2020 submitted to the NAA. It was also submitted that the DGAP had not adopted any self-derived average method for computing the profiteering amount as alleged by the Respondent, but had compared the ITC to turnover ratio in pre & post GST periods in the present case which is rational, logical & appropriate in terms of Section 171 and the same had been approved by the Authority in similarly placed cases.
- viii. The methodology adopted by DGAP is correct and strictly as per law enshrined in Section 171 of the CGST Act. The methodology had been consistently adopted by DGAP and upheld by NAA in all similar cases. In order to quantify the benefit of input tax credit, it is necessary to quantify the credits available to the Respondent in the pre-GST regime and also the credits available in the GST regime.

5. The proceedings in the matter could not be completed by this Authority due to lack of required quorum of Members in the Authority during the period 29.04.2021 till 23.02.2022, and that the minimum quorum was restored only w.e.f. 23.02.2022 and hence the matter was taken up for

proceedings vide Order dated 03.03.2022 and the Respondent as well as the Applicants were given an opportunity to be heard in person on 12.04.2022. The Respondent has made his submissions dated 12.05.2022 wherein, he reiterated his earlier submissions. Hearing in the matter was closed vide order dated 07.06.2022.

6. We have carefully considered the Report furnished by the DGAP and the clarifications filed by the him, the submissions made by the Applicants and Respondent and other records of the case and it is revealed that the instant Report dated 30.12.2020 had been furnished by the DGAP under Rule 129(6) of the Central Goods & Services Tax (CGST) Rules, 2017 after detailed investigation of the case. The Respondent is in the business of the supply of Construction services and he has executed project by the name of Tinsel Town in Pune. Additional Input tax Credit was available to the Respondent for the project due implementation of the GST wef 01.07.2017 which was required to be passed on in terms of Section 171 of the CGST Act, 2017. The Project was executed in two phases. Both the phases have separate RERA registration. The Authority finds that the following issues are required to be settled in the present proceedings:-

I. Whether there is benefit of additional ITC available to the Respondent which is not passed on by him to the Applicants?

II. Whether there is any violation of the provisions of Section 171 (1) of the CGST Act, 2017 by the Respondent and whether the various objections raised by the Respondent like absence of Methodology of determination of profiteering, excessive delegation of power to frame Methodology, unconstitutionality of Section-171 etc. are tenable?

I. Section- 171 of the CGST Act, 2017 reads as under:-

"(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.

It is clear from the plain reading of Section 171 (1) mentioned above 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.

We finds 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 1.15%, whereas, during the post-GST period (July-2017 to Mar, 2019), it was 7.67%. This confirms that in the post-GST period, the Respondent has been benefited from additional ITC to the tune of 6.52% (7.67%-1.15%) of his turnover and the same is required to be passed on by him to the recipients of supply, including the Applicant No. 1,2 & 3. The Authority finds that the computation of the amount of ITC benefit to be passed on by the Respondent to the eligible recipients works out to Rs. 2,03,03,720/- The DGAP has calculated the amount of ITC benefit to be passed on to all the eligible recipients as Rs.2,03,03,720/- on the basis of the information supplied by the Respondent. The main objections of the Respondent and observation of the Authority on them is as follows:-

- II. The Respondent has submitted that no methodology was prescribed to derive profiteering thus, leading to arbitrary exercise of powers by DGAP in absence of proper methodology prescribed under law. It was open to DGAP for change the methodology and basis of computation without any rationale and basis to suite its convenience. He also relied upon *Hon'ble Supreme Court judgement in the case of Commissioner, Central Excise and Customs, Kerala vs. Larsen and Toubro Limited (2016) 1 SCC 170*. In this regard the averment of the Respondent cannot be accepted as the "Methodology and Procedure" has been notified by this Authority vide its Notification dated 28.03.2018 under Rule 126 of the CGST Rules, 2017. However, one formula which fits all cannot be set while determining such a "Methodology and Procedure" as the facts of each case are different. In one real estate project, date of start and completion of the project, price of the house/commercial unit, mode of payment of price, stage of completion of the project, timing of purchase of inputs, rates of taxes, amount of ITC availed, total saleable area, area sold and the taxable turnover

realized before and after the GST implementation would always be different than the other project and hence the amount of benefit of additional ITC to be passed on in respect of one project would not be similar to another project. Issuance of Occupancy Certificate/ Completion Certificate would also affect the amount of benefit of ITC as no such benefit would be available once the above certificates are issued. Therefore, no set parameters can be fixed for determining methodology to compute the benefit of additional ITC which would be required to be passed on to the buyers of such units. The case of *Commissioner, Central Excise and Customs, Kerala versus Larsen and Toubro Limited (2016) 1 SCC 170* relied upon by the Respondent is not applicable in this case as the "Methodology and Procedure had been notified by the Authority vide its Notification dated 28.03.2018 under Rule 126 of the CGST Rules, 2017. Moreover, profiteering is not a tax as had been interpreted by the Respondent but it is a benefit which had accrued to him on account of additional ITC which he needed to pass on to the eligible customers.

- III. The Respondent submitted that the power to make methodology and procedure should not be delegated to the NAA and delegation of such unabated and uncontrolled power to an executive body was itself unconstitutional. The contentions made are not correct as it is noted that the Parliament as well as all the State Legislature have delegated the task of framing of the Rules under the CGST Act, 2017 on the Central Government as per the provisions of Section 164 of the above Act. Accordingly, the Central Government in terms of Section 171 (3) of the CGST Act, 2017 read with Section 2(87) of the Act, has prescribed the powers and functions of the Authority, on the recommendation of the GST Council, which is a Constitutional federal body created under the 101st Amendment of the Constitution, as per Rule 127 and 133 of the CGST Rules, 2017. Since the functions and powers to be exercised under Rule 126, 127 and 133 of CGST Rules, 2017 have been approved by competent bodies, the same are legal and binding.
- IV. The Respondent has submitted that the Section 171 of the CGST Act was itself unconstitutional as it seeks to regulate prices. It was submitted that under the guise of a tax enactment, the legislature

cannot act as a price regulator. It was settled law that prices were governed by market forces and price regulation would be violative of fundamental right of trade and commerce. Reliance in regard was also placed on *Indraprastha Gas Ltd. vs. Petroleum and Natural Gas Regulatory Board and Ors, 2015 (9) SCC 209*) However, the averment of the Respondent is not correct as the Authority does not act 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 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. This Authority has nowhere interfered with the business decisions of the Respondent and therefore, there is no violation of right of trade and commerce. *M/s. Indraprastha Gas Ltd. Vs. Petroleum and Natural Gas Regulatory Board and Ors (2015 (9) SCC 209/* relied upon by the Respondent is not applicable in the present case as there is no fixation of tariff & prices by the Authority.

- V. The Respondent argued 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 accrues due to availability of Input Tax Credit. The contentions of the Respondent made in these paras were incorrect as profiteering is not a tax as had been interpreted by the Respondent but it is a benefit which had accrued to him on account of additional ITC which he needed to pass on to the customers. Unlike taxes, the profiteering cases deal with amounts that the Government had foregone in favour of the consumers which the suppliers attempt to appropriate to themselves and use in his business. The 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 is also available on its website. However, one formula which fits all cannot be set while determining

such a "Methodology and Procedure" as the facts of each case was different. Also, the decision of Hon'ble Supreme Court in the cases of British India Corporation Ltd VS CCE 1978 (2) ELT 1307 (SC) and M/s. Voltas Limited vs State of Gujarat 2015 VIL 23 (SC) relied upon by the Respondent was distinguishable from the present case as it specifically pertain to taxes.

- VI. The Respondent submitted that Anti-Profiteering provision, could be triggered only in instances where unlawful manner of business is established. The contention of the Respondent made in this para is not correct. In this regard, it would be appropriate to mention that the provisions of Section 171 was abundantly clear, complete and concise and hence there is no ambiguity in his interpretation and therefore, the marginal notes attached to the above Section and the Rules was not required to be considered while interpreting them. The provisions of Section 171 of the CGST Act, 2017 clearly state how the ITC benefit is to be passed on to the customers which had further been elucidated by the word 'commensurate'. The word "profiteering" had been given in the Statute itself and it cannot be confused with the DICTIONARY MEANING of the word "profit" or from common parlance. In this context it is submitted that an explanation added to the provision of the Act is clarificatory in nature and had retrospective effect unless it overrides the basic provision of the Act. The Respondent had misinterpreted the term 'profit' with 'profiteering' as the latter is the benefit which had been pocketed by Respondent and had not been passed on to his buyers. Accordingly, the cases of Indian Aluminium Company v. Kerala State Electricity Board (1975) 2 SCC 414 and the Commissioner of Income Tax, Gujarat vs. Vadilal Lalubhai do not support the cause of the Respondent.
- VII. The respondent also submitted that the DGAP had incorrectly included GST already paid by respondent to government in value of profiteering amount. In this regard the Respondent had not only collected excess base prices from his customers which they were not required to pay due to the reduction in the rate of tax but the Respondent had also compelled customers to pay additional GST on this excess base price which the customers were not required to pay. The Respondent was legally not required to collect the excess GST and therefore, he had

violated the provisions of the CGST Act supra, as he had denied the benefit of tax reduction to his customers by charging excess GST. Hence although the GST amount deposited with the Government exchequer had been illegally collected by the Respondent and if any refund is prescribed the same can be claimed by the Respondent as per the existing laws.

- VIII. The Authority concurs with DGAP findings where the agreement with home buyer with a clause evidencing passing on of benefit of additional ITC to the various home buyers, who had booked flats in post-GST period i.e. a contract agreed upon by the promoters and home buyers, the same were not considered for profiteering. The Authority also concurs with the findings that Phase-II of the project was launched after implementation of GST and no bookings were made in the period prior to GST, provisions of Section 171 were not attracted for Phase-II.
7. Based on the discussion above and the figures of turnover and ITC for the Pre GST & Post GST Period, we have no reason to differ with the DGAP findings that in the instant project "Tinsel Town" the additional benefit which accrued to the Respondent in terms of Section 171 of the CGST Act, 2017 was 6.52% of the turnover. This benefit was required to be passed on to the recipients; however, the same was not done by the Respondent commensurately. The amount of benefit of ITC not passed on to the recipients or in other words, the profited amount comes to Rs. 2,03,03,720/-.
8. Further, it has been claimed by the Respondent that he had already passed on substantial amount of GST ITC to the homebuyers in accordance with the requirements of Section 171 of the CGST Act, 2017 which come out to be Rs. 58,35,648/- this fact has also been endorsed by the DGAP and accordingly the profiteering amount which is still required to be passed on comes out to be Rs.1,45,28,245/-.
9. 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/Customers commensurate with the benefit of ITC received by him. The Authority directs the Respondent to return/pass on/refund the profited amount along with interest as prescribed to

each homebuyer/recipient of supply along with interest @ 18% p.a. as prescribed from the date the profiteered amount was collected until the date of such return/passing on/refund. The names of such homebuyers along with unit number, profiteered amount and the benefit already passed on is enclosed with this order as Annexure-A.

10. It is also evident from the above narration of the facts that the Respondent has denied benefit of ITC to the buyers of his flats in contravention of the provisions of Section 171 (1) of the CGST Act, 2017 and he had thus resorted to profiteering. Hence, he has committed an offence for violation of the provisions of Section 171 (1) during the period from 01.07.2017 to 31.03.2019 and therefore, appears to be liable for imposition of penalty under the provisions of Section 171 (3A) of the above Act. However, the provisions of Section 171 (3A) have been inserted in the CGST Act, 2017 w.e.f. 01.01.2020 vide Section 112 of the Finance Act, 2019 and it was not in operation during the period from 01.07.2017 to 31.03.2019 when the Respondent had committed the above violation and hence, the penalty under Section 171 (3A) cannot be imposed on the Respondent for such period. Accordingly, notice for imposition of penalty is not required to be issued to the Respondent.
11. The concerned jurisdictional CGST/SGST Commissioner is also directed to ensure compliance of this Order within three months of receipt of this order by the Respondent. It may be ensured that the benefit of ITC has been passed on to each homebuyer as per this Order along with interest @18% if not already passed on. In this regard an advertisement may also be published in minimum of two local Newspapers/vernacular press in Hindi/English/local language with the details i.e. New World Reality LLP, Project: Tinsel Town, located at Pune and the Profiteering Amount 2,03,03,720/- so that the Applicants along with Non-Applicant homebuyers can claim the benefit of ITC which is not passed on to them. Homebuyers may also be informed that the detailed NAA Order is available on Authority's website www.naa.gov.in. Contact details of concerned Jurisdictional CGST/SGST who are nodal officer for compliance of the NAA's order may also be advertised through the said advertisement.

12. The concerned jurisdictional CGST/SGST Commissioner shall also submit a Report regarding compliance of this order to the Authority and the DGAP within a period of 4 months from the date of receipt of this order. Further, the DGAP is also directed to monitor the compliance of the order by the concerned jurisdictional CGST/SGST Commissioner.
13. The Authority finds that the Respondent may also be executing other projects under the same GST Registration No. 27AAHFN9995N1Z3 and the issue of profiteering may arise in the other projects as well. In view of the observation made in the earlier paragraph, the Authority finds that there exists reason to investigate other projects for the purpose of determination of profiteering. Accordingly, this Authority as per the provisions of Section 171 (2) of the above Act take suo-moto cognizance of the same and in terms of Rule 133(5) of the said Rules, directs the DGAP to conduct investigation in respect of the other projects executed under the said registration and submit Report to this Authority for determination whether the Respondent is liable to pass on the benefit of ITC in respect of the other projects/towers to the buyers or not as per the provisions of Section 171 (1) of the above Act.
14. Further, the Hon'ble Supreme Court, vide its Order dated 23.03.2020, while taking *suomoto* cognizance of the situation arising on account of Covid-19 pandemic, has extended the period of limitations prescribed under general law of limitation or any other specified 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.

15. A copy each of this Order be supplied, free of cost, to the Applicants, the Respondent, Commissioners CGST/SGST Maharashtra, the Principal Secretary (Town and Country Planning), Government of Maharashtra as well as Maharashtra RERA for necessary action. File be consigned after completion.

Sd/-
(Amand Shah)
Technical Member &
Chairman

Sd/-
(Pramod Kumar Singh)
Technical Member

Sd/-
(Hitesh Shah)
Technical Member



Certified Copy


(Dinesh Meena)
Secretary, NAA

O/c

F. No. 22011/NAA/08/New Worlds Realty/2021 | 8297 - 8406 Date: 24.08.2022
Copy To:-

1. M/s New Worlds Realty LLP, Sr. No. 288, Village - Maan, Taluka - Mulshi, Hinjawadi Phase - II, Before Quadrant, Pune, Maharashtra - 411057.
2. Shri Shubham Saxena, E-506, Megapolis Sunway Internal Road, Hinjewadi, Rajiv Gandhi Infotech Park Hinjawadi, Pimpri-chichwad, Maharashtra - 411057.
3. Sh. Shyam Aggarwal S-201, Montvert Belrose, Pashan, Pune, Maharashtra - 411057.
4. Sh. Prakhar Varshney, A - 201, Montvert Belrose, Pashan, Pune, Maharashtra - 411028.
5. Chief Commissioner, CGST (Pune Zone), GST Bhawan, 3rd Floor, Ice House, 41-A, Sasoon Road, Opp. Wadia College, Pune-411001.
6. Commissioner, State Tax, Maharashtra, 8th Floor, GST Cell, New Building, GST Bhawan, Mazgaon, Mumbai-400010.

Case. No. 59/2022
Shubham Saxena & Ors vs. M/s. New World Reality LLP

7. **Principal Secretary**, Urban Development Department (1), Mantralaya, Fourth Floor, Mumbai – 400021.
8. Maharashtra Real Estate Regulatory Authority (Pune Division), 109 to 113, Sayajiroa Gaikwad Udyog Bhavan, Aundh, Pune -411007.
9. Directorate General of Anti-Profitteering, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, New Delhi-110001. 
10. Guard File.

Sr. No	Name of customer	Unit no.	Final Profiteering (in Rs.)	Benefit of ITC already passed on (in Rs.)	Further benefit to be passed on (in Rs.)
1	AJAY SINGH	A1001	73378	20,936	52,442
2	MANAS KUMAR MOHANTY	A1005	73378	20,936	52,442
3	Nasir Rafique Shaikh	A1006	58644	16,732	41,912
4	SAMIR KUMAR JHA	A1008	55584	15,859	39,725
5	VICTOR ROY	A1101	9452	21,161	-
6	ANSHU SINGH	A1104	55584	15,859	39,725
7	Arvind Kumar Deshmukh	A1105	66128	21,533	44,595
8	Rajesh Kumar Pathak	A1106	56469	16,111	40,358
9	PRASHANT KUMAR SINHA	A1107	55781	15,915	39,866
10	RUCHI AGARWAL	A1108	55584	15,859	39,725
11	NITISH JHA	A1201	61607	20,936	40,671
12	ATHUL VIJAY K.	A1205	73378	20,936	52,442
13	Sagar Vadapurkar	A1206	56469	16,111	40,358
14	POOJA ZAMBARE	A1305	74167	21,161	53,006
15	Prashant Singhal	A1306	59589	17,001	42,588
16	Parul Srivastava	A1307	57007	16,265	40,742
17	Kumar Gaurav Jain	A1401	73361	21,501	53,860
18	BISWAJEET SHARMA	A1403	56638	16,159	40,479
19	ASHWINI ANAVATTI	A1405	73378	20,936	52,442
20	Vincent Robert Gomes	A1406	60820	17,353	43,467
21	SUDIP SAHA	A1407	55781	15,915	39,866
22	VINEET KAPOOR	A1501	74167	21,161	53,006
23	ANSHUL GUPTA	A1502	74167	21,161	53,006
24	SOMA ACHARYA	A1503	54768	15,626	39,142
25	VINAY CHAUHAN	A1504	55584	15,859	39,725
26	MAHESH MANDANA	A1505	54389	21,161	33,228
27	Shweta Rahul Deshmukh	A1506	60523	17,268	43,255
28	GAURAV MISHRA	A1507	58717	16,753	41,964
29	GAURAV MISHRA	A1508	58353	16,649	41,704
30	Kirti Hingnikar	A1601	74130	21,150	52,980
31	Richa Tiwari	A1605	78365	22,359	56,006
32	ALOK YADAV	A1606	52062	15,915	36,147
33	SHISHIR SINHA	A1607	55781	15,915	39,866
34	LAKSHDEEP VATSA	A1701	74167	21,161	53,006
35	SHRIPRASANNA ANANDRAO PATIL	A1702	74167	21,161	53,006
36	ANKIT JAIN	A1703	55584	15,859	39,725
37	ANITA KOHLI	A1705	79959	22,813	57,146
38	DIVAL GULATI	A1706	60017	17,124	42,893
39	ARUN KUMAR RAJE	A1708	55584	15,859	39,725
40	AMIT KUMAR MISHRA	A1802	481885	20,936	4,60,949
41	KRISHNENDU GUHA	A1804	55584	15,859	39,725
42	GANESH ZILPE	A1805	73378	20,936	52,442
43	SANDEEP MONDAL	A1806	55781	15,915	39,866
44	LALIT JANMEJA	A1807	55781	15,915	39,866
45	AMANDEEP SINGH	A1808	56955	16,250	40,705
46	SAUGATO BANERJEE	A1901	74167	21,161	53,006
47	AISHWARYA PAWAR	A1903	55584	15,859	39,725
48	DHARMENDER SINGH	A1904	55584	15,859	39,725
49	PARUL GUPTA	A1905	81905	23,369	58,536
50	ABINASH CHURORIA	A1906	55781	15,915	39,866
51	PRANJAL TIWARI	A1907	55781	15,915	39,866
52	Pratik Parab	A1908	55584	15,859	39,725
53	SHYAMARJUN MISHRA	A2002	73378	20,936	52,442
54	NEHA VERMA	A2003	370600	16,017	3,54,583
55	PRASHANT KUMAR	A2005	73378	20,936	52,442
56	HINA SABHLOK	A2006	55781	15,915	39,866
57	DAKSHA WAGHMARE	A2008	55584	15,859	39,725
58	Vishal Baban Walunj	A205	73038	20,839	52,199
59	Vinod Baban Walunj	A206	55283	15,773	39,510
60	Sachin S Samant	A207	56908	16,237	40,671
61	Nitin Shankar Athavle	A208	55460	15,823	39,637
62	JANMEJAY KHARE	A2105	74927	21,377	53,550
63	AMIT DATAL	A2106	55781	15,904	39,877
64	Manish Kumar	A304	58657	16,735	41,922
65	DAKSHESH BABULAL MODI	A305	79564	22,700	56,864
66	Umesh Vinod Bhutada	A306	55283	15,773	39,510
67	Ashish Ashok Samant	A307	55559	16,237	39,322
68	RESHMA M JAIN	A401	44670	13,655	31,015
69	MANMINDER SINGH	A404	54380	15,515	38,865
70	KULWINDER SINGH	A405	73038	20,839	52,199
71	Amit Raina	A406	54733	15,616	39,117
72	Sarika Bhalla	A407	56908	16,237	40,671
73	Nilesh Shahaji Deshmukh	A408	36253	15,515	20,738
74	ASHOK KUMAR SHRIVASTAVA	A501	78956	22,527	56,429
75	ANIL SINGH TOMAR	A502	74167	21,161	53,006
76	Sendhilvel Balakrishnan	A504	54969	15,683	39,286
77	Swapnil Sudhirrao Maldhure	A505	76145	21,725	54,420
78	Neeru Baliram Shukla	A506	58051	16,563	41,488

79	Piyusha Jha	A507	56414	16,096	40,318
80	VINAY CHAUDHARY	A601	76027	21,691	54,336
81	Gourav Gupta	A605	64200	21,067	43,132
82	Sheetu Goja	A606	58051	16,563	41,488
83	DIVYA MATHUR	A607	55781	15,915	39,866
84	Mahadev Shamrao Budake	A701	78576	22,419	56,157
85	Shraddha Chetan Kabra	A702	75397	21,512	53,885
86	Saprem S Dalal	A705	77538	22,122	55,416
87	Dheeraj Rammilan Agrawal	A706	55876	15,942	39,934
88	Rakesh S. Shetty	A708	54293	15,490	38,803
89	Sapna Patel	A801	74562	21,273	53,289
90	Col. Vidya Bhushan Prasad	A802	78292	22,337	55,955
91	Santosh Kumar	A805	73837	21,067	52,770
92	SOURMYA SUDHIR SINGH	A806	33029	16,252	16,777
93	Sagar Mohane	A807	55326	15,785	39,541
94	Sagar Mohane	A808	54969	15,683	39,286
95	Sheetal Jain	A901	73915	21,089	52,826
96	Manjusha Nathuram Khadkikar	A902	73915	21,089	52,826
97	Sharada Sandeep Sangale	A904	56049	15,991	40,058
98	Sanket Subhashrao Marlegaonkar	A905	74663	21,302	53,361
99	Micky Singh Deo	A906	55876	15,942	39,934
100	Dhruva Mistry	A907	56414	16,096	40,318
101	Neha Gangrade	A908	57129	16,300	40,829
102	Amol Krishna Srivastav	B1004	57557	16,422	41,135
103	Jaykumar Erimbrahennellur	B1005	60445	17,246	43,199
104	SHALINI SHRUTI	B1006	55781	15,915	39,866
105	ANSHUL ADITYA SINGH	B105	41071	16,074	24,997
106	Nitish Chandraprakash Bhadrash	B1103	57556	16,422	41,134
107	Arpita Garg	B1104	57282	16,343	40,939
108	Ruturaj Mane	B1105	57007	16,265	40,742
109	SHIRISH JAGANNATH KHEDKAR	B1106	55781	15,915	39,866
110	Vaishali Ghodki	B1108	57007	16,265	40,742
111	AKHIL JAIN	B1201	55781	15,915	39,866
112	PRIYA KHAWALE	B1203	51117	15,915	35,202
113	MEGHA GOYAL	B1204	18749	14,963	3,786
114	HUDSON GEORGE THOMAS	B1205	95160	15,915	79,245
115	Ankita Manoj Bhojwani	B1206	60139	17,158	42,981
116	Atul Ashok Revankar	B1208	58095	16,575	41,520
117	SAMEER GOEL	B1305	22312	15,915	6,397
118	RAMESHWAR JADHAV	B1306	22501	15,915	6,586
119	RUCHI AGARWAL	B1308	57007	16,265	40,742
120	AMIT PANDITA	B1405	55781	15,915	39,866
121	Reshma Umesh Gondal	B201	54733	15,616	39,117
122	POOJA AHLUWALIA	B202	55821	15,926	39,895
123	Archana S Bhattacharjee	B204	55283	15,773	39,510
124	Riku Mehta	B205	55821	15,926	39,895
125	Pradeep Rao	B206	37939	16,237	21,702
126	Reshma S Reddy	B207	59589	17,001	42,588
127	Anand Waman Gole	B208	50563	15,616	34,947
128	HEMA MANISH KONDAWAR	B301	12884	16,616	-
129	Ashish Singh Tanwar	B302	54733	15,616	39,117
130	RAHUL MOHAN PATIL	B303	58839	16,787	42,052
131	Dipti Sinha	B304	55283	15,773	39,510
132	Dhiraj Vasantrao Pawar	B305	54733	15,616	39,117
133	Kunal Vikram Anand	B306	36489	15,616	20,873
134	Nitin Chaturvedi	B308	54733	15,616	39,117
135	Shilpa Paresb Dixit	B401	54733	15,616	39,117
136	Priyank Gupta	B402	54733	15,616	39,117
137	Manish Sohanlal Firodiya	B403	37198	15,773	21,425
138	Shailesh Kamlakar Pande	B404	55283	15,773	39,510
139	Vikramaditya Hira Singh	B405	37580	16,083	21,497
140	Sagar Baliram Patil	B406	55821	15,926	39,895
141	Uttam Vyankatrao Jarag	B407	54733	15,616	39,117
142	Poonam Parag Patil	B408	54733	15,616	39,117
143	Soumya S Acharya	B501	58743	16,760	41,983
144	Anand RAI	B503	55876	15,942	39,934
145	Ankur Oswal	B504	55969	16,174	39,795
146	Rani Nirmalkar	B505	56139	16,017	40,122
147	Riyaj Ahmad Mahmadhanif Mar	B506	58579	16,713	41,866
148	Santosh Radhakishandas Shroff	B507	58251	16,619	41,632
149	SHALVI SINGH	B508	55781	15,915	39,866
150	SANJAY SINGH	B601	55781	15,915	39,866
151	Karimpanakkal Shine Babu	B603	56964	16,252	40,712
152	Ekta Tushar Paste	B604	38335	16,406	21,929
153	Bharti Bakshi	B605	37609	16,096	21,513
154	Mandar Hemakant Sawant	B606	59402	16,948	42,454
155	Nirmala Sampate	B701	56414	16,096	40,318
156	Sandeep Dilip Sanklecha	B703	54347	15,898	38,449
157	Ranjit Kumar Dutta	B704	38342	16,252	22,090
158	Namit Puri	B705	66095	12,501	53,594
159	Ravindra Shaligram Lahane	B706	61783	17,627	44,156
160	Gitanjali Vishal Mali	B707	63222	18,038	45,184
161	Swetank Mani	B708	58260	16,622	41,638

162	RITUSHREE SHUKLA	B801	57502	16,406	41,096
163	Preeti Rai	B803	55876	15,942	39,934
164	SHILPA NAGARE	B804	55876	15,942	39,934
165	Shaheen Fershoger Guard	B805	-965	17,242	-
166	Ketal Hareshkumar Parikh	B806	59864	17,080	42,784
167	Gaurav Gupta	B807	56414	16,096	40,318
168	Hemant Purushottam Khachane	B808	38998	16,688	22,310
169	Priti Nilin Limje	B901	40279	17,238	23,041
170	Ritesh Keshav Patil	B902	55326	15,785	39,541
171	Saurit Dutta	B903	37653	15,942	21,711
172	Ashish Ranjan	B904	55876	15,942	39,934
173	Rahul Vijayrao Unde	B905	55326	15,785	39,541
174	Bhagwat Venkatrao Karbhari	B906	37609	16,096	21,513
175	Ruturaj Ajitsingh Yadav	B907	56414	16,096	40,318
176	Sandip D Ahire	B908	56414	16,096	40,318
177	CHAITANYA PRAMOD KULKARNI	C1001	92969	26,525	66,444
178	HARSHWARDHAN PAWAR	C1002	92969	26,525	66,444
179	SHARAD DHAWALE	C1008	94694	27,017	67,677
180	Ashish Ranjan	C1101	92969	26,525	66,444
181	ABHIJIT DATTA	C1102	92969	26,525	66,444
182	NITIN DASHARATH BORATE	C1104	94283	26,900	67,383
183	Bharat Tekwani	C1108	102085	29,126	72,959
184	SWAPNIL SHIVAJI SHINDE	C1201	92969	26,525	66,444
185	RIDHIMA DUREJA	C1202	92969	26,525	66,444
186	ANURAG BANSAL	C1208	94694	27,017	67,677
187	SUSHANT KUMAR	C1301	92969	26,525	66,444
188	SWAPNIL DHUMAL	C1308	101331	28,911	72,420
189	Ashwini Kumar	C201	96633	27,570	69,063
190	KANCHAN MISHRA	C208	94694	27,017	67,677
191	Nishant Pathak	C301	97095	27,702	69,393
192	RAHUL RANJAN	C302	92969	26,525	66,444
193	Sanket Vinayakrao Geed	C305	96633	27,570	69,063
194	Hrishikesh Vijay Deshpande	C308	99294	28,330	70,964
195	Mongesh Madhavan	C401	97557	27,834	69,723
196	ROHIT SINGH	C402	92969	26,525	66,444
197	ABHISHEK UMARJEE	C403	97438	27,800	69,638
198	ABHISHEK UMARJEE	C404	97009	27,678	69,331
199	RAMKANYA MUNDADA	C408	98351	28,061	70,290
200	SATYAJIT DAS	C501	92969	26,525	66,444
201	Richa Kulkarni	C502	99277	28,325	70,952
202	RAJESH KUMAR SHARMA	C504	94283	26,900	67,383
203	TRIVENI DIXIT	C508	94694	27,017	67,677
204	BHARAT BANGAD	C601	92969	26,525	66,444
205	ABHINAV JAIN	C602	92969	26,525	66,444
206	RAJ SHANU DAS	C604	98728	28,168	70,560
207	Dipali Vaibhav Tripathi	C608	101606	29,417	72,189
208	CHANDRASHEKHAR GIRDHARILAL	C701	97631	27,855	69,776
209	PRASHANT KUMAR OJHA	C702	92969	26,525	66,444
210	RAVI ACHARYA	C708	58331	27,017	31,314
211	VINOD PATIL	C801	0	26,525	-
212	Sanjay Shamarao Orase	C802	98556	28,119	70,437
213	parag deshमुख	C808	94694	27,017	67,677
214	Indubhushan Khandual	C901	98556	28,119	70,437
215	Vinay Vinod Mehra	C902	97631	27,855	69,776
216	Bhuvaneshwar Dhote	C907	94283	26,900	67,383
217	Bena Shah Malthil	C908	91501	28,620	62,881
218	HARSHIT SONI	D1005	85066	42,440	42,626
219	SANJEEV GUPTA	D105	148750	42,440	1,06,310
220	Kapil Gupta	D1101	155884	44,475	1,11,409
221	Devendra Singh Parmar	D1105	157808	45,024	1,12,784
222	SURESH JETHALAL MACHHAR	D1107	149276	42,590	1,06,686
223	PREETI SINGH	D1202	148750	42,440	1,06,310
224	Umang Chirimar	D1205	152925	43,631	1,09,294
225	Taralika Hitesh Mehta	D1305	110884	31,636	79,248
226	AVENUE KOUL	D203	151510	43,227	1,08,283
227	SUMIT JINDAL	D205	148750	42,440	1,06,310
228	SUDHIR KUMAR SRIVASTAVA	D206	148750	42,440	1,06,310
229	MOHIT BANGAR	D305	155145	44,264	1,10,881
230	PRIYANKA KUMARI SINGH	D306	156717	44,713	1,12,004
231	RITURAJ MISHRA	D404	150669	42,987	1,07,682
232	Aditya Narayan Kulkarni	D405	152925	43,631	1,09,294
233	VISHAL BHANTI	D406	157461	44,925	1,12,536
234	Ashish JHA	D501	152925	43,631	1,09,294
235	DIWAKAR SHARMA	D503	149670	42,702	1,06,968
236	NARENDRA BAHUGUNA	D505	154612	44,112	1,10,500
237	PAWAN KUMAR	D506	148750	42,440	1,06,310
238	ROSHAN KADAM	D603	151510	43,227	1,08,283
239	ALOK	D605	148750	42,440	1,06,310
240	SHYAM SUNDER AGRAWAL	D606	148749	52,377	96,373
241	PRAKHAR VARSHNEY	D701	148750	52,377	96,373
242	SWARUP KUMAR PARICHHA	D703	151510	43,227	1,08,283
243	AMBADA'S MORE	D704	150853	43,040	1,07,813
244	Brijesh Dhires Mehta	D705	110884	31,636	79,248

245	RAMESH RAMCHARITRA MANDA	D706	148750	42,440	1,06,310
246	VIZETA TIWARI	D802	154612	44,112	1,10,500
247	NIKHIL WALI	D803	151510	43,227	1,08,283
248	SHUBHAM DUTTA SAXENA	D805	154612	59,886	94,726
249	RAHUL RANGNEKAR	D806	148750	42,440	1,06,310
250	AMIT TUKARAM PATIL	D901	158103	45,109	1,12,994
251	Gaurav Verma	D902	160471	45,784	1,14,687
252	Ravindra Parmar	D903	151030	43,090	1,07,940
253	RAJEEV KUMAR	D904	159797	45,592	1,14,205
254	Naman Jain	D905	156210	44,568	1,11,642
255	AAKANSHA JAIN	D906	148750	42,440	1,06,310
	Total		Rs. 20303720 /-	Rs. 5835648 /-	Rs. 14528245 /-